

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 680
Judiciary II Committee Substitute Adopted 4/25/01
Finance Committee Substitute Adopted 6/26/01
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Short Title: Lawful Firearm Activities Protected.

(Public)

Sponsors:

Referred to:

March 26, 2001

1 A BILL TO BE ENTITLED

2 AN ACT TO PROVIDE THAT ONLY THE STATE MAY BRING CERTAIN CIVIL
3 ACTIONS AGAINST FIREARMS OR AMMUNITION MARKETERS,
4 MANUFACTURERS, DISTRIBUTORS, DEALERS, SELLERS, OR TRADE
5 ASSOCIATIONS AND TO AMEND THE LAWS REGARDING GUN SHOWS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 14-409.40 reads as rewritten:

8 "**§ 14-409.40. Statewide uniformity of local regulation.**

9 (a) It is declared by the General Assembly that the regulation of firearms is
10 properly an issue of general, statewide concern, and that the entire field of regulation of
11 firearms is preempted from regulation by local governments except as provided by this
12 section.

13 (b) Unless otherwise permitted by statute, no county or municipality, by
14 ordinance, resolution, or other enactment, shall regulate in any manner the possession,
15 ownership, storage, transfer, sale, purchase, licensing, or registration of firearms,
16 firearms ammunition, components of firearms, dealers in firearms, or dealers in
17 handgun components or parts.

18 (c) Notwithstanding subsection (b) of this section, a county or municipality, by
19 zoning or other ordinance, may regulate or prohibit the sale of firearms at a location
20 only if there is a lawful, general, similar regulation or prohibition of commercial
21 activities at that location. Nothing in this subsection shall restrict the right of a county or
22 municipality to adopt a general zoning plan that prohibits any commercial activity
23 within a fixed distance of a school or other educational institution except with a special
24 use permit issued for a commercial activity found not to pose a danger to the health,
25 safety, or general welfare of persons attending the school or educational institution
26 within the fixed distance.

1 (d) No county or municipality, by zoning or other ordinance, shall regulate in any
2 manner firearms shows with regulations more stringent than those applying to shows of
3 other types of items.

4 (e) A county or municipality may regulate the transport, carrying, or possession
5 of firearms by employees of the local unit of government in the course of their
6 employment with that local unit of government.

7 (f) Nothing contained in this section prohibits municipalities or counties from
8 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2,
9 14-269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the
10 possession of firearms in public-owned buildings, on the grounds or parking areas of
11 those buildings, or in public parks or recreation areas, except nothing in this subsection
12 shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is
13 on these grounds or areas. Nothing contained in this section prohibits municipalities or
14 counties from exercising powers provided by law in declared states of emergency under
15 Article 36A of this Chapter.

16 (g) The authority to bring suit and the right to recover against any firearms or
17 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or
18 on behalf of any governmental unit, created by or pursuant to an act of the General
19 Assembly or the Constitution, or any department, agency, or authority thereof, for
20 damages, abatement, injunctive relief, or any other remedy resulting from or relating to
21 the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or
22 ammunition to the public is reserved exclusively to the State. Any action brought by the
23 State pursuant to this section shall be brought by the Attorney General on behalf of the
24 State. This section shall not prohibit a political subdivision or local governmental unit
25 from bringing an action against any firearms or ammunition marketer, manufacturer,
26 distributor, dealer, seller, or trade association for breach of contract or warranty for
27 defect of materials or workmanship as to firearms or ammunition purchased by the
28 political subdivision or local governmental unit."

29 **SECTION 2.** Chapter 14 of the General Statutes is amended by adding a
30 new Article to read:

31 "Article 54C.

32 "Gun Shows.

33 **"§ 14-415.30. Definitions.**

34 The following definitions apply in this Article:

35 (1) Firearm. – The term 'firearm' means any one or more of the following:

- 36 a. A weapon, by whatever name known, that is designed to expel a
37 projectile by the action of powder and that is readily capable of
38 use as a weapon, but excluding an antique firearm as defined in
39 G.S. 14-409.11.
40 b. The frame or receiver of any such weapon.
41 c. Any firearm muffler or firearm silencer.

1 (2) Gun show. – An event that meets both of the conditions in this
2 subdivision. The term includes any area near the location of the gun
3 show that is used for parking for the gun show.

4 a. An event at which 100 or more firearms or other weapons as
5 defined in G.S. 14-269(a), but not including historic edged
6 weapons as defined in G.S. 14-409.12, are offered or exhibited
7 for sale, transfer, or exchange.

8 b. An event at which 10 or more persons are offering or exhibiting
9 firearms for sale, transfer, or exchange.

10 (3) Gun show promoter. – A person who organizes, promotes, or
11 otherwise sponsors a gun show. The term includes the employees of
12 the promoter.

13 (4) Vendor. – A person who exhibits a firearm for sale, transfer, or
14 exchange at a gun show.

15 **§ 14-415.31. Gun show promoter permit.**

16 (a) Permit required. – No person shall organize, promote, or otherwise sponsor a
17 gun show, in any county unless the person has first obtained a permit as a gun show
18 promoter from the sheriff of that county. One permit shall be required for each gun
19 show, and the permit expires at the conclusion of the gun show for which it was
20 obtained.

21 (b) Application. – At least 60 days before the date of the gun show, the gun show
22 promoter shall file an application for a gun show permit with the sheriff of the county in
23 which the gun show will take place. The application shall include the time and location
24 of the gun show and any other information requested by the sheriff.

25 (c) Fee. – At the time the gun show promoter permit application is submitted to
26 the sheriff, the applicant shall also submit a fee of one hundred dollars (\$100.00). The
27 sheriff shall transmit the proceeds of this fee to the county finance officer. The revenue
28 generated by this fee shall be allocated to the sheriff to be used to pay the costs of
29 administering this Article and for other law enforcement purposes. The county shall not
30 expend this revenue for any other purposes, and this revenue shall not be used to
31 supplant other funds available to the sheriff.

32 (d) Issuance of permit. – The sheriff must inform the applicant within 30 days of
33 the date of the application whether the permit is granted or denied. If the sheriff
34 determines that the applicant qualifies for a gun show promoter permit under this
35 subsection, then the permit must be granted. If the sheriff determines that the applicant
36 does not qualify for a gun show promoter permit under this subsection, then the sheriff
37 must provide the applicant a written statement of the reasons for the denial. An
38 applicant may appeal the denial by petitioning a district court judge of the district in
39 which the application was filed. The determination by the court, on appeal, shall be
40 upon the facts, the law, and the reasonableness of the sheriff's denial.

41 To qualify for a gun show promoter permit, the sheriff must find that the applicant
42 meets all of the following requirements:

- 1 (1) Verify by a criminal history background investigation that it is not a
2 violation of State or federal law for the applicant to purchase, transfer,
3 receive, or possess a handgun. The sheriff shall determine the criminal
4 history of an applicant by accessing computerized criminal history
5 records as maintained by the State Bureau of Investigation and the
6 Federal Bureau of Investigation, by conducting a national criminal
7 history records check and by conducting a criminal history check
8 through the Administrative Office of the Courts.
9 (2) That the applicant shows by affidavits, oral evidence, or otherwise that
10 the applicant is of good moral character.
11 (3) That the applicant could not be denied a permit under G.S. 14-404(c).
12 (4) That the applicant has paid the gun show promoter permit fee.

13 **"§ 14-415.32. Display and sale of firearms at gun show.**

14 Except as otherwise provided by this section, a person who displays a firearm for
15 purposes of sale at a gun show or who sells, leases, or otherwise transfers a firearm to
16 another person at a gun show must be licensed as a dealer under 18 U.S.C. § 923 and
17 must post the license in accordance with 27 C.F.R. 178.91 and 178.100(a). Each
18 licensed dealer shall also obtain and display a sales tax certificate of registration as
19 provided by G.S. 14-415.33. A transfer of a handgun must comply with Article 52A of
20 this Chapter.

21 A person may display a firearm for sale at a gun show without being licensed as a
22 dealer. However, a person who displays a firearm for sale without being licensed as a
23 dealer may not sell, lease, or otherwise transfer a firearm unless the transaction is
24 conducted through a person licensed as a dealer under 18 U.S.C. § 923.

25 **"§ 14-415.33. Vendor sales tax filing.**

26 Each vendor shall obtain a sales tax certificate of registration as required by G.S.
27 105-164.4(c). Notwithstanding the provisions of G.S. 105-164.16, at the conclusion of a
28 gun show, each vendor must file a sales tax return and pay the tax under Article 5 of
29 Chapter 105 of the General Statutes within 10 days after the end of the semimonthly
30 period during which the show concluded as if the vendor were required to report on a
31 semimonthly basis under G.S. 105-164.16.

32 **"§ 14-415.34. Violation punishable as a misdemeanor.**

33 A violation of this Article is a Class 1 misdemeanor. It is an affirmative defense
34 under this section for a gun show promoter that both of the following conditions are
35 met:

- 36 (1) The gun show promoter made a good faith effort to ensure that persons
37 displaying, selling, leasing, or otherwise transferring firearms
38 complied with the requirements of this Article.
39 (2) The display, sale, lease, or transfer by a noncomplying person occurred
40 in an area of the gun show other than the primary area used for
41 displaying, selling, leasing, or otherwise transferring firearms."

1 **SECTION 3.** The provisions of this act are severable. If any provision of
2 this act is held invalid by a court of competent jurisdiction, the invalidity does not affect
3 other provisions of the act that can be given effect without the invalid provision.

4 **SECTION 4.** Section 1 of this act is effective when it becomes law and
5 applies to any action pending or filed on or after that date. Section 2 of this act becomes
6 effective December 1, 2001, and applies to gun shows occurring on or after that date.
7 Sections 3 and 4 of this act are effective when they become law.