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Short Title: Castle Doctrine/Amend Firearms Laws.

(Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CASTLE DOCTRINE, TO ALLOW PERSONS WITH CONCEALED HANDGUN PERMITS TO CARRY A HANDGUN IN A PARK, TO AUTHORIZE THE PURCHASE OF RIFLES, SHOTGUNS AND AMMUNITION IN OTHER STATES, TO IMPOSE CRIMINAL PENALTIES FOR PROVIDING FALSE INFORMATION IN CONNECTION WITH FIREARM OR AMMUNITION TRANSFER, AND TO AUTHORIZE DISTRICT ATTORNEYS, ASSISTANT DISTRICT ATTORNEYS, OR THEIR INVESTIGATORS WHO HAVE A VALID CONCEALED HANDGUN PERMIT TO CARRY A CONCEALED WEAPON ON CERTAIN PREMISES OR IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 14 of Chapter 14 of the General Statutes is amended by adding the following new sections to read:

"§ 14-51.2. Home, workplace, and motor vehicle protection; presumption of fear of death or serious bodily harm.

(a) The following definitions apply in this section:

- (1) Home. – A building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.
- (2) Law enforcement officer. – Any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, probation officer, post-release supervision officer, or parole officer.
- (3) Motor vehicle. – As defined in G.S. 20-4.01(23).
- (4) Workplace. – A building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.

(b) The lawful occupant of a home, motor vehicle, or workplace is presumed to have held a reasonable fear of imminent death or serious bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or serious bodily harm to another if both of the following apply:

- (1) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a home, motor vehicle, or workplace, or if that person had removed or was



- 1 attempting to remove another against that person's will from the home,
2 motor vehicle, or workplace.
- 3 (2) The person who uses defensive force knew or had reason to believe that an
4 unlawful and forcible entry or unlawful and forcible act was occurring or
5 had occurred.
- 6 (c) The presumption set forth in subsection (b) of this section shall be rebuttable and
7 does not apply in any of the following circumstances:
- 8 (1) The person against whom the defensive force is used has the right to be in or
9 is a lawful resident of the home, motor vehicle, or workplace, such as an
10 owner or lessee, and there is not an injunction for protection from domestic
11 violence or a written pretrial supervision order of no contact against that
12 person.
- 13 (2) The person sought to be removed from the home, motor vehicle, or
14 workplace is a child or grandchild or is otherwise in the lawful custody or
15 under the lawful guardianship of the person against whom the defensive
16 force is used.
- 17 (3) The person who uses defensive force is engaged in, attempting to escape
18 from, or using the home, motor vehicle, or workplace to further any criminal
19 offense that involves the use or threat of physical force or violence against
20 any individual.
- 21 (4) The person against whom the defensive force is used is a law enforcement
22 officer who enters or attempts to enter a home, motor vehicle, or workplace
23 in the lawful performance of his or her official duties, and the officer
24 identified himself or herself in accordance with any applicable law or the
25 person using force knew or reasonably should have known that the person
26 entering or attempting to enter was a law enforcement officer in the lawful
27 performance of his or her official duties.
- 28 (5) The person against whom the defensive force is used (i) has discontinued all
29 efforts to unlawfully and forcefully enter the home, motor vehicle, or
30 workplace and (ii) has exited the home, motor vehicle, or workplace.
- 31 (d) A person who unlawfully and by force enters or attempts to enter a person's home,
32 motor vehicle, or workplace is presumed to be doing so with the intent to commit an unlawful
33 act involving force or violence.
- 34 (e) A person who uses force as permitted by this section is justified in using such force
35 and is immune from civil or criminal liability for the use of such force, unless the person
36 against whom force was used is a law enforcement officer who was lawfully acting in the
37 performance of his or her official duties and the officer identified himself or herself in
38 accordance with any applicable law or the person using force knew or reasonably should have
39 known that the person was a law enforcement officer in the lawful performance of his or her
40 official duties.
- 41 (e1) A person who uses force as permitted by this section is justified in using such force
42 and is immune from civil or criminal liability for the use of such force, unless the person
43 against whom force was used is a bail bondsman who was lawfully acting in the performance
44 of his or her official duties and the bail bondsman identified himself or herself in accordance
45 with any applicable law or the person using force knew or reasonably should have known that
46 the person was a bail bondsman in the lawful performance of his or her official duties.
- 47 (f) A lawful occupant within his or her home, motor vehicle, or workplace does not
48 have a duty to retreat from an intruder in the circumstances described in this section.
- 49 (g) This section is not intended to repeal or limit any other defense that may exist under
50 the common law.

51 **"§ 14-51.3. Use of force in defense of person; relief from criminal or civil liability.**

1 (a) A person is justified in using force, except deadly force, against another when and to
2 the extent that the person reasonably believes that the conduct is necessary to defend himself or
3 herself or another against the other's imminent use of unlawful force. However, a person is
4 justified in the use of deadly force and does not have a duty to retreat in any place he or she has
5 the lawful right to be if either of the following applies:

6 (1) He or she reasonably believes that such force is necessary to prevent
7 imminent death or great bodily harm to himself or herself or another.

8 (2) Under the circumstances permitted pursuant to G.S. 14-51.2.

9 (b) A person who uses force as permitted by this section is justified in using such force
10 and is immune from civil or criminal liability for the use of such force unless the person against
11 whom force was used is a law enforcement officer who was lawfully acting in the performance
12 of his or her official duties and the officer identified himself or herself in accordance with any
13 applicable law or the person using force knew or reasonably should have known that the person
14 was a law enforcement officer in the lawful performance of his or her official duties."

15 **SECTION 2.** G.S. 14-51.1 is repealed.

16 **SECTION 3.** G.S. 14-269 reads as rewritten:

17 **"§ 14-269. Carrying concealed weapons.**

18 (a) It shall be unlawful for any person willfully and intentionally to carry concealed
19 about his person any bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles,
20 razor, shurikin, stun gun, or other deadly weapon of like kind, except when the person is on the
21 person's own premises.

22 (a1) It shall be unlawful for any person willfully and intentionally to carry concealed
23 about his person any pistol or gun except in the following circumstances:

24 (1) The person is on the person's own premises.

25 (2) The deadly weapon is a handgun, ~~and~~ the person has a concealed handgun
26 permit issued in accordance with Article 54B of this Chapter or considered
27 valid under ~~G.S. 14-415.24~~ G.S. 14-415.24, and the person is carrying the
28 concealed handgun in accordance with the scope of the concealed handgun
29 permit as set out in G.S. 14-415.11(c).

30 (3) The deadly weapon is a handgun and the person is a military permittee as
31 defined under G.S. 14-415.10(2a) who provides to the law enforcement
32 officer proof of deployment as required under G.S. 14-415.11(a).

33 (b) This prohibition shall not apply to the following persons:

34 (1) Officers and enlisted personnel of the armed forces of the United States
35 when in discharge of their official duties as such and acting under orders
36 requiring them to carry arms and weapons;

37 (2) Civil and law enforcement officers of the United States;

38 (3) Officers and soldiers of the militia and the National Guard when called into
39 actual service;

40 (4) Officers of the State, or of any county, city, town, or company police agency
41 charged with the execution of the laws of the State, when acting in the
42 discharge of their official duties;

43 (4a) Any person who is a district attorney, an assistant district attorney, or an
44 investigator employed by the office of a district attorney and who has a
45 concealed handgun permit issued in accordance with Article 54B of this
46 Chapter or considered valid under G.S. 14-415.24; provided that the person
47 shall not carry a concealed weapon at any time while in a courtroom or while
48 consuming alcohol or an unlawful controlled substance or while alcohol or
49 an unlawful controlled substance remains in the person's body. The district
50 attorney, assistant district attorney, or investigator shall secure the weapon in

1 a locked compartment when the weapon is not on the person of the district
2 attorney, assistant district attorney, or investigator;

- 3 (5) Sworn law-enforcement officers, when off-duty, provided that an officer
4 does not carry a concealed weapon while consuming alcohol or an unlawful
5 controlled substance or while alcohol or an unlawful controlled substance
6 remains in the officer's body.

7 (b1) It is a defense to a prosecution under this section that:

- 8 (1) The weapon was not a firearm;
9 (2) The defendant was engaged in, or on the way to or from, an activity in which
10 he legitimately used the weapon;
11 (3) The defendant possessed the weapon for that legitimate use; and
12 (4) The defendant did not use or attempt to use the weapon for an illegal
13 purpose.

14 The burden of proving this defense is on the defendant.

15 (b2) It is a defense to a prosecution under this section that:

- 16 (1) The deadly weapon is a handgun;
17 (2) The defendant is a military permittee as defined under G.S. 14-415.10(2a);
18 and
19 (3) The defendant provides to the court proof of deployment as defined under
20 G.S. 14-415.10(3a).

21 (c) Any person violating the provisions of subsection (a) of this section shall be guilty
22 of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this
23 section shall be guilty of a Class 2 misdemeanor for the first offense. A second or subsequent
24 offense is punishable as a Class I felony.

25 (d) This section does not apply to an ordinary pocket knife carried in a closed position.
26 As used in this section, "ordinary pocket knife" means a small knife, designed for carrying in a
27 pocket or purse, that has its cutting edge and point entirely enclosed by its handle, and that may
28 not be opened by a throwing, explosive, or spring action."

29 **SECTION 4.** G.S. 14-409.10 reads as rewritten:

30 **"§ 14-409.10. Purchase of rifles and shotguns out of State.**

31 ~~It shall be lawful for citizens of this State to purchase rifles and shotguns and ammunition~~
32 ~~therefor in states contiguous to this State. Unless otherwise prohibited by law, a citizen of this~~
33 ~~State may purchase a firearm in another state if the citizen undergoes a background check that~~
34 ~~satisfies the law of the state of purchase and that includes an inquiry of the National Instant~~
35 ~~Background Check System."~~

36 **SECTION 5.** Article 53A of Chapter 14 of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 14-408.1. Solicit unlawful purchase of firearm; unlawful to provide materially false**
39 **information regarding legality of firearm or ammunition transfer.**

40 (a) The following definitions apply in this section:

- 41 (1) Ammunition. – Any cartridge, shell, or projectile designed for use in a
42 firearm.
43 (2) Firearm. – A handgun, shotgun, or rifle which expels a projectile by action
44 of an explosion.
45 (3) Handgun. – A pistol, revolver, or other gun that has a short stock and is
46 designed to be held and fired by the use of a single hand.
47 (4) Licensed dealer. – A person who is licensed pursuant to 18 U.S.C. § 923 to
48 engage in the business of dealing in firearms.
49 (5) Materially false information. – Information that portrays an illegal
50 transaction as legal or a legal transaction as illegal.

1 (6) Private seller. – A person who sells or offers for sale any firearm, as defined
2 in G.S. 14-409.39, or ammunition.

3 (b) Any person who knowingly solicits, persuades, encourages, or entices a licensed
4 dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under
5 circumstances that the person knows would violate the laws of this State or the United States is
6 guilty of a Class F felony.

7 (c) Any person who provides to a licensed dealer or private seller of firearms or
8 ammunition information that the person knows to be materially false information with the
9 intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition
10 is guilty of a Class F felony.

11 (d) Any person who willfully procures another to engage in conduct prohibited by this
12 section shall be held accountable as a principal.

13 (e) This section does not apply to a law enforcement officer acting in his or her official
14 capacity or to a person acting at the direction of the law enforcement officer."

15 **SECTION 6.** G.S. 14-415.11 reads as rewritten:

16 **"§ 14-415.11. Permit to carry concealed handgun; scope of permit.**

17 (a) Any person who has a concealed handgun permit may carry a concealed handgun
18 unless otherwise specifically prohibited by law. The person shall carry the permit together with
19 valid identification whenever the person is carrying a concealed handgun, shall disclose to any
20 law enforcement officer that the person holds a valid permit and is carrying a concealed
21 handgun when approached or addressed by the officer, and shall display both the permit and the
22 proper identification upon the request of a law enforcement officer. In addition to these
23 requirements, a military permittee whose permit has expired during deployment may carry a
24 concealed handgun during the 90 days following the end of deployment and before the permit
25 is renewed provided the permittee also displays proof of deployment to any law enforcement
26 officer.

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

30 (c) ~~A~~ Except as provided in G.S. 14-415.27, a permit does not authorize a person to
31 carry a concealed handgun in the areas prohibited by G.S. 14-269.2, 14-269.3, 14-269.4, and
32 14-277.2, in an area prohibited by rule adopted under G.S. 120-32.1, in any area prohibited by
33 18 U.S.C. § 922 or any other federal law, in a law enforcement or correctional facility, in a
34 building housing only State or federal offices, in an office of the State or federal government
35 that is not located in a building exclusively occupied by the State or federal government, a
36 financial institution, or on any other premises, except state-owned rest areas or state-owned rest
37 stops along the highways, where notice that carrying a concealed handgun is prohibited by the
38 posting of a conspicuous notice or statement by the person in legal possession or control of the
39 premises.

40 (c1) Any person who has a concealed handgun permit may carry a concealed handgun on
41 the grounds or waters of a park within the State Parks System as defined in G.S. 113-44.9.

42 (c2) It shall be unlawful for a person, with or without a permit, to carry a concealed
43 handgun while consuming alcohol or at any time while the person has remaining in his body
44 any alcohol or in his blood a controlled substance previously consumed, but a person does not
45 violate this condition if a controlled substance in his blood was lawfully obtained and taken in
46 therapeutically appropriate amounts.

47 (d) A person who is issued a permit shall notify the sheriff who issued the permit of any
48 change in the person's permanent address within 30 days after the change of address. If a permit
49 is lost or destroyed, the person to whom the permit was issued shall notify the sheriff who
50 issued the permit of the loss or destruction of the permit. A person may obtain a duplicate

1 permit by submitting to the sheriff a notarized statement that the permit was lost or destroyed
2 and paying the required duplicate permit fee."

3 **SECTION 7.** G.S. 14-415.23 reads as rewritten:

4 **"§ 14-415.23. Statewide uniformity.**

5 It is the intent of the General Assembly to prescribe a uniform system for the regulation of
6 legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards,
7 or agencies of the State nor any county, city, municipality, municipal corporation, town,
8 township, village, nor any department or agency thereof, may enact ordinances, rules, or
9 regulations concerning legally carrying a concealed handgun. A unit of local government may
10 adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun,
11 in accordance with G.S. 14-415.11(c), on local government ~~buildings, their appurtenant~~
12 ~~premises, and parks~~ buildings and their appurtenant premises. A unit of local government may
13 adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal
14 and county recreational facilities that are specifically identified by the unit of local government.
15 If a unit of local government adopts such an ordinance with regard to recreational facilities,
16 then the concealed handgun permittee may, nevertheless, secure the handgun in a locked
17 vehicle within the trunk, glove box, or other enclosed compartment or area within or on the
18 motor vehicle. For purposes of this section, the term "recreational facilities" includes only the
19 following: a playground, an athletic field, a swimming pool, and an athletic facility."

20 **SECTION 8.** Article 54B of Chapter 14 of the General Statutes is amended by
21 adding a new section to read:

22 **"§ 14-415.27. Expanded permit scope for district attorneys, assistant district attorneys,**
23 **and investigators employed by office of the district attorney.**

24 Notwithstanding G.S. 14-415.11(c), any person who is a district attorney, an assistant
25 district attorney, or an investigator employed by the office of a district attorney and who has a
26 concealed handgun permit issued pursuant to this Article or that is considered valid under
27 G.S. 14-415.24 is not subject to the restrictions and prohibitions set out in G.S. 14-415.11(c)
28 and may carry a concealed handgun in the areas listed in G.S. 14-415.11(c) unless otherwise
29 prohibited by federal law."

30 **SECTION 9.** This act becomes effective December 1, 2011, and applies to
31 offenses committed on or after that date. Prosecutions for offenses committed before the
32 effective date of this act are not abated or affected by this act, and the statutes that would be
33 applicable but for this act remain applicable to those prosecutions.