

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 8*
Committee Substitute Favorable 2/18/94
Committee Substitute #2 Favorable 2/24/94
Fourth Edition Engrossed 3/2/94

Short Title: Amend Felony Firearms Act.

(Public)

Sponsors:

Referred to:

February 8, 1994

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE POSSESSION OF FIREARMS AND WEAPONS OF MASS DEATH AND DESTRUCTION BY FELONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-415.1 reads as rewritten:

"§ 14-415.1. Possession of firearms, etc., by felon prohibited.

(a) ~~(Effective until January 1, 1995) Except as provided in subsection (a1), and notwithstanding any restoration of citizenship, it shall be is~~ unlawful for any person who has been convicted of any crime set out in subsection (b) of this section, to purchase, own, possess, or have in ~~his~~ the person's custody, care, or control any handgun or other firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(e), within five years from the date of such conviction, or the unconditional discharge from a correctional institution, or termination of a suspended sentence, probation, or parole upon such conviction, whichever is later. G.S. 14-288.8(c).

Every person violating the provisions of this section ~~shall be punished as is~~ a Class I H felon.

~~Nothing in this subsection would prohibit the right of any person to have possession of a firearm within his own home or on his lawful place of business.~~

1 Any firearm or weapon of mass death and destruction lawfully seized for a violation
2 of this section shall be forfeited to the State and disposed of as provided in G.S. 14-
3 269.1.

4 (a1) After a period of 10 years from the date of conviction, unconditional
5 discharge from a correctional institution, or termination of parole, probation, or
6 suspension of sentence, whichever is later, a person subject to the provisions of
7 subsection (a) may petition the superior court in the jurisdiction in which the person
8 resides for a permit to purchase, own, possess, or control a firearm, other than a weapon
9 of mass death and destruction. The court may, for good cause shown and upon a
10 finding that public safety would not be jeopardized, grant the petition and issue a
11 permit. If the court grants the petition, it shall decide the places and circumstances
12 under which the person may purchase, own, possess, or control the firearm, and the
13 permit shall specify those places and circumstances. However, under no circumstances
14 shall the court issue a permit to purchase, own, possess or control a handgun to a person
15 who has previously been convicted of a Class A, B, C, D or E felony.

16 (b) Prior convictions which cause disenfranchisement under this section shall ~~only~~
17 ~~include:~~ include only:

- 18 (1) ~~Felonious violations of Articles 3, 4, 6, 7A, 8, 10, 13, 14, 15, 17, 30,~~
19 ~~33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes, or of~~
20 ~~Article 5 of Chapter 90 of the General Statutes; Felonies; and~~
21 (2) ~~Common law robbery and common law maim; and~~
22 (3) Violations of criminal laws of other states or of the United States
23 substantially similar to the crimes covered in ~~subdivisions (1) and (2)~~
24 subdivision (1) which are punishable where committed by
25 imprisonment for a term exceeding two years.

26 When a person is charged under this section, records of prior convictions of any offense,
27 whether in the courts of this State, or in the courts of any other state or of the United
28 States, shall be admissible in evidence for the purpose of proving a violation of this
29 section. The term 'conviction' is defined as a final judgment in any case in which felony
30 punishment, or imprisonment for a term exceeding two years, as the case may be, is
31 permissible, without regard to the plea entered or to the sentence imposed. A judgment
32 of a conviction or a plea of guilty to such an offense certified to a superior court of this
33 State from the custodian of records of any state or federal court under the same name as
34 that by which the defendant is charged shall be **prima facie** evidence that the identity of
35 such person is the same as the defendant so charged and shall be **prima facie** evidence
36 of the facts so certified.

37 (c) The indictment charging the defendant under the terms of this section shall be
38 separate from any indictment charging him with other offenses related to or giving rise
39 to a charge under this section. An indictment which charges the person with violation
40 of this section must set forth the date that the prior offense was committed, the type of
41 offense and the penalty therefor, and the date that the defendant was convicted or plead
42 guilty to such offense, the identity of the court in which the conviction or plea of guilty
43 took place and the verdict and judgment rendered therein.

1 (d) The provisions of this section shall not apply to a conviction of a crime
2 covered in subdivision (1) of subsection (b) of this section after the person has received
3 a pardon for that conviction from the Governor, unless the purchase, ownership,
4 possession, custody, care, or control of a firearm would violate a condition of the
5 pardon. The provisions of this section shall not apply to a conviction of a crime under
6 the laws of the United States covered in subdivision (3) of subsection (b) of this section
7 after the person has received a pardon for that conviction from the President of the
8 United States, unless the purchase, ownership, possession, custody, care, or control of a
9 firearm would violate a condition of the pardon.

10 (e) Any person certified as of May 1, 1994, as a criminal justice officer under
11 Chapter 17C of the General Statutes or any person issued a firearm registration permit
12 on or before May 1, 1994, by the Private Protection Services Board under Chapter 74C
13 of the General Statutes is exempt from this section."

14 Sec. 2. Section 1245 of Chapter 539 of the 1993 Session Laws is repealed.

15 Sec. 3. Section 2 of this act is effective upon ratification. The remainder of
16 this act becomes effective May 1, 1994, and applies to offenses committed on or after
17 that date.