

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 143

Short Title: Handguns/Permits/Minors.

(Public)

Sponsors: Representatives B. Miller, Easterling; and Alexander.

Referred to: Judiciary III.

February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE ISSUANCE OF A HANDGUN PERMIT TO A MINOR, TO REQUIRE THE ISSUER OF A HANDGUN PERMIT TO VERIFY THAT THE APPLICANT IS NOT A MINOR, TO MAKE IT A FELONY FOR A GUN DEALER TO TRANSFER A HANDGUN WITHOUT A PERMIT, TO MAKE IT A FELONY FOR A PERSON TO TRANSFER A HANDGUN TO A MINOR WITHOUT A PERMIT, AND TO REQUIRE GUN DEALERS TO KEEP RECORDS OF PERMITS OF PERSONS TO WHOM THEY SELL HANDGUNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-402(c) is recodified as G.S. 14-402.1 and reads as rewritten:

~~"(e)~~ § 14-402.1. Definitions.

The following definitions apply in this ~~section~~ Article:

- (1) Antique firearm. – Defined in G.S. 14-409.11.
- (2) Bolt. – A projectile made to be discharged from a crossbow. The bolt differs from an arrow in that the bolt is heavier and shorter than an arrow.
- (3) Crossbow. – A mechanical device consisting of, but not limited to, strings, cables, and prods transversely mounted on either a shoulder or hand-held stock. This ~~device~~ ~~[device]~~ device is mechanically held at full or partial draw and released by a trigger or similar mechanism which is incorporated into a stock or handle. When operated, the crossbow discharges a projectile known as a bolt.

1 (3a) Dealer. – A person required to be licensed as a gun dealer under 18
2 U.S.C. § 923, G.S. 105-80, or both.

3 (3b) Handgun. – Any dangerous firearm, including a pistol or revolver,
4 designed to be fired by the use of a single hand.

5 (4) Historic edged weapon. – Defined in G.S. 14-409.12."

6 Sec. 2. G.S. 14-402, as amended by Section 1 of this act, reads as rewritten:

7 **"§ 14-402. Sale of certain weapons without permit forbidden.**

8 (a) It shall be unlawful for any person, firm, or corporation in this State to sell,
9 give away, or transfer, or to purchase or receive, at any place within this State from any
10 other place within or without the State any ~~pistol~~ handgun or crossbow unless a license
11 or permit therefor has first been obtained by the purchaser or receiver from the sheriff of
12 the county in which that purchaser or receiver resides.

13 It shall be unlawful for any person or persons to receive from any postmaster, postal
14 clerk, employee in the parcel post department, rural mail carrier, express agent or
15 employee, railroad agent or employee within the State of North Carolina any ~~pistol~~
16 handgun or crossbow without having in his or their possession and without exhibiting at
17 the time of the delivery of the same and to the person delivering the same the permit
18 from the sheriff as provided in G.S. 14-403. ~~Any~~ Except as provided in subsection (d),
19 any person violating the provisions of this section shall be guilty of a Class 2
20 misdemeanor.

21 (b) This section does not apply to an antique firearm or an historic edged
22 weapon.

23 (c) Recodified as G.S. 14-402.1.

24 (d) A dealer who sells or otherwise transfers a handgun to a person who does not
25 have a permit is guilty of a Class I felony."

26 Sec. 3. G.S. 14-404 reads as rewritten:

27 **"§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal;**
28 **sheriff's fee.**

29 Upon application, the sheriff shall issue such license or permit to a resident of that
30 county unless the purpose of the permit is for collecting, in which case a sheriff can
31 issue a permit to a nonresident when the sheriff shall have fully satisfied himself by
32 affidavits, oral evidence, or otherwise, as to the good moral character of the applicant
33 therefor, and that such person, firm, or corporation desires the possession of the weapon
34 mentioned for (i) the protection of the home, business, person, family or property,
35 (ii) target shooting, (iii) collecting, or (iv) hunting. ~~If said the sheriff shall not be~~ is not
36 so fully satisfied, ~~he the sheriff may,~~ for good cause shown, decline to issue ~~said the~~
37 license or permit and shall provide to ~~said the~~ applicant within seven days of ~~such the~~
38 refusal a written statement of the reason(s) for ~~such the~~ refusal. Before issuing a permit
39 under this section, the sheriff shall verify that the applicant is not a minor.

40 An appeal from ~~such a~~ refusal shall lie by way of petition to the chief judge of the
41 district court for the district in which the application was filed. The determination by the
42 court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's
43 refusal, and shall be ~~final~~ A final.

44 A permit may not be issued to the following persons: (i) persons:

- 1 (1) A person ~~one~~ who is under an indictment or information for or has
 2 been convicted in any state, or in any court of the United States, of a
 3 felony (other than an offense pertaining to antitrust violations, unfair
 4 trade practices, or restraints of trade), except that if a person has been
 5 convicted and later pardoned or is not prohibited from purchasing a
 6 firearm under the Felony Firearms Act (Article 54A of this Chapter),
 7 ~~he may obtain a permit;~~ (ii) one the person may obtain a permit.
 8 (2) ~~who is a~~ A fugitive from justice; (iii) ~~one~~ justice.
 9 (3) ~~who is an~~ An unlawful user of or addicted to marijuana or any
 10 depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. section
 11 802); (iv) ~~one~~ 802).
 12 (4) A person who has been adjudicated incompetent on the ground of
 13 mental illness or has been committed to any mental institution.
 14 (5) A minor.

15 Provided, that nothing in this Article shall apply to officers authorized by law to
 16 carry firearms if such officers identify themselves to the vendor or donor as being
 17 officers authorized by law to carry firearms and state that the purpose for the purchase
 18 of the firearms is directly related to the law officers' official duties. The sheriff shall
 19 charge for his services upon issuing such license or permit a fee of five dollars (\$5.00).
 20 Each applicant for any such license or permit shall be informed by ~~said~~ the sheriff
 21 within 30 days of the date of ~~such~~ the application whether ~~such~~ the license or permit will
 22 be granted or denied and, if granted, ~~such~~ the license or permit shall be immediately
 23 issued to ~~said~~ the applicant."

24 Sec. 4. G.S. 14-406 reads as rewritten:

25 "**§ 14-406. Dealer to keep record of sales.**

26 Every dealer in ~~pistols~~ handguns and other weapons mentioned in this Article shall
 27 keep an accurate record of all sales thereof, including the name, place of residence, date
 28 of sale, etc., of each person, firm, or corporation to whom or which such sales are made,
 29 and including a copy or other record of the permit produced by the person, which record
 30 shall be open to the inspection of any duly constituted State, county or police officer,
 31 within this State."

32 Sec. 5. G.S. 14-409.1(c) is recodified as G.S. 14-409.1A and reads as
 33 rewritten:

34 "~~(e)~~ § 14-409.1A. Definitions.

35 The following definitions apply in this ~~section~~ Article:

- 36 (1) Antique firearm. – Defined in G.S. 14-409.11.
 37 (2) Bolt. – A projectile made to be discharged from a crossbow. The bolt
 38 differs from an arrow in that the bolt is heavier and shorter than an
 39 arrow.
 40 (3) Crossbow. – A mechanical device consisting of, but not limited to,
 41 strings, cables, and prods transversely mounted on either a shoulder or
 42 hand-held stock. This ~~device~~ [device] device is mechanically held at
 43 full or partial draw and released by a trigger or similar mechanism

1 which is incorporated into a stock or handle. When operated, the
2 crossbow discharges a projectile known as a bolt.

3 (3a) Dealer. – A person required to be licensed as a gun dealer under 18
4 U.S.C. § 923, G.S. 105-80, or both.

5 (3b) Handgun. – Any dangerous firearm, including a pistol or revolver,
6 designed to be fired by the use of a single hand.

7 (4) Historic edged weapon. – Defined in G.S. 14-409.12."

8 Sec. 6. G.S. 14-409.1, as amended by Section 5 of this act, reads as rewritten:

9 **"§ 14-409.1. Sale of certain weapons without permit forbidden.**

10 (a) It shall be unlawful for any person, firm, or corporation in this State to sell,
11 give away, or transfer, or to purchase or receive, at any place within this State from any
12 other place within or without the State any ~~pistol~~ handgun or crossbow unless a license
13 or permit therefor has first been obtained by the purchaser or receiver from the clerk of
14 the superior court of the county in which that purchaser or receiver resides.

15 It shall be unlawful for any person or persons to receive from any postmaster, postal
16 clerk, employee in the parcel post department, rural mail carrier, express agent or
17 employee, railroad agent or employee within the State of North Carolina any ~~pistol~~
18 handgun without having in his or their possession and without exhibiting at the time of
19 the delivery of the same and to the person delivering the same, the permit from the clerk
20 of superior court as provided in G.S. 14-409.2. ~~Any~~ Except as provided in subsection
21 (d), any person violating the provisions of this section shall be guilty of a Class 2
22 misdemeanor.

23 (b) This section does not apply to an antique firearm or an historic edged
24 weapon.

25 (c) Recodified as G.S. 14-409.1A.

26 (d) A dealer who sells or otherwise transfers a handgun to a person who does not
27 have a permit is guilty of a Class I felony."

28 Sec. 7. G.S. 14-409.3 reads as rewritten:

29 **"§ 14-409.3. Issuance or refusal of permit; appeal from refusal; grounds for**
30 **refusal; clerk's fee.**

31 Upon application, the clerk of the superior court shall issue such license or permit to
32 a resident of that county, unless the purpose of the permit is for collecting, in which case
33 a clerk can issue a permit to a nonresident, when the clerk shall have fully satisfied
34 himself by affidavits, oral evidence, or otherwise, as to the good moral character of the
35 applicant therefor, and that such person, firm, or corporation desires the possession of
36 the weapon mentioned for (i) the protection of the home, business, person, family
37 or property, (ii) target shooting, (iii) collecting, or (iv) hunting. If ~~said~~ the clerk of the
38 superior court ~~shall not be~~ is not so fully satisfied, ~~he~~ the clerk may, for good cause
39 shown, decline to issue ~~said~~ the license or permit and shall provide to ~~said~~ the applicant
40 within seven days of ~~such~~ the refusal a written statement of the reason(s) for ~~such~~ the
41 refusal. Before issuing a permit under this section, the clerk shall verify that the
42 applicant is not a minor.

43 An appeal from ~~such~~ a refusal shall lie by way of petition to the chief judge of the
44 district court for the district in which the application was filed. The determination by the

1 court, on appeal, shall be upon the facts, the law, and the reasonableness of the clerk of
2 the superior court's refusal, and shall be ~~final~~. A final.

3 A permit may not be issued to the following persons: ~~(i) one persons:~~

4 (1) A person who is under an indictment or information for or has been
5 convicted in any state, or in any court of the United States, of a felony
6 (other than an offense pertaining to antitrust violations, unfair trade
7 practices, or restraints of trade), except that if a person has been
8 convicted and later pardoned or is not prohibited from purchasing a
9 firearm under the Felony Firearms Act (Article 54A of this Chapter),
10 ~~he may obtain a permit;~~ (ii) one the person may obtain a permit.

11 (2) ~~who is a~~ A fugitive from justice; ~~(iii) one justice.~~

12 (3) ~~who is an~~ An unlawful user of or addicted to marijuana or any
13 depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. section
14 802); ~~(iv) one 802).~~

15 (4) A person who has been adjudicated incompetent on the ground of
16 mental illness or has been committed to any mental institution.

17 (5) A minor.

18 Provided, that nothing in this Article shall apply to officers authorized by law to
19 carry firearms if such officers identify themselves to the vendor or donor as being
20 officers authorized by law to carry firearms and state that the purpose for the purchase
21 of the firearms is directly related to the law officers' official duties. The clerk of the
22 superior court shall charge for his services upon issuing such license or permit a fee of
23 five dollars (\$5.00). Each applicant for any such license or permit shall be informed by
24 ~~said the~~ clerk of the superior court within 30 days of the date of ~~such the~~ application
25 whether ~~such the~~ license or permit will be granted or denied and, if granted, ~~such the~~
26 license or permit shall be immediately issued to ~~said the~~ applicant."

27 Sec. 8. G.S. 14-409.5 reads as rewritten:

28 "**§ 14-409.5. Dealer to keep record of sales.**

29 Every dealer in ~~pistols~~ handguns and other weapons mentioned in this Article shall
30 keep an accurate record of all sales thereof, including the name, place of residence, date
31 of sale, etc., of each person, firm, or corporation to whom or which such sales are made,
32 and including a copy or other record of the permit produced by the person, which record
33 shall be open to the inspection of any duly constituted State, county or police officer,
34 within this State."

35 Sec. 9. G.S. 14-315 reads as rewritten:

36 "**§ 14-315. (Effective January 1, 1995) Selling or giving weapons to minors.**

37 (a) ~~Offense. Sale of Weapons.~~ – If any person ~~shall sell, offer, sells, offers~~ for sale,
38 ~~give gives,~~ or in any way ~~dispose disposes~~ of to a minor any handgun as defined in G.S.
39 14-269.7, pistol, pistol cartridge, brass knucks, bowie knife, dirk, shurikin, leaded ~~cane~~
40 cane, or slungshot, ~~he the person~~ shall be guilty of a Class 1 misdemeanor ~~and and,~~ in
41 addition, shall forfeit the proceeds of any sale made in violation of this section.

42 (a1) Sale of Handgun Without Permit. – If any person sells, offers for sale, gives,
43 or in any way disposes of, to a minor who does not not have a permit, any handgun as

1 defined in G.S. 14-269.7, the person shall be guilty of a Class I felony and, in addition,
2 shall forfeit the proceeds of any sale made in violation of this section.

3 (b) Defense. – It shall be a defense to a violation of ~~subsection (a)~~ of this section if
4 ~~the person~~ person is not a dealer as defined in G.S. 14-402.1 and the person:

5 (1) Shows that the minor produced a drivers license, a special
6 identification card issued under G.S. 20-37.7, a military identification
7 card, or a passport, showing his age to be at least the required age for
8 purchase and bearing a physical description of the person named on
9 the card reasonably describing the minor; or

10 (2) Produces evidence of other facts that reasonably indicated at the time
11 of sale that the minor was at least the required age."

12 Sec. 10. This act becomes effective January 1, 1995, and applies to offenses
13 committed on or after that date.