



HOUSE BILL 562: Amend Firearm Laws

2015-2016 General Assembly

Committee:
Introduced by:
Analysis of: S.L. 2015-195

Date:
Prepared by: Susan Sitze
Staff Attorney

SUMMARY: *S.L. 2015-195, as amended by Sec. 2 of S.L. 2015-267, amends various firearm laws. Please see the full summary for an explanation of the changes and the corresponding effective dates.*

BILL ANALYSIS:

Concealed Weapon Exemptions

Section 1 amends the exemptions to carrying a concealed weapon to allow DAs with a concealed handgun permit to carry a concealed handgun in a courtroom. This section also adds certain DPS employees (8) and Administrative Law Judges (9) who have concealed handgun permits to the list of exemptions, which allows them to carry concealed handguns in some places the average person cannot, including courtrooms, assemblies where a fee is charged, etc. Additionally, this section allows a person to carry a pocket knife in a closed position into the State Capitol Building. This section became effective July 1, 2015, and applies to offenses committed on or after that date.

Weapons on Educational Property

Section 2 allows a person with a concealed handgun permit to carry concealed on their person within a locked vehicle on educational property and allows a person within a locked vehicle on educational property to move a handgun from concealment on their person to a closed compartment and vice versa even if momentarily it is not concealed. This section became effective July 1, 2015, and applies to offenses committed on or after that date.

Section 3 provides an affirmative defense to possession of a handgun on educational property if the person was authorized to have a handgun in a locked vehicle and removed the handgun from the vehicle only in response to a threatening situation in which deadly force was justified to defend self or others pursuant to G.S. 14-51.3. This section became effective July 1, 2015, and applies to offenses committed on or after that date.

Firearms at State Fair

Section 4 authorizes the Commissioner of Agriculture to prohibit the carrying of firearms on the State Fairgrounds during the State Fair. Law enforcement officers are exempted, and persons with concealed handgun permits are still authorized to have a handgun in their locked vehicle. This section also directs the Department of Agriculture, in consultation with the Department of Public Safety and the North Carolina Sheriffs' Association to study a method to allow persons to store handguns at the entrance to the State Fairgrounds. This section became effective August 5, 2015.

Shooting Range Protection

Section 5 expands the shooting range protection act to provide that shooting ranges are only subject to noise ordinances that were in effect at the time the shooting range began operation and do not have to

O. Walker Reagan
Director



H 5 6 2 - S M S A - 1 0 6 S L

Research Division
(919) 733-2578

House Bill 562

Page 2

comply with ordinances adopted later if there has been no substantial change in use. This section became effective July 1, 2015, but does not apply to pending litigation.

Firearm Rights Restoration

Section 6 modifies the firearm rights restoration statute to ensure recognition of the restoration by federal law. This section became effective August 5, 2015, and applies to restorations granted before, on, or after that date.

Concealed Handgun Permit Denial Criteria

Section 7 eliminates some misdemeanors from the list of misdemeanor convictions that prohibit a person from obtaining a concealed handgun permit. This section also makes most misdemeanor convictions only count against a person for 3 years in relation to prohibiting them from obtaining a concealed handgun permit. Certain specified assault convictions, stalking convictions, domestic violence convictions and convictions for assault on a law enforcement officer remain a prohibiting conviction permanently. This section became effective July 1, 2015, and applies to permit applications submitted on or after that date.

Hunting with Short-barreled Rifles

Section 8 authorizes the use of short-barreled rifles for hunting. This section became effective July 1, 2015, and applies to offenses committed on or after that date.

Concealed Carry on Posted Property

Section 9 reduces the offense of carrying a concealed handgun on private posted property from a Class 1 misdemeanor to an infraction and authorizes a fine of up to \$500. This section became effective December 1, 2015, and applies to offenses committed on or after that date.

Pistol Purchase Permit

Section 10 makes the following changes to the pistol purchase permit statutes which became effective December 1, 2015, and apply to permits issued on or after that date:

- Requires the SBI, in consultation with the North Carolina Sheriffs' Association, to create a statewide form for the permit, which shall be designed with security features to minimize counterfeiting and require each sheriff to have a raised seal to place on the permit.
- Specifies the sheriff may only consider an applicant's conduct or criminal history for the past five years when determining "good moral character".
- Changes the appeal of a denial of a permit from a singular appeal to the chief district court judge in that district to an appeal to the superior court.
- Requires the SBI, in consultation with the North Carolina Sheriffs' Association, to develop a permit application form and require all sheriffs to use that form. The specific things an applicant can be required to provide would be set forth and specifically states that the applicant cannot be required to provide any additional document or evidence.
- Requires a person or entity presented with a mental health release form to promptly provide court orders concerning the mental health or capacity of the applicant.

Background Checks for Private Transactions - Study

Section 10.5 requires the Department of Public Safety, in consultation with the Office of Information Technology Services and the FBI, to study the development of a system to allow background checks in private transactions. This section became effective August 5, 2015.

House Bill 562

Page 3

NICS Changes

Section 11 makes the following changes effective August 5, 2015:

- Specifies the information to be collected and reported to NICS for background checks and requires certain information to be transmitted to NICS by the clerk no later than 48 hours after receiving notice.
- Requires pistol permit applications and concealed handgun permit applications to be provided electronically.
- Prohibits the sheriff from requesting additional information for concealed handgun permit applications unless specifically authorized by statute.
- Requires arresting law enforcement agencies to fingerprint persons charged with certain misdemeanors and forward those fingerprints to the SBI.
- Directs AOC to use Court Technology Funds to comply with the NICS reporting requirements.

Statewide Uniformity

Section 12 expands statewide uniformity of firearm regulation to specifically prohibit local governments from adopting any regulation relating to taxation, manufacture, or transportation of firearms. This section also allows a person to bring an action for declaratory and injunctive relief against a local government that violates the section by adopting a regulation in violation of the law. This section became effective December 1, 2015, and applies to violations occurring on or after that date.

Federal Certification Completion

Section 13 requires certain State officials, authorized by federal law to complete certifications required by federal law for transfer of certain weapons, to complete those certifications within 15 days of request. This section became effective July 1, 2015.

Restrictions on Requests for Mental Health Records

Section 14 requires a sheriff to make the request for any records concerning the mental health of an applicant for a concealed handgun permit within 10 days of receipt of the permit application and prohibit denial of the permit unless the applicant is determined to be ineligible pursuant to statute. This section prohibits additional fees being charged to the applicant for the background checks under this statute. This section became effective October 1, 2015, and applies to applications submitted on or after that date.

Local Government Regulation

Section 15 amends G.S. 14-415.23, which limits local government regulation of carrying concealed handguns to allow a person to bring an action for declaratory and injunctive relief against the local government for violation of the statute. This section became effective December 1, 2015, and applies to violations occurring on or after that date.

Concealed Handgun Permit for Permanent Residents

Section 17 authorizes a permanent resident of the United States to obtain a North Carolina concealed handgun permit. This section became effective August 5, 2015.

EFFECTIVE DATE: Subsections (a), (b), and (c) of Section 1, and Sections 2, 3, 8, and 9 of this act become effective July 1, 2015, and apply to offenses committed on or after that date. Section 5 of this act becomes effective July 1, 2015, but shall not apply to pending litigation. Section 6 of this act is effective when it becomes law and applies to restorations granted before, on, or after that date. Section 7 of this act becomes effective July 1, 2015, and applies to permit applications submitted on or after that

House Bill 562

Page 4

date. Section 9 of this act becomes effective December 1, 2015, and applies to offenses committed on or after that date. Section 10 of this act becomes effective December 1, 2015, and applies to permits issued on or after that date. Sections 12 and 15 of this act become effective December 1, 2015, and apply to violations occurring on or after that date. Section 13 of this act becomes effective July 1, 2015. Section 14 becomes effective October 1, 2015, and applies to applications submitted on or after that date. The remainder of this act is effective when it becomes law. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.