

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 345
Mar 14, 2017
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10114-LH-51 (02/07)

Short Title: Omnibus Firearms Bill. (Public)

Sponsors: Representatives Speciale and Pittman (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS AMENDMENTS TO THE CONCEALED HANDGUN LAWS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 14-269.2(a)(1) reads as rewritten:
5 "§ 14-269.2. Weapons on campus or other educational property.

- 6 (a) The following definitions apply to this section:
7 (1) Educational property. – Any school building or bus, school campus, grounds,
8 recreational area, athletic field, or other property owned, used, or operated by
9 any board of education or school board of trustees, or directors for the
10 administration of any school. The term shall not include any of the following:
11 (i) land buildings or other facilities owned, leased, or otherwise controlled by
12 educational institutions but not used primarily for educational purposes; (ii) a
13 religious institution for which facilities are used as a school on a part-time
14 basis, provided such facilities are not currently in use as a school; (iii) a road or
15 other publicly used thoroughfare which crosses an educational campus; or (iv) a
16 medical facility for which the primary purpose is patient care rather than
17 education."

18 SECTION 2. G.S. 14-269.2 is amended by adding a new subsection to read:
19 "(b2) Restrictions on extracurricular activities listed in subsection (b) of this section do not
20 apply to persons not participating in the extracurricular activity provided the extracurricular
21 activity is conducted in a public place, including, but not limited to, a restaurant, public park, or
22 museum."

- 23 SECTION 3. G.S. 14-269.2(g) reads as rewritten:
24 "(g) This section shall not apply to any of the following:
25 (1) A weapon used solely for educational or school-sanctioned ceremonial
26 purposes, or used in a school-approved program conducted under the
27 supervision of an adult whose supervision has been approved by the school
28 authority.
29 (1a) ~~A person exempted by the provisions of G.S. 14-269(b).~~
30 (1b) A person exempted by the provisions of G.S. 14-269(b)(1), (2),(3),(4), or (5).
31"

32 SECTION 4. G.S. 14-269.4 reads as rewritten:
33 "§ 14-269.4. Weapons on certain State property and in courthouses.

34 It shall be unlawful for any person to possess, or carry, whether openly or concealed, any
35 deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in
36 the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on



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1 the grounds of any of these buildings, and in any building housing any court of the General Court
 2 of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then
 3 this prohibition shall apply only to that portion of the building used for court purposes while the
 4 building is being used for court purposes.

5 This section shall not apply to any of the following:

- 6 (1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997.
- 7 (1a) A person exempted by the provisions of G.S. 14-269(b).
- 8 (2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,
- 9 (2b) The Governor and the Governor's immediate family if the property is the
 10 Executive Mansion or the Western Residence of the Governor.

11"

12 **SECTION 5.** G.S. 14-404(e1)(5) is repealed.

13 **SECTION 6.** G.S. 14-415.10 reads as rewritten:

14 **"§ 14-415.10. Definitions.**

15 The following definitions apply to this Article:

16 ...

- 17 (4) Qualified former sworn law enforcement officer. – An individual who retired
 18 from service as a law enforcement officer with a local, State, campus police, or
 19 company police agency in North Carolina, other than for reasons of mental
 20 disability, who has been retired as a sworn law enforcement officer ~~two~~five
 21 years or less from the date of the permit application, and who satisfies all of the
 22 following:
 - 23 a. Immediately before retirement, the individual was a qualified law
 24 enforcement officer with a local, State, or company police agency in
 25 North Carolina.
 - 26 b. The individual has a nonforfeitable right to benefits under the retirement
 27 plan of the local, State, or company police agency as a law enforcement
 28 officer; or has 20 or more aggregate years of law enforcement service
 29 and has retired from a company police agency that does not have a
 30 retirement plan; or has 20 or more aggregate years of part-time or
 31 auxiliary law enforcement service.
 - 32 c. The individual is not prohibited by State or federal law from receiving a
 33 firearm.
- 34 (4a) Qualified retired correctional officer. – An individual who retired from service
 35 as a State correctional officer, other than for reasons of mental disability, who
 36 has been retired as a correctional officer ~~two~~five years or less from the date of
 37 the permit application and who meets all of the following criteria:
 - 38 a. Immediately before retirement, the individual met firearms training
 39 standards of the Division of Adult Correction of the Department of
 40 Public Safety and was authorized by the Division of Adult Correction of
 41 the Department of Public Safety to carry a handgun in the course of
 42 assigned duties.
 - 43 b. The individual retired in good standing and was never a subject of a
 44 disciplinary action by the Division of Adult Correction of the
 45 Department of Public Safety that would have prevented the individual
 46 from carrying a handgun.
 - 47 c. The individual has a vested right to benefits under the Teachers' and
 48 State Employees' Retirement System of North Carolina established
 49 under Article 1 of Chapter 135 of the General Statutes.
 - 50 d. The individual is not prohibited by State or federal law from receiving a
 51 firearm.

- 1 (4b) Qualified retired law enforcement officer. – An individual who meets the
 2 definition of "qualified retired law enforcement officer" contained in section
 3 926C of Title 18 of the United States Code.
- 4 (4c) Qualified retired probation or parole certified officer. – An individual who
 5 retired from service as a State probation or parole certified officer, other than
 6 for reasons of mental disability, who has been retired as a probation or parole
 7 certified officer ~~two-five~~ years or less from the date of the permit application
 8 and who meets all of the following criteria:
- 9 a. Immediately before retirement, the individual met firearms training
 10 standards of the Division of Adult Correction of the Department of
 11 Public Safety and was authorized by the Division of Adult Correction of
 12 the Department of Public Safety to carry a handgun in the course of
 13 duty.
- 14 b. The individual retired in good standing and was never a subject of a
 15 disciplinary action by the Division of Adult Correction of the
 16 Department of Public Safety that would have prevented the individual
 17 from carrying a handgun.
- 18 c. The individual has a vested right to benefits under the Teachers' and
 19 State Employees' Retirement System of North Carolina established
 20 under Article 1 of Chapter 135 of the General Statutes.
- 21 d. The individual is not prohibited by State or federal law from receiving a
 22 firearm.
- 23 (5) Qualified sworn law enforcement officer. – A law enforcement officer
 24 employed by a local, State, campus police, or company police agency in North
 25 Carolina who satisfies all of the following:
- 26 a. The individual is authorized by the agency to carry a handgun in the
 27 course of duty.
- 28 b. The individual is not the subject of a disciplinary action by the agency
 29 that prevents the carrying of a handgun.
- 30 c. The individual meets the requirements established by the agency
 31 regarding handguns."

32 **SECTION 7.** G.S. 14-415.11(b) reads as rewritten:

33 "(b) The sheriff shall issue a permit to carry a concealed handgun to a person who qualifies
 34 for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a period of
 35 ~~five-ten~~ years from the date of issuance."

36 **SECTION 8.** G.S. 14-415.12(b)(7) reads as rewritten:

37 "(b) The sheriff shall deny a permit to an applicant who:

- 38 ...
- 39 (7) Is or has been discharged from the Armed Forces of the United States under
 40 ~~conditions other than honorable.~~ dishonorable conditions."

41 **SECTION 9.(a)** G.S. 120-32.1 is amended by adding the following subsections to
 42 read:

43 "(c2) No rule adopted under this section shall prohibit a legislator or legislative employee
 44 who has a concealed handgun permit issued in accordance with Article 54B of Chapter 14 of the
 45 General Statutes, or considered valid under G.S. 14-415.24, from carrying a concealed handgun on
 46 the premises of the State legislative buildings and grounds. The Legislative Services Commission
 47 may adopt a rule requiring a legislator or a legislative employee to provide notice to the Chief of
 48 the General Assembly Special Police, or the Chief's designee, before carrying the handgun on the
 49 premises of the State legislative buildings and grounds; however, once initial notice is provided as
 50 required by this subsection, no subsequent notification shall be required. The Legislative Services
 51 Commission may also adopt rules establishing a procedure for such notification.

1 (c3) Notwithstanding subsection (c2) of this section, the Legislative Services Commission
2 may adopt a rule prohibiting or regulating the carrying of a firearm openly or concealed in the
3 Gallery of the State legislative building."

4 **SECTION 9.(b)** G.S. 14-415.11(c)(3) reads as rewritten:

5 "(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a
6 concealed handgun in any of the following:

7 ...
8 (3) In an area prohibited by rule adopted under ~~G.S. 120-32.1~~G.S. 120-32.1,
9 except that a legislator or legislative employee who has a concealed handgun
10 permit issued in accordance with Article 54B of Chapter 14 of the General
11 Statutes, or considered valid under G.S. 14-415.24, may carry a concealed
12 handgun on the premises of the State legislative buildings and grounds as
13 defined in G.S. 120-32.1(d); provided he or she complies with any notice
14 requirement adopted by the Legislative Services Commission."

15 **SECTION 10.** G.S. 14-269.1 reads as rewritten:

16 "**§ 14-269.1. Confiscation and disposition of deadly weapons.**

17 Upon conviction of any person for violation of G.S. 14-269, G.S. 14-269.7, or any other
18 offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, the deadly
19 weapon with reference to which the defendant shall have been convicted shall be ordered
20 confiscated and disposed of by the presiding judge at the trial ~~in one of the following ways in the~~
21 ~~discretion of the presiding judge as provided in subdivision (1) of this section.~~ If the owner of the
22 weapon is the convicted defendant, then the weapon shall be disposed of as provided by
23 subdivisions (4) through (6) of this section in the discretion of the presiding judge:

24 (1) By ordering the weapon returned to its rightful owner, but only when such
25 owner is a person other than the defendant and has filed a petition for the
26 recovery of such weapon with the presiding judge at the time of the defendant's
27 conviction, and upon a finding by the presiding judge that petitioner is entitled
28 to possession of same and that he was unlawfully deprived of the same without
29 his consent.

30 (2), (3) Repealed by Session Laws 1994, Ex. Sess., c. 16, s. 2.

31 (4) By ordering such weapon turned over to the sheriff of the county in which the
32 trial is held or his duly authorized agent to be destroyed if the firearm does not
33 have a legible, unique identification number or is unsafe for use because of
34 wear, damage, age, or modification. The sheriff shall maintain a record of the
35 destruction thereof.

36 (4a) Repealed by Session Laws 2005-287, s. 3, effective August 22, 2005.

37 (4b) By ordering the weapon turned over to a law enforcement agency in the county
38 of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the
39 agency to a federally licensed firearm dealer in accordance with all applicable
40 State and federal firearm laws. The court may order a disposition of the firearm
41 pursuant to this subdivision only upon the written request of the head or chief
42 of the law enforcement agency or a designee of the head or chief of the law
43 enforcement agency and only if the firearm has a legible, unique identification
44 number. If the law enforcement agency sells the firearm, then the proceeds of
45 the sale shall be remitted to the appropriate county finance officer as provided
46 by G.S. 115C-452 to be used to maintain free public schools. The receiving law
47 enforcement agency shall maintain a record and inventory of all firearms
48 received pursuant to this subdivision.

49 (5) By ordering such weapon turned over to the North Carolina State Crime
50 Laboratory's weapons reference library for official use by that agency. The
51 Laboratory shall maintain a record and inventory of all such weapons received.

- 1 (6) By ordering such weapons turned over to the North Carolina Justice Academy
2 for official use by that agency. The North Carolina Justice Academy shall
3 maintain a record and inventory of all such weapons received."

4 **SECTION 11.** G.S. 15-11.1 reads as rewritten:

5 **"§ 15-11.1. Seizure, custody and disposition of articles; exceptions.**

6 (a) If a law-enforcement officer seizes property pursuant to lawful authority, he shall
7 safely keep the property under the direction of the court or magistrate as long as necessary to
8 assure that the property will be produced at and may be used as evidence in any trial. Upon
9 application by the lawful owner or a person, firm or corporation entitled to possession or upon his
10 own determination, the district attorney may release any property seized pursuant to his lawful
11 authority if he determines that such property is no longer useful or necessary as evidence in a
12 criminal trial and he is presented with satisfactory evidence of ownership. If the district attorney
13 refuses to release such property, the lawful owner or a person, firm or corporation entitled to
14 possession may make application to the court for return of the property. The court, after notice to
15 all parties, including the defendant, and after hearing, may in its discretion order any or all of the
16 property returned to the lawful owner or a person, firm or corporation entitled to possession. The
17 court may enter such order as may be necessary to assure that the evidence will be available for
18 use as evidence at the time of trial, and will otherwise protect the rights of all parties.
19 Notwithstanding any other provision of law, photographs or other identification or analyses made
20 of the property may be introduced at the time of the trial provided that the court determines that
21 the introduction of such substitute evidence is not likely to substantially prejudice the rights of the
22 defendant in the criminal trial.

23 (b) In the case of unknown or unapprehended defendants or of defendants willfully absent
24 from the jurisdiction, the court shall determine whether an attorney should be appointed as
25 guardian ad litem to represent and protect the interest of such unknown or absent defendants.
26 Appointment shall be in accordance with rules adopted by the Office of Indigent Defense
27 Services. The judicial findings concerning identification or value that are made at such hearing
28 whereby property is returned to the lawful owner or a person, firm, or corporation entitled to
29 possession, may be admissible into evidence at the trial. After final judgment all property lawfully
30 seized by or otherwise coming into the possession of law-enforcement authorities shall be
31 disposed of as the court or magistrate in its discretion orders, and may be forfeited and either sold
32 or destroyed in accordance with due process of law.

33 (b1) Notwithstanding subsections (a) and (b) of this section or any other provision of law, if
34 the property seized is a firearm and the district attorney determines the firearm is no longer
35 necessary or useful as evidence in a criminal trial, the district attorney, after notice to all parties
36 known or believed by the district attorney to have an ownership or a possessory interest in the
37 firearm, including the defendant, shall apply to the court for an order of disposition of the firearm.
38 The judge, after hearing, ~~may shall~~ order the disposition of the firearm as provided in subdivision
39 (1) of this subsection unless the rightful owner is the defendant. If the rightful owner is the
40 defendant, then the judge may order the disposition of the firearm in one of the following
41 ways: ways described by subdivisions (2) through (4) of this subsection:

- 42 (1) By ordering the firearm returned to its rightful owner, when the rightful owner
43 is someone other than the defendant and upon findings by the court (i) that the
44 person, firm, or corporation determined by the court to be the rightful owner is
45 entitled to possession of the firearm and (ii) that the person, firm, or corporation
46 determined by the court to be the rightful owner of the firearm was unlawfully
47 deprived of the same or had no knowledge or reasonable belief of the
48 defendant's intention to use the firearm unlawfully.
- 49 (2) By ordering the firearm returned to the defendant, but only if the defendant is
50 not convicted of any criminal offense in connection with the possession or use

1 of the firearm, the defendant is the rightful owner of the firearm, and the
2 defendant is not otherwise ineligible to possess such firearm.

3 (3) By ordering the firearm turned over to be destroyed by the sheriff of the county
4 in which the firearm was seized or by his duly authorized agent if the firearm
5 does not have a legible, unique identification number or is unsafe for use
6 because of wear, damage, age, or modification. The sheriff shall maintain a
7 record of the destruction of the firearm.

8 (4) By ordering the firearm turned over to a law enforcement agency in the county
9 of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the
10 agency to a federally licensed firearm dealer in accordance with all applicable
11 State and federal firearm laws. The court may order a disposition of the firearm
12 pursuant to this subdivision only if the firearm has a legible, unique
13 identification number. If the law enforcement agency sells the firearm, then the
14 proceeds of the sale shall be remitted to the appropriate county finance officer
15 as provided by G.S. 115C-452 to be used to maintain free public schools. The
16 receiving law enforcement agency shall maintain a record and inventory of all
17 firearms received pursuant to this subdivision.

18 This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of firearms used
19 only in connection with a violation of Article 22 of Chapter 113 of the General Statutes or any
20 local wildlife hunting ordinance.

21 (c) Any property, the forfeiture and disposition of which is specified in any general or
22 special law, shall be disposed of in accordance therewith."

23 **SECTION 12.** Article 35 of Chapter 14 of the General Statutes is amended by adding
24 a new section to read:

25 "**§ 14-277.6. Going armed to the terror of the people.**

26 (a) A person who arms himself or herself with an unusual and dangerous weapon for the
27 purpose of terrifying others and goes about on public highways in a manner to cause terror to the
28 people is guilty of a Class 1 misdemeanor.

29 (b) No person shall be convicted of a violation of subsection (a) of this section based only
30 on the person's possession or carrying of a handgun, whether openly or concealed."

31 **SECTION 13.** This act becomes effective September 1, 2017. Sections 5, 7, and 8
32 apply to permits issued on or after September 1, 2017.