



HOUSE BILL 746: Omnibus Gun Changes.

2017-2018
General Assembly

Committee:	House Judiciary IV	Date:	May 31, 2017
Introduced by:	Reps. Millis, Pittman, Burr, Speciale	Prepared by:	Kara McCraw, Brian Gwyn, Jeremy Ray, Emily Johnson
Analysis of:	PCS to First Edition H746-CSLH-5		Staff Attorneys

OVERVIEW: *The PCS for House Bill 746 makes various changes to gun laws.*

PART I. CARRY MODIFICATIONS

CURRENT LAW: G.S. 14-269 prohibits the carrying of concealed weapons, including handguns, with certain exceptions. Article 45B of Chapter 14 of the General Statutes establishes a process for obtaining a concealed handgun permit which authorizes an individual to carry a concealed handgun, subject to certain restrictions.

BILL ANALYSIS: Part I would allow individuals who are 18 or older, US citizens, and not otherwise prohibited by law, to carry a handgun, open or concealed, without a concealed handgun permit. Individuals would still be able attain a permit for out-of-state reciprocity or other purposes. Additionally, assistant district attorneys, in addition to district attorneys, would be able to carry a concealed handgun into a courtroom.

SECTIONS 1.1 - 1.4 would create a new Article 54C regulating the carrying of handguns and providing restrictions on carrying weapons in certain locations as follows:

- G.S. 14-415.35. Carrying Handguns.
 - Any person who is a United States citizen and is at least 18 years old may carry a handgun, openly or concealed, without a concealed handgun permit in North Carolina unless otherwise provided by State law or federal law.
 - A person would not be permitted to carry a handgun on posted private property, with certain exceptions.
 - A person would be prohibited from consuming alcohol while carrying a concealed handgun.
 - It would be unlawful for anyone to carry a handgun if that person is:
 - Otherwise ineligible to own, possess, or receive a firearm under another provision of law.
 - Is under indictment, or a finding of probable cause that the person committed a felony.
 - Adjudicated guilty in any court of a felony.
 - A fugitive from justice.
 - An unlawful user of, or addicted to, marijuana, alcohol, or any depressant, stimulant, or narcotic drug.
 - Is currently, or has been previously adjudicated by a court to be a danger to self or others due to mental illness or lack of mental capacity.
 - Discharged under conditions other than honorable from the Armed Forces of the United States.
 - Adjudicated guilty of, or received a prayer for judgment continued for certain violent misdemeanors, or prohibited from possessing a firearm due to conviction of a domestic violence crime.

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- Is free on bond or personal recognizance for crimes that would make it unlawful for the person to be carrying a concealed weapon.
 - Convicted of an impaired driving offense within three years of the date on which the person is carrying the concealed weapon.
 - A person carrying a concealed handgun must carry valid identification and disclose to any law enforcement officer that the person is carrying a concealed handgun when approached or addressed.
 - Violations of these provisions range from an infraction for minor first offenses to a Class H felony for more serious repeat offenses.
- G.S. 14-415.36. Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed.
 - Subject to certain exceptions, would create a Class 1 misdemeanor offense for persons who carry a firearm into any assembly where a fee for admission is charged, or where alcoholic beverages are sold and consumed.
- G.S. 14-415.37. No firearms or other weapons on the premises of the State Capitol, Executive Mansion, or Western Residence of the Governor.
 - Subject to certain exceptions, would create an infraction offense for persons who carry a firearm on the premises of the State Capitol, Executive Mansion, or Western Residence of the Governor.
- G.S. 14-415.38. No firearms or other weapons in courthouses or buildings housing any court of the General Court of Justice.
 - Subject to certain exceptions, would create an infraction offense for persons who carry a firearm in a courthouse or other facilities while being used for court purposes.
- G.S. 14-415.39. Firearms and other weapons prohibited at picket lines and certain demonstrations.
 - Subject to certain exceptions, would create a Class 1 misdemeanor offense for persons who carry a firearm at a picket line and at certain demonstrations.
- G.S. 14-415.40. Unlawful to carry a handgun into certain areas.
 - Subject to certain exceptions, would create a catch-all Class 1 misdemeanor offense for persons who carry a firearm in:
 - The General Assembly is prohibited by rule.
 - Areas prohibited by federal law.
 - Law enforcement or correctional facilities.
- G.S. 14-415.41. Exceptions to statutes restricting firearms and other weapons.
 - Would create a list of exceptions to statutes detailed above restricting the carrying of firearms and other weapons. These exceptions were previously exceptions to restrictions to concealed handgun permit holders under G.S. 14-269, with the addition that assistant district attorneys, like district attorneys, may carry a concealed handgun in the courtroom. Other exceptions include, but are not limited to:
 - Law enforcement, Armed Forces of the United States, and National Guard in discharge of their official duties.
 - District attorneys, assistant district attorneys, and their investigators.
 - Superior and district court judges and administrative law judges.
 - Magistrates.
 - Registers of Deeds and Clerks of Court.
 - Correctional officers and probation/parole officers.
- G.S. 14-415.42. Carrying handgun on premises of State-owned rest areas and within State Parks System.
 - Would allow anyone who is otherwise lawfully allowed to carry a handgun to carry, openly or concealed, at any:
 - State-owned rest area or rest stop.
 - State-owned hunting and fishing reservation.
 - Grounds or waters within the State Park System.
- G.S. 14-415.10A Purpose.

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- Would continue to make concealed handgun permits available for those who apply and are otherwise eligible to receive a permit under current law.

SECTIONS 1.5(a), and 1.5(b)

- Effective July 1, 2017, would require the North Carolina Criminal Justice Education and Training Standards Commission to update their training and education materials related to the possession and carrying of handguns to reflect the changes made under this bill.

EFFECTIVE DATE: Except as otherwise provided, this Part would become effective December 1, 2017.

PART II. CLARIFYING CHANGES TO CARRY MODIFICATIONS.

BILL ANALYSIS: Part II would make conforming changes based on the carry modifications in Part I.

PART III. STANDARDIZE AND ENSURE UNIFORMITY OF CONCEALED HANDGUN PERMIT APPLICATIONS

SECTION 3.1

CURRENT LAW: G.S. 14-415.10 provides a two year exemption from the firearms safety and training course for permits for qualified former sworn law enforcement officers, qualified retired correctional officers, and qualified retired probation or parole certified officers.

BILL ANALYSIS: Increases the exemption to five years.

SECTION 3.2

CURRENT LAW: Under G.S. 14-415.12(a)(3), one criterion that an applicant for a concealed handgun permit must satisfy is to "not suffer from a physical or mental infirmity that prevents the safe handling of a handgun." G.S. 14-415.12(b)(6) also requires denial of a permit based on adjudication by a court or an administrative determination by a government agency subject to judicial review that the person is lacking mental capacity or mentally ill.

BILL ANALYSIS: The PCS would modify the language to require that the applicant not have a currently diagnosed and ongoing mental disorder, as defined by the Diagnostic and Statistical Manual of Mental Disorders, that the sheriff determines would reasonably prevent the safe handling of a handgun.

It would also require denial of a concealed handgun permit to a person if adjudicated by a court to be a danger to self or others due to mental illness or lack of mental capacity. Administrative determinations by government agencies would no longer be considered as grounds for denial of a permit.

SECTION 3.3

CURRENT LAW: G.S. 14-415.13(a)(1) requires applicants for concealed handgun permits to submit an application to the sheriff and to sign a release for records related to mental health. Current law does not provide for scheduling of appointments for concealed handgun permit applications.

BILL ANALYSIS: The PCS authorizes a sheriff to schedule appointments for concealed handgun applications as long as the appointment is 15 business days or less from the date the applicant informs the sheriff that the applicant has all the proper information. The PCS also makes conforming changes to the release form requirements to reflect the changes in Section 3.2.

SECTION 3.4

CURRENT LAW: G.S. 14-415.15 requires a sheriff to either issue or deny a concealed handgun permit within 45 days after receipt of the application and receipt of the required records concerning the mental health or capacity of the applicant.

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BILL ANALYSIS: The PCS would require the permit to be issued or denied within 90 calendar days of the application being submitted. The PCS would also require the sheriff to submit a second request for mental health records if no response to the first request was received within 45 days.

SECTION 3.5

CURRENT LAW: G.S. 14-415.19 requires a fee of \$80 for a new application for a concealed handgun permit.

BILL ANALYSIS: The PCS would require a fee of \$81 for a new application for a concealed handgun permit.

EFFECTIVE DATE: This Part would become effective October 1, 2017, and would apply to permit applications submitted on or after that date.

PART IV. CONCEALED CARRY IN STATE LEGISLATIVE BUILDINGS

CURRENT LAW: The Legislative Services Commission (LSC) is authorized to establish policies for the use of the State legislative buildings and grounds. The LSC rules cannot currently prohibit a person from transporting a firearm in a locked vehicle or vehicle compartment.

BILL ANALYSIS: Would provide that a legislator, legislative employee, or qualified former sworn law enforcement officer who has a valid concealed handgun permit or current sworn law enforcement officer may carry concealed on the premises of the State Legislative Building and the Legislative Office Building. Legislative Services could require those individuals to give notice to the General Assembly Police when carrying a handgun. The Legislative Services Commission could also adopt a rule that no one may carry a firearm in the Gallery of the State Legislative Building.

PART V. CHANGES TO WEAPONS ON EDUCATIONAL PROPERTY

CURRENT LAW: G.S. 14-296.2 restricts weapons on educational property and at extracurricular events. Current law also exempts a number of categories of individuals from the prohibition against carrying concealed weapons, and those same categories are exempted from the restrictions on weapons on educational property.

BILL ANALYSIS: Would make the following changes to restriction on education property:

- Clarifies that the prohibition on weapons at an extracurricular activity sponsored by a school does not apply to persons not participating in, chaperoning, or spectating at the extracurricular activity when that extracurricular activity is conducted in a public place, including, but not limited to, a restaurant, public park, or museum.
- Allows an individual to drive in a locked vehicle on a public road across educational property with a weapon if the individual stays in the locked vehicle and only allows others to enter or exit the car.
- Authorizes an individual with a concealed handgun permit to carry a handgun on the premises of the place of religious worship that also serves as a private elementary and secondary school outside the operating hours of the school.

EFFECTIVE DATE: This Part would become effective December 1, 2017, and apply to offenses committed on or after that date.

PART VI. PISTOL PERMIT/MENTAL HEALTH RECORD TO SHERIFF

CURRENT LAW: Requires a signed release authorizing disclosure to the sheriff of any court orders concerning the mental health or capacity of the applicant when applying for a pistol permit.

BILL ANALYSIS: Removes the authorization for a signed release related to mental health in the application, and prohibition on requiring additional documents or evidence from an applicant. The bill would instead grant the sheriff discretion to request disclosure of court orders concerning the mental health or mental capacity of the applicant, and require holders of those orders to release them, upon request, to the sheriff of the county. It would

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require the permit application to include a conspicuous warning stating that by filing the application, the individual understands that he or she is authorizing the sheriff to obtain criminal and mental health court orders.

EFFECTIVE DATE: This Part would become August 1, 2017, and apply to applications for pistol purchases pending or submitted on or after that date.

PART VII: OTHER CHANGES TO WEAPONS LAW AND ADDITIONAL CONFORMING CHANGES

SECTION 7.1

CURRENT LAW: A judge has discretion to dispose of a deadly weapon used in commission of a crime for which a person has been convicted in several different ways, including returning it to the owner or turning it over to law enforcement or certain State agencies.

BILL ANALYSIS: The PCS would remove some of the judge's discretion in disposing of the weapon. If the owner of the weapon is not the convicted defendant, the judge must order return of the weapon to the rightful owner after certain findings are made. If the owner of the weapon is the convicted defendant, the judge has discretion to dispose of the weapon by turning it over to various agencies. If the defendant is the lawful owner and is not convicted, the judge must order the weapon returned.

SECTION 7.2

CURRENT LAW: A judge has discretion to dispose of a firearm lawfully seized that the district attorney determines is no longer needed by returning the firearm to its rightful owner or turning it over to law enforcement or certain State agencies.

BILL ANALYSIS: The PCS would remove some of the judge's discretion in disposing of the weapon. If the owner of the weapon is not the defendant, the judge must order return of the weapon to the rightful owner after certain findings are made. If the owner of the weapon is the defendant, the judge has discretion to return the gun to the defendant or dispose of the weapon by turning it over to various agencies.

SECTIONS 7.3

BILL ANALYSIS: Would codify a common law offense by creating a Class 1 misdemeanor offense for a person who arms his or herself with an unusual and dangerous weapon for the purpose of terrifying others and goes about on a public highway to cause such terror. A person would not be guilty of such offense by virtue of that person possessing or carrying a handgun.

EFFECTIVE DATE: this Part would become effective December 1, 2017, and apply to offenses committed on or after that date.

PART VIII. DEVELOP COMPREHENSIVE FIREARM EDUCATION AND WILDLIFE CONSERVATION COURSE

BILL ANALYSIS: Would require the State Board of Education to develop two high school elective course in comprehensive firearm education and in wildlife conservation, respectively.

EFFECTIVE DATE: This Part would become effective when it becomes law and applies beginning with the 2018-2019 school year.

EFFECTIVE DATE: The effective date clause is effective July 1, 2017. Unless otherwise provided, the remainder of the act would become effective December 1, 2017, and apply to offenses committed on or after that date.