

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 582

Short Title: Amend Felony Firearms Act/Increase Penalties. (Public)

Sponsors: Representatives Daughtry and Jordan (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary Subcommittee B.

April 4, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CERTAIN VIOLATIONS OF
3 THE FELONY FIREARMS ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 14-415.1 reads as rewritten:

6 "**§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

7 (a) It shall be unlawful for any person who has been convicted of a felony to purchase,
8 own, possess, or have in his custody, care, or control any ~~firearm or firearm~~, any weapon of
9 mass death and destruction as defined in ~~G.S. 14-288.8(e)~~. G.S. 14-288.8(c), any ammunition,
10 or any electric weapon or device. It is also unlawful for any person who has been convicted of a
11 felony to carry a concealed weapon, including a tear gas gun or a chemical weapon or device.

12 For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which
13 will or is designed to or may readily be converted to expel a projectile by the action of an
14 explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer. This section
15 does not apply to an antique firearm, as defined in G.S. 14-409.11.

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

17 (a1) Unless the conduct is covered under some other provision of law providing greater
18 punishment, a person who violates this section is guilty of a Class G felony.

19 (a2) Unless the conduct is covered under some other provision of law providing greater
20 punishment, a person who violates this section and discharges the firearm, electric weapon or
21 device, or any other weapon described in subsection (a) of this section is guilty of a Class E
22 felony.

23 (a3) Unless the conduct is covered under some other provision of law providing greater
24 punishment, a person who violates this section is guilty of a Class D felony if the violation
25 results in serious injury to a person.

26 (a4) Unless the conduct is covered under some other provision of law providing greater
27 punishment, a person who violates this section is guilty of a Class C felony if the violation
28 results in serious bodily injury to a person.

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

30 (1) Felony convictions in North Carolina that occur before, on, or after
31 December 1, 1995; and

32 (2) Repealed by Session Laws 1995, c. 487, s. 3, effective December 1, 1995.

33 (3) Violations of criminal laws of other states or of the United States that occur
34 before, on, or after December 1, 1995, and that are substantially similar to



1 the crimes covered in subdivision (1) which are punishable where committed
2 by imprisonment for a term exceeding one year.

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

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

19 (d) This section does not apply to a person whose firearms rights have been restored
20 under G.S. 14-415.4, unless the person is convicted of a subsequent felony after the petition to
21 restore the person's firearms rights is granted.

22 (e) This section does not apply and there is no disentitlement under this section if the
23 felony conviction is a violation under the laws of North Carolina, another state, or the United
24 States that pertains to antitrust violations, unfair trade practices, or restraints of trade."

25 **SECTION 2.** This act becomes effective December 1, 2011, and applies to
26 offenses committed on or after that date.