

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 650
Committee Substitute Favorable 6/2/11

Short Title: Amend Various Gun Laws/Castle Doctrine.

(Public)

Sponsors:

Referred to:

April 6, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE WHEN A PERSON MAY USE DEFENSIVE FORCE AND TO
3 AMEND VARIOUS LAWS REGARDING THE RIGHT TO OWN, POSSESS, OR
4 CARRY A FIREARM IN NORTH CAROLINA.

5 The General Assembly of North Carolina enacts:

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

8 **"§ 14-51.2. Home, workplace, and motor vehicle protection; presumption of fear of death**
9 **or serious bodily harm.**

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

11 (1) Home. – A building or conveyance of any kind, to include its curtilage,
12 whether the building or conveyance is temporary or permanent, mobile or
13 immobile, which has a roof over it, including a tent, and is designed as a
14 temporary or permanent residence.

15 (2) Law enforcement officer. – Any person employed or appointed as a
16 full-time, part-time, or auxiliary law enforcement officer, correctional
17 officer, probation officer, post-release supervision officer, or parole officer.
18 The term "law enforcement officer" shall include a duly authorized bail
19 bondsman, or his or her employee, who is acting under lawful authority.

20 (3) Motor vehicle. – As defined in G.S. 20-4.01(23).

21 (4) Workplace. – A building or conveyance of any kind, whether the building or
22 conveyance is temporary or permanent, mobile or immobile, which has a
23 roof over it, including a tent, which is being used for commercial purposes.

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

28 (1) The person against whom the defensive force was used was in the process of
29 unlawfully and forcefully entering, or had unlawfully and forcibly entered,
30 the home, motor vehicle, or workplace, or if that person had removed or was
31 attempting to remove another against that person's will from the home,
32 motor vehicle, or workplace.

33 (2) The person who uses defensive force knew or had reason to believe that an
34 unlawful and forcible entry or unlawful and forcible act was occurring or
35 had occurred.



1 (c) The presumption provided in subsection (b) of this section shall be rebuttable if the
2 use of defensive force occurs in a motor vehicle or a workplace. The presumption set forth in
3 subsection (b) of this section does not apply in any of the following circumstances:

4 (1) The person against whom the defensive force is used has the right to be in or
5 is a lawful resident of the home, motor vehicle, or workplace such as an
6 owner or lessee, and there is not an injunction for protection from domestic
7 violence or a written pretrial supervision order of no contact against that
8 person.

9 (2) The person sought to be removed from the home, motor vehicle, or
10 workplace is a minor child or minor grandchild or is otherwise in the lawful
11 custody or under the lawful guardianship of the person against whom the
12 defensive force is used.

13 (3) The person who uses defensive force is engaged in, attempting to escape
14 from, or using the home, motor vehicle, or workplace to further any criminal
15 offense that involves the use or threat of physical force or violence against
16 any individual.

17 (4) The person against whom the defensive force is used is a law enforcement
18 officer who enters or attempts to enter a home, motor vehicle, or workplace
19 in the lawful performance of his or her official duties, and the officer
20 identified himself or herself in accordance with any applicable law or the
21 person using force knew or reasonably should have known that the person
22 entering or attempting to enter was a law enforcement officer in the lawful
23 performance of his or her official duties.

24 (5) The person against whom the defensive force is used (i) has discontinued all
25 efforts to unlawfully and forcefully enter the home, motor vehicle, or
26 workplace and (ii) has exited the home, motor vehicle, or workplace.

27 (d) A person who unlawfully and by force enters or attempts to enter a person's home,
28 motor vehicle, or workplace is presumed to be doing so with the intent to commit an unlawful
29 act involving force or violence.

30 (e) A person who uses force as permitted by this section is justified in using such force
31 and is immune from civil or criminal liability for the use of such force, unless the person
32 against whom force was used is a law enforcement officer who was lawfully acting in the
33 performance of his or her official duties and the officer identified himself or herself in
34 accordance with any applicable law or the person using force knew or reasonably should have
35 known that the person was a law enforcement officer in the lawful performance of his or her
36 official duties.

37 (f) A lawful occupant within his or her home, motor vehicle, or workplace does not
38 have a duty to retreat from an intruder in the circumstances described in this section.

39 (g) This section is not intended to repeal or limit any other defense that may exist under
40 the common law.

41 **"§ 14-51.3. Use of force in defense of person; relief from criminal or civil liability.**

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

47 (1) He or she reasonably believes that such force is necessary to prevent
48 imminent death or serious bodily harm to himself or herself or another.

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

50 (b) A person who uses force as permitted by this section is justified in using such force
51 and is immune from civil or criminal liability for the use of such force, unless the person

1 against whom force was used is a law enforcement officer who was lawfully acting in the
2 performance of his or her official duties and the officer identified himself or herself in
3 accordance with any applicable law or the person using force knew or reasonably should have
4 known that the person was a law enforcement officer in the lawful performance of his or her
5 official duties.

6 **"§ 14-51.4. Justification for defensive force not available.**

7 The justification described in G.S. 14-51.2 and G.S. 14-51.3 is not available to a person
8 who used defensive force and who:

- 9 (1) Was attempting to commit, committing, or escaping after the commission of
10 a felony.
- 11 (2) Initially provokes the use of force against himself or herself. However, the
12 person who initially provokes the use of force against himself or herself will
13 be justified in using defensive force if:
- 14 a. The force used by the person who was provoked is so serious that the
15 person using defensive force reasonably believes that he or she was
16 in imminent danger of death or serious bodily harm, the person using
17 defensive force had no reasonable means to retreat, and the use of
18 force which is likely to cause death or serious bodily harm to the
19 person who was provoked was the only way to escape the danger.
- 20 b. The person who used defensive force withdraws, in good faith, from
21 physical contact with the person who was provoked, and indicates
22 clearly that he or she desires to withdraw and terminate the use of
23 force, but the person who was provoked continues or resumes the use
24 of force."

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

26 **SECTION 3.** G.S. 14-269(b) reads as rewritten:

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

- 28 (1) Officers and enlisted personnel of the armed forces of the United States
29 when in discharge of their official duties as such and acting under orders
30 requiring them to carry arms and weapons;
- 31 (2) Civil and law enforcement officers of the United States;
- 32 (3) Officers and soldiers of the militia and the National Guard when called into
33 actual service;
- 34 (4) Officers of the State, or of any county, city, town, or company police agency
35 charged with the execution of the laws of the State, when acting in the
36 discharge of their official duties;
- 37 (4a) Any person who is a qualified retired law enforcement officer as defined in
38 G.S. 14-415.10 and is certified by the North Carolina Criminal Justice
39 Education and Training Standards Commission pursuant to G.S. 14-415.26;
40 provided that the person shall not carry a concealed weapon while
41 consuming alcohol or an unlawful controlled substance or while alcohol or
42 an unlawful controlled substance remains in the person's body;
- 43 (5) Sworn law-enforcement officers, when off-duty, provided that an officer
44 does not carry a concealed weapon while consuming alcohol or an unlawful
45 controlled substance or while alcohol or an unlawful controlled substance
46 remains in the officer's body."

47 **SECTION 4.** G.S. 14-269.2 reads as rewritten:

48 **"§ 14-269.2. Weapons on campus or other educational property.**

49 (a) The following definitions apply to this section:

- 50 (1) Educational property. – Any school building or bus, school campus,
51 grounds, recreational area, athletic field, or other property owned, ~~used,~~ or

1 operated by any board of education or school board of trustees, or directors
2 for the administration of any school.

3 (1a) Employee. – A person employed by a local board of education or school
4 whether the person is an adult or a minor.

5 (1b) School. – A public or private school, community college, college, or
6 university.

7 (2) Student. – A person enrolled in a school or a person who has been suspended
8 or expelled within the last five years from a school, whether the person is an
9 adult or a minor.

10 (3) Switchblade knife. – A knife containing a blade that opens automatically by
11 the release of a spring or a similar contrivance.

12 (4) Weapon. – Any device enumerated in subsection (b), (b1), or (d) of this
13 section.

14 (b) It shall be a Class I felony for any person knowingly to possess or carry, whether
15 openly or concealed, any gun, rifle, pistol, or other firearm of any kind on educational property
16 or to a curricular or extracurricular activity sponsored by a school. Unless the conduct is
17 covered under some other provision of law providing greater punishment, any person who
18 willfully discharges a firearm of any kind on educational property is guilty of a Class F felony.
19 However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

20 (b1) It shall be a Class G felony for any person to possess or carry, whether openly or
21 concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in
22 G.S. 14-284.1, on educational property or to a curricular or extracurricular activity sponsored
23 by a school. This subsection shall not apply to fireworks.

24 (c) It shall be a Class I felony for any person to cause, encourage, or aid a minor who is
25 less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol, or
26 other firearm of any kind on educational property. However, this subsection does not apply to a
27 BB gun, stun gun, air rifle, or air pistol.

28 (c1) It shall be a Class G felony for any person to cause, encourage, or aid a minor who
29 is less than 18 years old to possess or carry, whether openly or concealed, any dynamite
30 cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1 on
31 educational property. This subsection shall not apply to fireworks.

32 (d) It shall be a Class 1 misdemeanor for any person to possess or carry, whether openly
33 or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot,
34 leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except
35 solely for personal shaving), firework, or any sharp-pointed or edged instrument except
36 instructional supplies, unaltered nail files and clips and tools used solely for preparation of
37 food, instruction, and maintenance, on educational property.

38 (e) It shall be a Class 1 misdemeanor for any person to cause, encourage, or aid a minor
39 who is less than 18 years old to possess or carry, whether openly or concealed, any BB gun,
40 stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade
41 knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal
42 shaving), firework, or any sharp-pointed or edged instrument except instructional supplies,
43 unaltered nail files and clips and tools used solely for preparation of food, instruction, and
44 maintenance, on educational property.

45 (f) Notwithstanding subsection (b) of this ~~section~~ section and except as provided in
46 subsection (f1) of this section, it shall be a Class 1 misdemeanor rather than a Class I felony for
47 any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other
48 firearm of any kind, on educational property or to a curricular or extracurricular activity
49 sponsored by a school if:

- 1 (1) The person is not a student attending school on the educational property or
2 an employee employed by the school working on the educational property;
3 and
4 (1a) The person is not a student attending a curricular or extracurricular activity
5 sponsored by the school at which the student is enrolled or an employee
6 attending a curricular or extracurricular activity sponsored by the school at
7 which the employee is employed; and
8 (2) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999, and
9 applicable to offenses committed on or after that date.
10 (3) The firearm is not loaded, is in a motor vehicle, and is in a locked container
11 or a locked firearm rack.
12 (4) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999, and
13 applicable to offenses committed on or after that date.
14 (f1) It shall not be a violation of either subsection (b) or (f) of this section for any person
15 to possess or carry a firearm on educational property or to a curricular or extracurricular
16 activity sponsored by a school if the person has a permit issued in accordance with Article 54B
17 of this Chapter or that is valid under G.S. 14-415.24 and the firearm is in a closed compartment
18 or container within the person's locked vehicle or in a locked container securely affixed to the
19 person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the
20 firearm remains in the closed compartment at all times and the vehicle is locked immediately
21 following the entrance or exit.
22 (g) This section shall not apply to any of the following:
23 (1) A weapon used solely for educational or school-sanctioned ceremonial
24 purposes, or used in a school-approved program conducted under the
25 supervision of an adult whose supervision has been approved by the school
26 authority.
27 (1a) A person exempted by the provisions of G.S. 14-269(b).
28 (2) Firefighters, emergency service personnel, and North Carolina Forest
29 Service personnel, and any private police employed by a school, when acting
30 in the discharge of their official duties.
31 (3) Home schools as defined in G.S. 115C-563(a).
32 (4) Weapons used for hunting purposes on the Howell Woods Nature Center
33 property in Johnston County owned by Johnston Community College when
34 used with the written permission of Johnston Community College or for
35 hunting purposes on other educational property when used with the written
36 permission of the governing body of the school that controls the educational
37 property.
38 (5) A person registered under Chapter 74C of the General Statutes as an armed
39 armored car service guard or an armed courier service guard when acting in
40 the discharge of the guard's duties and with the permission of the college or
41 university.
42 (6) A person registered under Chapter 74C of the General Statutes as an armed
43 security guard while on the premises of a hospital or health care facility
44 located on educational property when acting in the discharge of the guard's
45 duties with the permission of the college or university.
46 (h) No person shall be guilty of a criminal violation of this section with regard to the
47 possession or carrying of a weapon so long as both of the following apply:
48 (1) The person comes into possession of a weapon by taking or receiving the
49 weapon from another person or by finding the weapon.
50 (2) The person delivers the weapon, directly or indirectly, as soon as practical to
51 law enforcement authorities."

1 **SECTION 5.** G.S. 14-269.4 reads as rewritten:

2 "**§ 14-269.4. Weapons on certain State property and in courthouses.**

3 It shall be unlawful for any person to possess, or carry, whether openly or concealed, any
4 deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in
5 the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or
6 on the grounds of any of these buildings, and in any building housing any court of the General
7 Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the
8 court, then this prohibition shall apply only to that portion of the building used for court
9 purposes while the building is being used for court purposes.

10 This section shall not apply ~~to~~ to any of the following:

11 (1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

12 (1a) A person exempted by the provisions of ~~G.S. 14-269(b)~~, G.S. 14-269(b).

13 (2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

14 (4a) Any person in a building housing a court of the General Court of Justice in
15 possession of a weapon for evidentiary purposes, to deliver it to a
16 law-enforcement agency, or for purposes of ~~registration~~, registration.

17 (4b) Any district court judge or superior court judge who carries or possesses a
18 concealed handgun in a building housing a court of the General Court of
19 Justice if the judge is in the building to discharge his or her official duties
20 and the judge has a concealed handgun permit issued in accordance with
21 Article 54B of this Chapter or considered valid under
22 ~~G.S. 14-415.24~~, G.S. 14-415.24.

23 (4c) Firearms in a courthouse, carried by detention officers employed by and
24 authorized by the sheriff to carry ~~firearms~~, firearms.

25 (4d) Any magistrate who carries or possesses a concealed handgun in any portion
26 of a building housing a court of the General Court of Justice other than a
27 courtroom itself unless the magistrate is presiding in that courtroom, if the
28 magistrate (i) is in the building to discharge the magistrate's official duties,
29 (ii) has a concealed handgun permit issued in accordance with Article 54B of
30 this Chapter or considered valid under G.S. 14-415.24, (iii) has successfully
31 completed a one-time weapons retention training substantially similar to that
32 provided to certified law enforcement officers in North Carolina, and (iv)
33 secures the weapon in a locked compartment when the weapon is not on the
34 magistrate's ~~person~~, person.

35 (5) State-owned rest areas, rest stops along the highways, and State-owned
36 hunting and fishing reservations.

37 (6) A person with a permit issued in accordance with Article 54B of this
38 Chapter or considered valid under G.S. 14-415.24 who has a firearm in a
39 closed compartment or container within the person's locked vehicle or in a
40 locked container securely affixed to the person's vehicle. A person may
41 unlock the vehicle to enter or exit the vehicle provided the firearm remains
42 in the closed compartment at all times and the vehicle is locked immediately
43 following the entrance or exit.

44 Any person violating the provisions of this section shall be guilty of a Class 1
45 misdemeanor."

46 **SECTION 6.** G.S. 14-269.7(a) reads as rewritten:

47 "(a) Any minor who willfully and intentionally possesses or carries a handgun is guilty
48 of a ~~Class 2~~ Class 1 misdemeanor."

49 **SECTION 7.** G.S. 14-269.8(a) reads as rewritten:

50 "(a) In accordance with G.S. 50B-3.1, it is unlawful for any person to ~~own~~, possess,
51 purchase, or receive or attempt to ~~own~~, possess, purchase, or receive a firearm, as defined in

1 G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed
2 firearms if ordered by the court for so long as that protective order or any successive protective
3 order entered against that person pursuant to Chapter 50B of the General Statutes is in effect."

4 **SECTION 8.** G.S. 14-288.8(b) reads as rewritten:

5 "(b) This section does not apply ~~to~~to any of the following:

- 6 (1) Persons exempted from the provisions of G.S. 14-269 with respect to any
7 activities lawfully engaged in while carrying out their duties.
- 8 (2) Importers, manufacturers, dealers, and collectors of firearms, ammunition, or
9 destructive devices validly licensed under the laws of the United States or
10 the State of North Carolina, while lawfully engaged in activities authorized
11 under their licenses.
- 12 (3) Persons under contract with the United States, the State of North Carolina, or
13 any agency of either government, with respect to any activities lawfully
14 engaged in under their contracts.
- 15 (4) Inventors, designers, ordnance consultants and researchers, chemists,
16 physicists, and other persons lawfully engaged in pursuits designed to
17 enlarge knowledge or to facilitate the creation, development, or manufacture
18 of weapons of mass death and destruction intended for use in a manner
19 consistent with the laws of the United States and the State of North Carolina.
- 20 (5) Persons who lawfully possess or own a weapon as defined in subsection (c)
21 of this section in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871."

22 **SECTION 9.** G.S. 14-409(b) reads as rewritten:

23 "(b) It shall be unlawful for any person, firm or corporation to manufacture, sell, give
24 away, dispose of, use or possess machine guns, submachine guns, or other like weapons as
25 defined by subsection (a) of this section: Provided, however, that this subsection shall not apply
26 to the following:

27 Banks, merchants, and recognized business establishments for use in their respective places
28 of business, who shall first apply to and receive from the sheriff of the county in which said
29 business is located, a permit to possess the said weapons for the purpose of defending the said
30 business; officers and soldiers of the United States Army, when in discharge of their official
31 duties, officers and soldiers of the militia when called into actual service, officers of the State,
32 or of any county, city or town, charged with the execution of the laws of the State, when acting
33 in the discharge of their official duties; the manufacture, use or possession of such weapons for
34 scientific or experimental purposes when such manufacture, use or possession is lawful under
35 federal laws and the weapon is registered with a federal agency, and when a permit to
36 manufacture, use or possess the weapon is issued by the sheriff of the county in which the
37 weapon is ~~located~~-located; a person who lawfully possesses or owns a weapon as defined by
38 subsection (a) of this section in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871.
39 Provided, further, that any bona fide resident of this State who now owns a machine gun used
40 in former wars, as a relic or souvenir, may retain and keep same as his or her property without
41 violating the provisions of this section upon his reporting said ownership to the sheriff of the
42 county in which said person lives."

43 **SECTION 10.** G.S. 14-404(d) reads as rewritten:

44 "(d) Nothing in this Article shall apply to officers authorized by law to carry firearms if
45 the officers identify themselves to the vendor or donor as being officers authorized by law to
46 carry firearms and ~~state that the purpose for the purchase of the firearms is directly related to~~
47 ~~the law officers' official duties.~~provide any of the following:

- 48 (1) A letter signed by the officer's supervisor or superior officer stating that the
49 officer is authorized by law to carry a firearm.
- 50 (2) A current photographic identification card issued by the officer's employer.

1 (3) A current photographic identification card issued by a State agency that
2 identifies the individual as a law enforcement officer certified by the State of
3 North Carolina.

4 (4) A current identification card issued by the officer's employer and another
5 form of current photographic identification."

6 **SECTION 11.** Article 53A of Chapter 14 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 14-408.1. Solicit unlawful purchase of firearm; unlawful to provide materially false**
9 **information regarding legality of firearm or ammunition transfer.**

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

11 (1) Ammunition. – Any cartridge, shell, or projectile designed for use in a
12 firearm.

13 (2) Firearm. – A handgun, shotgun, or rifle which expels a projectile by action
14 of an explosion.

15 (3) Handgun. – A pistol, revolver, or other gun that has a short stock and is
16 designed to be held and fired by the use of a single hand.

17 (4) Licensed dealer. – A person who is licensed pursuant to 18 U.S.C. § 923 to
18 engage in the business of dealing in firearms.

19 (5) Materially false information. – Information that portrays an illegal
20 transaction as legal or a legal transaction as illegal.

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

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

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

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

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

35 **SECTION 12.** G.S. 14-409.10 reads as written:

36 **"§ 14-409.10. Purchase of rifles and shotguns out of State.**

37 It shall be lawful for citizens of this State to purchase rifles and shotguns and ammunition
38 therefor in states contiguous to this State. Notwithstanding any other provision of law of this
39 State, a citizen of this State may purchase a firearm in another state if the citizen undergoes a
40 background check that satisfies the law of the state of purchase and that includes an inquiry of
41 the National Instant Background Check System."

42 **SECTION 13.** Article 53B of Chapter 14 of the General Statutes is amended by
43 adding a new section to read:

44 **"§ 14-409.41. No prohibition regarding the transportation or storage of a firearm in**
45 **locked motor vehicle by business, commercial enterprise, or employer; civil**
46 **liability; enforcement.**

47 (a) As used in this section, the term "motor vehicle" means any automobile, truck,
48 minivan, sports utility vehicle, motorcycle, motor scooter, and any other vehicle required to be
49 registered under Chapter 20 of the General Statutes.

50 (b) A business, commercial enterprise, or employer shall not establish, maintain, or
51 enforce a policy or rule that prohibits or has the effect of prohibiting a person from transporting

1 or storing any firearm or ammunition when the person has a permit issued in accordance with
2 Article 54B of this Chapter or that is valid under G.S. 14-415.24, is otherwise in compliance
3 with all other applicable laws and regulations, and the firearm or ammunition is in a closed
4 compartment or container within the person's locked vehicle or in a locked container securely
5 affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle
6 provided the firearm or ammunition remain in the closed compartment at all times and the
7 vehicle is locked immediately following the entrance or exit.

8 (c) Subsection (b) of this section shall not apply to the following:

9 (1) Vehicles owned or leased by an employer.

10 (2) Where transport or storage of a firearm is prohibited by State or federal law
11 or regulation.

12 (d) A person who is injured or incurs damages, or the survivors of a person killed, as a
13 result of a violation of subsection (b) of this section may bring a civil action in the appropriate
14 court against any business entity, commercial enterprise, or employer who committed or caused
15 such violation. A person who would be entitled legally to transport or store a firearm or
16 ammunition, but who would be denied the ability to transport or store a firearm or ammunition
17 by a policy in violation of subsection (b) of this section, may bring a civil action in the
18 appropriate court to enjoin any business entity, commercial enterprise, or employer from
19 violating subsection (b) of this section.

20 (e) An employee discharged by an employer, business entity, or commercial enterprise
21 for violation of a policy or rule prohibited under subsection (b) of this section, when he or she
22 was lawfully transporting or storing a firearm out of plain sight in a locked motor vehicle, is
23 entitled to full recovery as specified in subdivisions (1) through (4) of this subsection,
24 inclusive. If the demand for the recovery is denied, the employee may bring a civil action in the
25 courts of this State against the employer, business entity, or commercial enterprise and is
26 entitled to the following:

27 (1) Reinstatement to the same position held at the time of his or her termination
28 from employment, or to an equivalent position.

29 (2) Reinstatement of the employee's full fringe benefits and seniority rights, as
30 appropriate.

31 (3) Compensation, if appropriate, for lost wages, benefits, or other lost
32 remuneration caused by the termination.

33 (4) Payment of reasonable attorneys' fees and legal costs incurred.

34 (f) A business, commercial enterprise, employer, or property owner that allows persons
35 to transport or store any firearm or ammunition pursuant to subsection (b) of this section shall
36 have complete immunity and shall not be held liable in any civil action for damages, injuries, or
37 death resulting from or arising out of another person's actions involving a firearm or
38 ammunition transported or stored in accordance with this section including, but not limited to,
39 the theft of a firearm from an employee's automobile. Nothing contained in this section shall
40 create a new duty on the part of any business, commercial enterprise, employer, or property
41 owner. This section shall not be construed to permit a person to possess a firearm outside of a
42 motor vehicle while on the premises of a place of employment where the person in legal
43 possession or control of the premises has posted a conspicuous notice prohibiting possession of
44 a firearm on the premises.

45 (g) In any action relating to the enforcement of any right or obligation under
46 subsections (d) and (e) of this section, the reasonable, good-faith efforts of a business,
47 commercial enterprise, employer, or property owner to comply with other applicable and
48 irreconcilable federal or State safety laws or regulations shall be a complete defense to any
49 liability of the business, commercial enterprise, employer, or property owner."

50 **SECTION 14.** G.S. 14-415.1 reads as rewritten:

51 **"§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

1 (a) It shall be unlawful for any person who has been convicted of a felony to purchase,
2 own, possess, or have in his custody, care, or control any firearm or any weapon of mass death
3 and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i)
4 any weapon, including a starter gun, which will or is designed to or may readily be converted to
5 expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm
6 muffler or firearm silencer. This section does not apply to an antique firearm, as defined in
7 G.S. 14-409.11.

8 Every person violating the provisions of this section shall be punished as a Class G felon.

9 (b) Prior convictions which cause disenfranchisement under this section shall only include:

- 10 (1) Felony convictions in North Carolina that occur before, on, or after
11 December 1, 1995; and
12 (2) Repealed by Session Laws 1995, c. 487, s. 3, effective December 1, 1995.
13 (3) Violations of criminal laws of other states or of the United States that occur
14 before, on, or after December 1, 1995, and that are substantially similar to
15 the crimes covered in subdivision (1) which are punishable where committed
16 by imprisonment for a term exceeding one year.

17 When a person is charged under this section, records of prior convictions of any offense,
18 whether in the courts of this State, or in the courts of any other state or of the United States,
19 shall be admissible in evidence for the purpose of proving a violation of this section. The term
20 "conviction" is defined as a final judgment in any case in which felony punishment, or
21 imprisonment for a term exceeding one year, as the case may be, is ~~permissible, authorized,~~
22 without regard to the plea entered or to the sentence imposed. A judgment of a conviction of
23 the defendant or a plea of guilty by the defendant to such an offense certified to a superior court
24 of this State from the custodian of records of any state or federal court shall be prima facie
25 evidence of the facts so certified.

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

33 (d) This section does not apply to a person ~~whose firearms rights have been restored~~
34 ~~under G.S. 14-415.4, unless the person is convicted of a subsequent felony after the petition to~~
35 ~~restore the person's firearms rights is granted, who, pursuant to the law of the jurisdiction in~~
36 which the conviction occurred, has been pardoned or has had his or her firearms rights restored.

37 (e) This section does not apply and there is no disenfranchisement under this section if the
38 felony conviction is a violation under the laws of North Carolina, another state, or the United
39 States that pertains to antitrust violations, unfair trade practices, or restraints of trade."

40 **SECTION 15.** G.S. 14-415.11(a) reads as rewritten:

41 "(a) Any person who has a concealed handgun permit may carry a concealed handgun
42 unless otherwise specifically prohibited by law. The person shall carry the permit together with
43 valid identification whenever the person is carrying a concealed handgun, shall disclose to any
44 law enforcement officer that the person holds a valid permit and is carrying a concealed
45 handgun when approached or addressed by the ~~officer, officer while the officer is in the~~
46 performance of official duties, and shall display both the permit and the proper identification
47 upon the request of a law enforcement officer. In addition to these requirements, a military
48 permittee whose permit has expired during deployment may carry a concealed handgun during
49 the 90 days following the end of deployment and before the permit is renewed provided the
50 permittee also displays proof of deployment to any law enforcement officer."

51 **SECTION 16.** G.S. 14-415.11(c) reads as rewritten.

1 "(c) A permit does not authorize a person to carry a concealed handgun in any of the
2 following:

- 3 (1) areas—Areas prohibited by G.S. 269.2, ~~14-269.3,~~ ~~14-269.4,~~ and
4 14-277.2, G.S. 14-269.3 and G.S. 14-277.2.
- 5 (2) Areas prohibited by G.S. 14-269.2, except as allowed under G.S. 14-
6 269.2(f1).
- 7 (3) Areas prohibited by G.S. 14-269.4, except as allowed under G.S. 14-
8 269.4(6).
- 9 (4) ~~in~~ In an area prohibited by rule adopted under ~~G.S. 120-32.1,~~ G.S. 120-32.1.
- 10 (5) ~~in~~ In any area prohibited by 18 U.S.C. § 922 or any other federal law, law.
- 11 (6) ~~in~~ In a law enforcement or correctional facility, facility.
- 12 (7) ~~in~~ In a building housing only State or federal offices, offices, except as
13 allowed under G.S. 14-409.41.
- 14 (8) ~~in~~ In an office of the State or federal government that is not located in a
15 building exclusively occupied by the State or federal
16 government, government, except as allowed under G.S. 14-409.41.
- 17 (9) ~~a financial institution, or on any other premises, except state owned rest~~
18 ~~areas or state owned rest stops along the highways, Except as provided in~~
19 G.S. 14-409.41, on any private premises where notice that carrying a
20 concealed handgun is prohibited by the posting of a conspicuous notice or
21 statement by the person in legal possession or control of the premises.

22 It shall be unlawful for a person, with or without a permit, to carry a concealed handgun
23 while consuming alcohol or at any time while the person has remaining in ~~his~~ the person's body
24 any alcohol or in ~~his~~ the person's blood a controlled substance previously consumed, but a
25 person does not violate this condition if a controlled substance in ~~his~~ the person's blood was
26 lawfully obtained and taken in therapeutically appropriate ~~amounts~~ amounts or if the person is
27 on the person's own property.

28 It shall be lawful for a person with a permit to carry a concealed handgun at any
29 State-owned rest area or State-owned rest stop along the highways."

30 **SECTION 17.** G.S. 14-415.13(a)(5) reads as rewritten:

31 "(a) A person shall apply to the sheriff of the county in which the person resides to
32 obtain a concealed handgun permit. The applicant shall submit to the sheriff all of the
33 following:

- 34 ...
- 35 (5) A release, in a form to be prescribed by the Administrative Office of the
36 Courts, that authorizes and requires disclosure to the sheriff of any records
37 concerning the mental health or capacity of the ~~applicant~~ applicant to be
38 used for the sole purpose of determining whether the applicant is
39 disqualified for a permit under the provisions of G.S. 14-415.12. This
40 provision does not prohibit submitting information related to involuntary
41 commitment to the National Instant Criminal Background Check System
42 (NICS)."

43 **SECTION 18.** G.S. 14-415.14(b) reads as rewritten:

44 "(b) The permit application shall also contain a warning substantially as follows:

45 "CAUTION: Federal law and State law on the possession of handguns and firearms may
46 differ. If you are prohibited by federal law from possessing a handgun or a firearm, you may be
47 prosecuted in federal court. A State permit is not a defense to a federal prosecution."

48 **SECTION 19.** G.S. 14-415.15 reads as rewritten:

49 "**§ 14-415.15. Issuance or denial of permit.**

50 (a) Except as permitted under subsection (b) of this section, within ~~90~~ 45 days after
51 receipt of the items listed in G.S. 14-415.13 from an applicant, and receipt of the required

1 records concerning the mental health or capacity of the applicant, the sheriff shall either issue
2 or deny the permit. The sheriff may conduct any investigation necessary to determine the
3 qualification or competency of the person applying for the permit, including record checks.

4 (b) Upon presentment to the sheriff of the items required under G.S. 14-415.13 (a)(1),
5 (2), and (3), the sheriff may issue a temporary permit for a period not to exceed ~~90~~45 days to a
6 person who the sheriff reasonably believes is in an emergency situation that may constitute a
7 risk of safety to the person, the person's family or property. The applicant may submit proof of
8 a protective order issued under G.S. 50B-3 for the protection of the applicant as evidence of an
9 emergency situation. The temporary permit may not be renewed and may be revoked by the
10 sheriff without a hearing.

11 (c) A person's application for a permit shall be denied only if the applicant fails to
12 qualify under the criteria listed in this Article. If the sheriff denies the application for a permit,
13 the sheriff shall, within ~~90~~45 days, notify the applicant in writing, stating the grounds for
14 denial. An applicant may appeal the denial, revocation, or nonrenewal of a permit by
15 petitioning a district court judge of the district in which the application was filed. The
16 determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness
17 of the sheriff's refusal. The determination by the court shall be final."

18 **SECTION 20.** G.S. 14-415.16 reads as rewritten:

19 **"§ 14-415.16. Renewal of permit.**

20 (a) At least 45 days prior to the expiration date of a permit, the sheriff of the county
21 where the permit was issued shall send a written notice to the permittee explaining that the
22 permit is about to expire and including information about the requirements for renewal of the
23 permit. The notice shall be sent by first class mail to the last known address of the permittee.
24 Failure to receive a renewal notice shall not relieve a permittee of requirements imposed in this
25 section for renewal of the permit.

26 (b) The holder of a permit shall apply to renew the permit within the 90-day period
27 prior to its expiration date by filing with the sheriff of the county in which the person resides a
28 renewal form provided by the sheriff's office, ~~a notarized~~an affidavit stating that the permittee
29 remains qualified under the criteria provided in this Article, a newly administered full set of the
30 permittee's fingerprints, and a renewal fee.

31 (c) Upon receipt of the completed renewal ~~application, including the permittee's~~
32 ~~fingerprints, application~~ and the appropriate payment of fees, the sheriff shall determine if the
33 permittee remains qualified to hold a permit in accordance with the provisions of
34 G.S. 14-415.12. The permittee's criminal history shall be updated, including with another
35 inquiry of the National Instant Criminal Background Check System (NICS), and the sheriff
36 may waive the requirement of taking another firearms safety and training course. If the
37 permittee applies for a renewal of the permit within the 90-day period prior to its expiration
38 date and if the permittee remains qualified to have a permit under G.S. 14-415.12, the sheriff
39 shall renew the permit. The permit of a permittee who complies with this section shall remain
40 valid beyond the expiration date of the permit until the permittee either receives a renewal
41 permit or is denied a renewal permit by the sheriff.

42 (d) No fingerprints shall be required for a renewal permit if the applicant's fingerprints
43 were submitted to the State Bureau of Investigation after June 30, 2001, on the Automated
44 Fingerprint Information System (AFIS) as prescribed by the State Bureau of Investigation.

45 (e) If the permittee does not apply to renew the permit prior to its expiration date, but
46 does apply to renew the permit within 60 days after the permit expires, the sheriff may waive
47 the requirement of taking another firearms safety and training course. This subsection does not
48 extend the expiration date of the permit."

49 **SECTION 21.** G.S. 14-415.17 reads as rewritten:

50 **"§ 14-415.17. Permit; sheriff to retain and make available to law enforcement agencies a**
51 **list of permittees.**

1 The permit shall be in a certificate form, as prescribed by the Administrative Office of the
2 Courts, that is approximately the size of a North Carolina drivers license. It shall bear the
3 signature, name, address, date of birth, and ~~social security number of the permittee, and the~~
4 drivers license identification number used in applying for the permit. The sheriff shall maintain
5 a ~~listing~~ listing, including the identifying information, of those persons who are issued a ~~permit~~
6 ~~and any pertinent information regarding the issued permit.~~ permit. The permit information shall
7 be available upon request to all State and local law enforcement agencies.

8 Within five days of the date a permit is issued, the sheriff shall send a copy of the permit to
9 the State Bureau of Investigation. The State Bureau of Investigation shall make this information
10 available to law enforcement officers and clerks of court on a statewide system."

11 **SECTION 22.** G.S. 14-415.18(a) reads as rewritten:

12 "(a) The sheriff of the county where the permit was issued or the sheriff of the county
13 where the person resides may revoke a permit subsequent to a hearing for any of the following
14 reasons:

- 15 (1) Fraud or intentional ~~or~~ and material misrepresentation in the obtaining of a
16 permit.
- 17 (2) Misuse of a permit, including lending or giving a permit or a duplicate
18 permit to another person, duplicating ~~materially altering~~ a permit, or using a
19 permit with the intent to unlawfully cause harm to a person or property. It
20 shall not be considered misuse of a permit to provide a duplicate of the
21 permit to a vender for record-keeping purposes.
- 22 (3) The doing of an act or existence of a condition which would have been
23 grounds for the denial of the permit by the sheriff.
- 24 (4) The violation of any of the terms of this Article.
- 25 (5) The applicant is adjudicated guilty of or receives a prayer for judgment
26 continued for a crime which would have disqualified the applicant from
27 initially receiving a permit.

28 A permittee may appeal the revocation, or nonrenewal of a permit by petitioning a district
29 court judge of the district in which the applicant resides. The determination by the court, on
30 appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal."

31 **SECTION 23.** G.S. 14-415.21 reads as rewritten:

32 "**§ 14-415.21. Violations of this Article punishable as an ~~infraction and a Class 2~~**
33 **misdemeanor, infraction.**

34 (a) A person who has been issued a valid permit who is found to be carrying a
35 concealed handgun without the permit in the person's possession or who fails to disclose to any
36 law enforcement officer that the person holds a valid permit and is carrying a concealed
37 handgun, as required by G.S. 14-415.11, shall be guilty of an infraction ~~for the first offense~~ and
38 shall be punished in accordance with G.S. 14-3.1. In lieu of paying a fine ~~for the first offense,~~
39 the person may surrender the permit. ~~Subsequent offenses for failing to carry a valid permit or~~
40 ~~for failing to make the necessary disclosures to a law enforcement officer as required by~~
41 ~~G.S. 14-415.11 shall be punished in accordance with subsection (b) of this section.~~

42 (b) ~~A person who violates the provisions of this Article other than as set forth in~~
43 ~~subsection (a) of this section is guilty of a Class 2 misdemeanor."~~

44 **SECTION 24.** G.S. 14-415.24 reads as rewritten:

45 "**§ 14-415.24. Reciprocity; out-of-state handgun permits.**

46 (a) A valid concealed handgun permit or license issued by another state is valid in
47 North Carolina ~~if that state grants the same right to residents of North Carolina who have valid~~
48 ~~concealed handgun permits issued pursuant to this Article in their possession while carrying~~
49 ~~concealed weapons in that state.~~ North Carolina.

1 ~~(b) The Attorney General shall maintain a registry of states that meet the requirements~~
2 ~~of this section on the North Carolina Criminal Information Network and make the registry~~
3 ~~available to law enforcement officers for investigative purposes.~~

4 (c) Every 12 months after the effective date of this subsection, the Department of
5 Justice shall make written inquiry of the concealed handgun permitting authorities in each other
6 state as to: (i) whether a North Carolina resident may carry a concealed handgun in their state
7 based upon having a valid North Carolina concealed handgun permit and (ii) whether a North
8 Carolina resident may apply for a concealed handgun permit in that state based upon having a
9 valid North Carolina concealed handgun permit. The Department of Justice shall attempt to
10 secure from each state permission for North Carolina residents who hold a valid North Carolina
11 concealed handgun permit to carry a concealed handgun in that state, either on the basis of the
12 North Carolina permit or on the basis that the North Carolina permit is sufficient to permit the
13 issuance of a similar license or permit by the other state."

14 **SECTION 25.** G.S. 50B-3.1(d) reads as rewritten:

15 "(d) Surrender. – Upon service of the order, the defendant shall immediately surrender to
16 the sheriff possession of all firearms, machine guns, ammunition, permits to purchase firearms,
17 and permits to carry concealed firearms that are in the care, custody, possession, ownership, or
18 control of the defendant. In the event that weapons cannot be surrendered at the time the order
19 is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff
20 within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the
21 firearms or contract with a licensed firearms dealer to provide storage.

22 (1) If the court orders the defendant to surrender firearms, ammunition, and
23 permits, the court shall inform the plaintiff and the defendant of the terms of
24 the protective order and include these terms on the face of the order,
25 including that the defendant is prohibited from ~~owning,~~ possessing,
26 purchasing, or receiving or attempting to ~~own,~~ possess, purchase, or receive
27 a firearm for so long as the protective order or any successive protective
28 order is in effect. The terms of the order shall include instructions as to how
29 the defendant may request retrieval of any firearms, ammunition, and
30 permits surrendered to the sheriff when the protective order is no longer in
31 effect. The terms shall also include notice of the penalty for violation of
32 G.S. 14-269.8.

33 (2) The sheriff may charge the defendant a reasonable fee for the storage of any
34 firearms and ammunition taken pursuant to a protective order. The fees are
35 payable to the sheriff. The sheriff shall transmit the proceeds of these fees to
36 the county finance officer. The fees shall be used by the sheriff to pay the
37 costs of administering this section and for other law enforcement purposes.
38 The county shall expend the restricted funds for these purposes only. The
39 sheriff shall not release firearms, ammunition, or permits without a court
40 order granting the release. The defendant must remit all fees owed prior to
41 the authorized return of any firearms, ammunition, or permits. The sheriff
42 shall not incur any civil or criminal liability for alleged damage or
43 deterioration due to storage or transportation of any firearms or ammunition
44 held pursuant to this section."

45 **SECTION 26.** G.S. 50B-3.1(j) reads as rewritten:

46 "(j) Violations. – In accordance with G.S. 14-269.8, it is unlawful for any person to
47 ~~own,~~ possess, purchase, or receive or attempt to ~~own,~~ possess, purchase, or receive a firearm, as
48 defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry
49 concealed firearms if ordered by the court for so long as that protective order or any successive
50 protective order entered against that person pursuant to this Chapter is in effect. Any defendant
51 violating the provisions of this section shall be guilty of a Class H felony."

1 **SECTION 27.** Article 16 of Chapter 95 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 95-156. Liability protection for businesses; firearms.**

4 It is the intent of the General Assembly that the decision of a business, commercial
5 enterprise, employer, or property owner, allowing persons with handgun permits to carry a
6 handgun on such property, does not constitute an occupational safety and health hazard within
7 the jurisdiction of this Chapter and such a business, commercial enterprise, employer, or
8 property owner may not be cited under any provision of Article 16 of this Chapter, including
9 G.S. 95-129(1), having civil penalties imposed under G.S. 95-138 or criminal penalties
10 imposed under G.S. 95-139. The Attorney General shall intervene and defend this section in
11 any cause of action brought as a private right of action or by the Occupational Safety and
12 Health Administration of the United States Department of Labor. This section shall not be
13 construed to permit a person to possess a firearm outside of a motor vehicle while on the
14 premises of a place of employment where the person in legal possession or control of the
15 premises has posted a conspicuous notice prohibiting possession of a firearm on the premises."

16 **SECTION 28.** G.S. 120-32.1 is amended by adding a new subsection to read:

17 "(c1) No rule adopted under this section shall prohibit the transportation or storage of a
18 firearm in a closed compartment or container within a person's locked vehicle or in a locked
19 container securely affixed to a person's vehicle."

20 **SECTION 29.** This act becomes effective December 1, 2011, and applies to
21 offenses committed on or after that date. Prosecutions for offenses committed before the
22 effective date of this act are not abated or affected by this act, and the statutes that would be
23 applicable but for this act remain applicable to those prosecutions.