

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1444  
Committee Substitute Favorable 5/4/09

Short Title: Limited Hunting Privilege/Nonviolent Felons.

(Public)

Sponsors:

Referred to:

April 13, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE A LIMITED HUNTING PRIVILEGE PERMIT THAT AUTHORIZES  
3 A PERSON WHO HAS ONLY ONE NONVIOLENT FELONY CONVICTION TO  
4 POSSESS AND USE A LONG GUN FOR HUNTING PURPOSES IN CERTAIN  
5 CIRCUMSTANCES.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 14 of the General Statutes is amended by adding a new  
8 Article to read:

9 "Article 54C.

10 "Limited Hunting Privilege Permit.

11 "**§ 14-415.40. Definitions.**

12 The following definitions apply to this Article:

- 13 (1) Carry a firearm. – The term includes possession and use of a firearm. The  
14 term also includes possession of the appropriate ammunition for the firearm.  
15 (2) Firearm. – A weapon that is either a rifle or a shotgun. The term does not  
16 include either a rifle or shotgun with a barrel length of less than 18 inches or  
17 an overall length of less than 26 inches.  
18 (3) Law enforcement officer. – The term includes a law enforcement officer of  
19 the North Carolina Wildlife Resources Commission.  
20 (4) Permit. – A Limited Hunting Privilege Permit issued pursuant to this Article.  
21 (5) Rifle. – A weapon designed or redesigned, made or remade, and intended to  
22 be fired from the shoulder and designed or redesigned and made or remade  
23 to use the energy of an explosive to fire only a single projectile through a  
24 rifle bore for each single pull of the trigger. The term does not include a rifle  
25 with a barrel length of less than 18 inches or an overall length of less than 26  
26 inches.  
27 (6) Shotgun. – A weapon designed or redesigned, made or remade, and intended  
28 to be fired from the shoulder and designed or redesigned and made or  
29 remade to use the energy of an explosive to fire through a smooth bore either  
30 a number of ball shot or a single projectile for each single pull of the trigger.  
31 The term does not include a shotgun with a barrel length of less than 18  
32 inches or an overall length of less than 26 inches.

33 "**§ 14-415.41. Limited Hunting Privilege Permit; long gun exception to Felony Firearms**  
34 **Act; scope of permit; duty to notify sheriff of address changes, loss, or**  
35 **destruction of permit.**

36 (a) Notwithstanding G.S. 14-415.1, a person who has been convicted of a felony but  
37 who is issued a limited hunting privilege permit pursuant to this section may own and carry a



1 firearm solely for the purpose of hunting game or related hunting activities. The person shall  
2 carry the permit together with valid identification whenever the person is carrying the firearm,  
3 shall disclose to any law enforcement officer that the person holds a valid permit and is  
4 carrying the firearm when approached or addressed by the officer, and shall display both the  
5 permit and the proper identification upon the request of a law enforcement officer.

6 (b) The sheriff shall issue a permit to a person who qualifies for a permit under this  
7 Article. The permit shall be valid throughout the State for a period of five years from the date  
8 of issuance. However, the permit shall only be valid in North Carolina and no other state, and  
9 any person to whom a permit is issued under this section shall be restricted to hunting or related  
10 hunting activities in North Carolina.

11 (c) A permit does not authorize a person to own or carry a firearm for any purpose other  
12 than those set out in this section.

13 (d) A person who is issued a permit shall notify the sheriff who issued the permit of any  
14 change in the person's permanent address within 30 days after the change of address. If a permit  
15 is lost or destroyed, the person to whom the permit was issued shall notify the sheriff who  
16 issued the permit of the loss or destruction of the permit. A person may obtain a duplicate  
17 permit by submitting to the sheriff a notarized statement that the permit was lost or destroyed  
18 and paying the required duplicate permit fee.

19 **"§ 14-415.42. Criteria to qualify for the issuance of a permit.**

20 (a) The sheriff shall issue a permit under this section to an applicant if the applicant  
21 qualifies under the following criteria:

22 (1) The applicant has had his or her rights of citizenship restored and has been a  
23 resident of the State for one year or longer immediately preceding the filing  
24 of the application.

25 (2) The applicant has only one felony conviction and the rights of citizenship  
26 lost because of the conviction for that felony were restored pursuant to  
27 Chapter 13 of the General Statutes at least 20 years before the date of the  
28 permit application. For purposes of this subdivision, multiple felony  
29 convictions arising out of the same event or consolidated for sentencing shall  
30 count as one felony only.

31 (3) The applicant has not been convicted of any subsequent felony or any  
32 subsequent misdemeanor as described in subdivision (b)(6) of this section  
33 since the conviction of the original felony under the laws of the United  
34 States or the laws of this State or any other state.

35 (4) The applicant has been of good behavior for the period since the date of  
36 conviction of the felony conviction.

37 (5) The felony for which the applicant was convicted was not any of the  
38 following:

39 a. An offense that includes assault as an essential element of the  
40 offense.

41 b. An offense that includes the possession or use of a firearm as an  
42 essential element of the offense.

43 c. An offense for which the offender was armed with or used a firearm.

44 d. An offense for which the offender must register under Article 27A of  
45 Chapter 14 of the General Statutes.

46 (6) The applicant does not suffer from a physical infirmity that prevents the safe  
47 handling of a firearm.

48 (7) The applicant is not disqualified under subsection (b) of this section.

49 (b) The sheriff shall deny a permit to an applicant who:

50 (1) Is ineligible to carry a firearm under the provisions of federal or State law.

- 1           (2)    Is under indictment or against whom a finding of probable cause exists for a  
2                felony.
- 3           (3)    Is a fugitive from justice.
- 4           (4)    Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant,  
5                stimulant, or narcotic drug, or any other controlled substance as defined in  
6                21 U.S.C. § 802.
- 7           (5)    Is or has been discharged from the armed forces under conditions other than  
8                honorable.
- 9           (6)    Is or has been adjudicated guilty of or received a prayer for judgment  
10               continued or suspended sentence for one or more crimes of violence  
11               constituting a misdemeanor, including, but not limited to, a violation of a  
12               misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a  
13               violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1,  
14               14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1,  
15               14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2),  
16               14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2,  
17               14-415.21(b), or 14-415.26(d).
- 18           (7)    Has had entry of a prayer for judgment continued for a criminal offense  
19               which would disqualify the person from obtaining a permit.
- 20           (8)    Is free on bond or personal recognizance pending trial, appeal, or sentencing  
21               for a crime which would disqualify the person from obtaining a permit.

22    **"§ 14-415.43. Application for a permit.**

23        A person shall apply to the sheriff of the county in which the person resides to obtain a  
24        permit. The applicant shall submit to the sheriff all of the following:

- 25           (1)    An application on a form provided by the sheriff.
- 26           (2)    An affidavit by the applicant stating that the information provided in the  
27                application form is true, that the applicant has been of good behavior for the  
28                period since the date of conviction of the felony in question, and that the  
29                applicant has not been convicted of any subsequent felony or any subsequent  
30                misdemeanor described in G.S. 14-415.42(b)(6) since the conviction of the  
31                felony in question under the laws of the United States or the laws of this  
32                State or any other state.
- 33           (3)    A nonrefundable permit fee.

34    **"§ 14-415.44. Application form to be provided by sheriff; information to be included in**  
35        application form.

36        (a) The sheriff shall make permit applications readily available at the office of the  
37        sheriff or at other public offices in the sheriff's jurisdiction. The permit application shall be in  
38        triplicate, in a form to be prescribed by the Administrative Office of the Courts, and shall  
39        include the following information with regard to the applicant: name, address, physical  
40        description, signature, date of birth, social security number, military status, the drivers license  
41        number or State identification card number of the applicant if used for identification in  
42        applying for the permit, and a description and serial number for each firearm the applicant will  
43        own or carry pursuant to the permit.

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

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

48    **"§ 14-415.45. Issuance or denial of permit; description of authorized firearms.**

49        (a) Except as permitted under subsection (b) of this section, within 90 days after receipt  
50        of the items listed in G.S. 14-415.43 from an applicant, the sheriff shall either issue or deny the

1 permit. The sheriff may conduct any investigation necessary to determine the qualification of  
2 the person applying for the permit, including record checks.

3 (b) A person's application for a permit shall be denied only if the applicant fails to  
4 qualify under the criteria listed in this Article. If the sheriff denies the application for a permit,  
5 the sheriff shall, within 90 days, notify the applicant in writing, stating the grounds for denial.  
6 An applicant may appeal the denial, revocation, or nonrenewal of a permit by petitioning a  
7 district court judge of the district in which the application was filed. The determination by the  
8 court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.  
9 The determination by the court shall be final.

10 (c) A permit issued to an applicant shall be updated by the sheriff to reflect any changes  
11 in the firearms the applicant intends to own or carry pursuant to the permit. Applications to  
12 update permits to reflect changes in authorized firearms shall be made available by the sheriff.  
13 The updating of a permit pursuant to this subsection shall be considered a duplicate permit for  
14 purposes of the fee authorized to be charged.

15 **"§ 14-415.46. Renewal of permit.**

16 The holder of a permit shall apply to renew the permit at least 30 days prior to its expiration  
17 date by filing with the sheriff of the county in which the person resides a renewal form  
18 provided by the sheriff's office, a notarized affidavit stating that the permittee remains qualified  
19 under the criteria provided in this Article, and a renewal fee. Upon receipt of the completed  
20 renewal application and the appropriate payment of fees, the sheriff shall determine if the  
21 permittee remains qualified to hold a permit in accordance with the provisions of  
22 G.S. 14-415.42. The permittee's criminal history shall be updated. If the permittee applies for a  
23 renewal of the permit within 30 days of its expiration date and if the permittee remains  
24 qualified to have a permit under G.S. 14-415.42, the sheriff shall renew the permit.

25 **"§ 14-415.47. Permit; sheriff to retain and make available to law enforcement agencies a**  
26 **list of permittees.**

27 The permit shall be in a certificate form, as prescribed by the Administrative Office of the  
28 Courts, that is approximately the size of a North Carolina drivers license. It shall bear the  
29 signature, name, address, date of birth, social security number of the permittee, the drivers  
30 license number or State identification card number used in applying for the permit, and a  
31 description and serial number of the authorized firearms. The permit shall also contain a  
32 warning substantially as follows: "This Is Not a Hunting License."

33 The sheriff shall maintain a listing of those persons who are issued a permit and any  
34 pertinent information regarding the issued permit. The permit information shall be available  
35 upon request to all State and local law enforcement agencies.

36 Within five days of the date a permit is issued or updated pursuant to G.S. 14-415.45(c), the  
37 sheriff shall send a copy of the permit to the State Bureau of Investigation. The State Bureau of  
38 Investigation shall make this information available to law enforcement officers and clerks of  
39 court on a statewide system.

40 **"§ 14-415.48. Revocation or suspension of permit.**

41 (a) The sheriff of the county where the permit was issued or the sheriff of the county  
42 where the person resides may revoke a permit subsequent to a hearing for any of the following  
43 reasons:

- 44 (1) Fraud or intentional or material misrepresentation in the obtaining of a  
45 permit.
- 46 (2) Misuse of a permit, including lending or giving a permit to another person,  
47 duplicating a permit, or using a permit with the intent to unlawfully cause  
48 harm to a person or property.
- 49 (3) The doing of an act or existence of a condition which would have been  
50 grounds for the denial of the permit by the sheriff.
- 51 (4) The violation of any of the terms of this Article.

(5) The applicant is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the applicant from initially receiving a permit.

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

(b) The court may suspend a permit as part of and for the duration of any orders permitted under Chapter 50B of the General Statutes.

**"§ 14-415.49. Fees.**

The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer to be remitted or credited by the county finance officer in accordance with the provisions of this section. Except as otherwise provided by this section, the permit fees are as follows:

<u>Application fee.....</u>	<u>\$25.00</u>
<u>Renewal fee.....</u>	<u>\$20.00</u>
<u>Duplicate permit fee.....</u>	<u>\$15.00</u>

The county finance officer shall remit ten dollars (\$10.00) of each new application fee and five dollars (\$5.00) of each renewal fee assessed under this section to the North Carolina Department of Justice for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining fifteen dollars (\$15.00) of each application or renewal fee and the fifteen dollars (\$15.00) for the duplicate permit fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only.

**"§ 14-415.50. No liability of sheriff.**

A sheriff who issues or refuses to issue a permit under this Article shall not incur any civil or criminal liability as the result of the performance of the sheriff's duties under this Article.

**"§ 14-415.51. Violations of this Article; penalties.**

(a) A person who has been issued a valid permit who is found to be carrying a firearm without the permit in the person's possession, who is carrying a firearm other than one described on the permit, or who fails to disclose to any law enforcement officer that the person holds a valid permit and is carrying a firearm, as required by G.S. 14-415.41, shall be guilty of an infraction for the first offense and shall be punished in accordance with G.S. 14-3.1. In lieu of paying a fine for the first offense, the person may surrender the permit. Subsequent offenses for failing to carry a valid permit, for carrying a firearm not authorized by the permit, or for failing to make the necessary disclosures to a law enforcement officer as required by G.S. 14-415.41 shall be punishable as a Class 2 misdemeanor.

(b) Any person who makes any false affidavit, or who knowingly swears or affirms falsely, to any matter or thing required by the terms of this Article to be sworn to or affirmed shall be guilty of perjury which shall be punishable as a Class I felony.

**"§ 14-415.52. Ineligible for permit if convicted of second or subsequent felony or of certain misdemeanors.**

No person who is convicted of two or more felonies or a misdemeanor described in G.S. 14-415.42(b)(6) is eligible for a permit under this Article. If a person who is issued a permit under this Article is convicted of a second or subsequent felony, or a misdemeanor described in G.S. 14-415.42(b)(6), then the person's permit shall be revoked as provided by G.S. 14-415.48, and the person shall be ineligible to receive another permit under this Article."

**SECTION 2. G.S. 14-415.1 reads as rewritten:**

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

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

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

9 (a1) A person who has been convicted of a felony but who has had his or her citizenship  
10 rights restored pursuant to Chapter 13 of the General Statutes and who obtains a limited  
11 hunting privilege permit as provided by Article 54C of Chapter 14 of the General Statutes may  
12 own or carry a firearm as defined by G.S. 14-415.40.

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

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

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

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

37 **SECTION 3.** This act becomes effective December 1, 2009, and applies to  
38 offenses committed on or after that date.