

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

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 ~~It shall be is~~ unlawful for any person who has been convicted of any ~~crime set out in subsection (b) of this section~~ felony, except felonies pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar crimes relating to the regulation of business practices, 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
9 handgun or a weapon of mass death and destruction. The court may, for good cause
10 shown and upon a finding that public safety would not be jeopardized, grant the petition
11 and issue a permit. If the court grants the petition, it shall decide the places and
12 circumstances under which the person may purchase, own, possess, or control the
13 firearm, and the permit shall specify those places and circumstances.

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

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

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

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

42 (d) The provisions of this section shall not apply to a conviction of a crime
43 covered in subdivision (1) of subsection (b) of this section after the person has received
44 a pardon for that conviction from the Governor, unless the purchase, ownership,

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

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

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