

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

2

HOUSE BILL 1468
Committee Substitute Favorable 10/24/01

Short Title: Certain Weapons of Mass Destruction.

(Public)

Sponsors:

Referred to:

October 18, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE CRIMINAL PENALTIES FOR THE KNOWING
MANUFACTURE, ASSEMBLY, POSSESSION, STORAGE,
TRANSPORTATION, SALE, PURCHASE, DELIVERY, OR ACQUISITION OF
NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPONS OF MASS
DESTRUCTION, TO PROVIDE CRIMINAL PENALTIES FOR THE USE OR
ATTEMPTED USE OF NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPONS
OF MASS DESTRUCTION, TO PROVIDE CRIMINAL PENALTIES FOR THE
FALSE REPORTING OF A NUCLEAR, BIOLOGICAL, OR CHEMICAL
WEAPON OF MASS DESTRUCTION, TO PROVIDE CRIMINAL PENALTIES
FOR THE PERPETRATION OF A HOAX BY THE USE OF A FALSE
NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPON OF MASS
DESTRUCTION, AND TO PROVIDE THAT MURDER BY MEANS OF A
NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPON IS FIRST DEGREE
MURDER.

The General Assembly of North Carolina enacts:

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

"Article 36B.

"Nuclear, Biological, or Chemical Weapons of Mass Destruction.

**"§ 14-288.21. Unlawful manufacture, assembly, possession, storage,
transportation, sale, purchase, delivery, or acquisition of a nuclear,
biological, or chemical weapon of mass destruction; exceptions;
punishment.**

(a) Except as otherwise provided in this section, it is unlawful for any person to
knowingly manufacture, assemble, possess, store, transport, sell, offer to sell, purchase,
offer to purchase, deliver or give to another, or acquire a nuclear, biological, or
chemical weapon of mass destruction.

(b) This section does not apply to:

- 1 (1) Persons listed in G.S. 14-269(b) with respect to any activities lawfully
2 engaged in while carrying out their duties.
- 3 (2) Persons under contract with the United States, the State of North
4 Carolina, or any agency of either government, with respect to any
5 activities lawfully engaged in under their contracts.
- 6 (3) Inventors, designers, ordnance consultants and researchers, chemists,
7 physicists, and other persons lawfully engaged in pursuits designed to
8 enlarge knowledge or to facilitate the creation, development, or
9 manufacture of nuclear, biological, or chemical weapons of mass
10 destruction intended for use in a manner consistent with the laws of the
11 United States and the State of North Carolina.
- 12 (4) Persons lawfully engaged in research or other activity related to
13 development, production, manufacture, assembly, transport, sale,
14 purchase, delivery or acquisition of any biological agent, disease
15 organism, toxic or poisonous chemical, radioactive substance or their
16 precursors, for preventive, protective, or other peaceful purposes.

17 (c) The term 'nuclear, biological, or chemical weapon of mass destruction', as
18 used in this Article, means any weapon or device that is designed, or has the capability,
19 to cause death or serious injury through the release, dissemination, or impact of:

- 20 (1) Radiation or radioactivity;
21 (2) A disease organism; or
22 (3) Toxic or poisonous chemicals or their precursors.

23 The term 'nuclear, biological, or chemical weapon of mass destruction' also includes
24 any combination of parts either designed or intended for use in converting any device
25 into any nuclear, biological, or chemical weapon of mass destruction or from which a
26 nuclear, biological, or chemical weapon of mass destruction may be readily assembled.

27 (d) Any person who violates any provision of this section is guilty of a Class B1
28 felony.

29 **§ 14-288.22. Unlawful use of a nuclear, biological, or chemical weapon of mass**
30 **destruction; punishment.**

31 (a) Any person who unlawfully and willfully injures another by the use of a
32 nuclear, biological, or chemical weapon of mass destruction is guilty of a Class A
33 felony and shall be sentenced to life imprisonment without parole.

34 (b) Any person who attempts, solicits another, or conspires to injure another by
35 the use of a nuclear, biological, or chemical weapon of mass destruction is guilty of a
36 Class B1 felony.

37 (c) Any person who for the purpose of violating any provision of this Article,
38 deposits for delivery or attempts to have delivered, a nuclear, biological, or chemical
39 weapon of mass destruction by the United States Postal Service or other public or
40 private business engaged in the delivery of mail, packages, or parcels is guilty of a Class
41 B1 felony.

1 **"§ 14-288.23. Making a false report concerning a nuclear, biological, or chemical**
2 **weapon of mass destruction; punishment; restitution.**

3 (a) Any person who, by any means of communication to any person or group of
4 persons, makes a report, knowing or having reason to know the report is false, that there
5 is located at any place or structure whatsoever, any nuclear, biological, or chemical
6 weapon of mass destruction is guilty of a Class D felony.

7 (b) The court may order a person convicted under this section to pay restitution,
8 including costs and consequential damages resulting from disruption of the normal
9 activity that would have otherwise occurred but for the false report, pursuant to Article
10 81C of Chapter 15A of the General Statutes.

11 (c) For purposes of this section, the term "report" shall include making accessible
12 to another person by computer.

13 **"§ 14-288.24. Perpetrating hoax by use of false nuclear, biological, or chemical**
14 **weapon of mass destruction; punishment; restitution.**

15 (a) Any person who, with intent to perpetrate a hoax, conceals, places, or
16 displays any device, object, machine, instrument, or artifact, so as to cause any person
17 reasonably to believe the same to be a nuclear, biological, or chemical weapon of mass
18 destruction is guilty of a Class D felony.

19 (b) The court may order a person convicted under this section to pay restitution,
20 including costs and consequential damages resulting from disruption of the normal
21 activity that would have otherwise occurred but for the hoax, pursuant to Article 81C of
22 Chapter 15A of the General Statutes."

23 **SECTION 2.** G.S. 14-17 reads as rewritten:

24 **"§ 14-17. Murder in the first and second degree defined; punishment.**

25 A murder which shall be perpetrated by means of a nuclear, biological, or chemical
26 weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait,
27 imprisonment, starving, torture, or by any other kind of willful, deliberate, and
28 premeditated killing, or which shall be committed in the perpetration or attempted
29 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other
30 felony committed or attempted with the use of a deadly weapon shall be deemed to be
31 murder in the first degree, a Class A felony, and any person who commits such murder
32 shall be punished with death or imprisonment in the State's prison for life without parole
33 as the court shall determine pursuant to G.S. 15A-2000, except that any such person
34 who was under 17 years of age at the time of the murder shall be punished with
35 imprisonment in the State's prison for life without parole. Provided, however, any
36 person under the age of 17 who commits murder in the first degree while serving a
37 prison sentence imposed for a prior murder or while on escape from a prison sentence
38 imposed for a prior murder shall be punished with death or imprisonment in the State's
39 prison for life without parole as the court shall determine pursuant to G.S. 15A-2000.
40 All other kinds of murder, including that which shall be proximately caused by the
41 unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or
42 preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., when

1 the ingestion of such substance causes the death of the user, shall be deemed murder in
2 the second degree, and any person who commits such murder shall be punished as a
3 Class B2 felon."

4 **SECTION 3.** G.S. 14-288.8(c) reads as rewritten:

5 "(c) The term 'weapon of mass death and destruction' includes:

- 6 (1) Any explosive, incendiary, poison gas or radioactive material:
7 a. Bomb; or
8 b. Grenade; or
9 c. Rocket having a propellant charge of more than four ounces; or
10 d. Missile having an explosive or incendiary charge of more than
11 one-quarter ounce; or
12 e. Mine; or
13 f. Device similar to any of the devices described above; or
14 (2) Any type of weapon (other than a shotgun or a shotgun shell of a type
15 particularly suitable for sporting purposes) which will, or which may
16 be readily converted to, expel a projectile by the action of an explosive
17 or other propellant, and which has any barrel with a bore of more than
18 one-half inch in diameter; or
19 (3) Any firearm capable of fully automatic fire, any shotgun with a barrel
20 or barrels of less than 18 inches in length or an overall length of less
21 than 26 inches, any rifle with a barrel or barrels of less than 16 inches
22 in length or an overall length of less than 26 inches, any muffler or
23 silencer for any firearm, whether or not such firearm is included within
24 this definition. For the purposes of this section, rifle is defined as a
25 weapon designed or redesigned, made or remade, and intended to be
26 fired from the ~~shoulder~~shoulder; or
27 (4) Any combination of parts either designed or intended for use in
28 converting any device into any weapon described above and from
29 which a weapon of mass death and destruction may readily be
30 ~~assembled~~assembled.
31 ~~(5) Radioactive material, which means any solid, liquid or gas which~~
32 ~~emits or may emit ionizing radiation spontaneously or which becomes~~
33 ~~capable of producing radiation or nuclear particles when controls or~~
34 ~~triggering mechanisms of any associated device are operable.~~

35 The term 'weapon of mass death and destruction' does not include any device which
36 is neither designed nor redesigned for use as a weapon; any device, although originally
37 designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic,
38 line-throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the
39 Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of
40 Title 10 of the United States Code; or any other device which the Secretary of the
41 Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the

1 owner intends to use solely for sporting purposes, in accordance with Chapter 44 of
2 Title 18 of the United States Code."

3 **SECTION 4.** This act is effective when it becomes law and applies to
4 offenses committed on or after that date. Prosecutions for offenses occurring before the
5 effective date of this act are not abated or affected by this act, and the statutes that
6 would be applicable but for this act remain applicable to those prosecutions.