



# HOUSE BILL 937: Amend Various Firearms Laws

2013-2014 General Assembly

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<b>Committee:</b>	H937 Conference Committee	<b>Date:</b>	July 24, 2013
<b>Introduced by:</b>	Reps. Schaffer, Burr, Faircloth, Cleveland	<b>Prepared by:</b>	Susan Sitze and Hal Pell
<b>Analysis of:</b>	Conference Report		Staff Attorneys

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**SUMMARY:** *The Conference Committee Substitute for H937 makes various changes to the firearms laws. The conference report, recommending adoption of the committee substitute bill, was adopted by the House of Representatives and the Senate on July 23, 2013.*

## BILL ANALYSIS:

**Section 1** provides that a person with a concealed carry permit may have a handgun in a closed compartment in a locked vehicle that is in a parking lot owned or leased by State government.

**Section 2** makes changes to the statute prohibiting firearms on educational property to allow certain persons to possess a handgun on certain educational property under specific conditions as follows:

- Employees of colleges and universities, and of boarding schools, who reside on campus in a detached, single family dwelling where only they and their immediate family reside, may have a handgun on the premises of their residence. If they have a concealed carry permit, they may also keep a handgun in their locked vehicle. Private schools have the option to specifically prohibit possession pursuant to these provisions.
- Authorizes anyone with a concealed carry permit to have a handgun in a locked vehicle on any educational property.

**Section 3** authorizes a person with a concealed carry permit to carry a concealed handgun at assemblies where an admission fee is charged and any establishment that serves alcohol unless the person in control of the premises has posted a notice prohibiting carrying a concealed handgun on the premises.

**Section 4** amends the statute creating a criminal offense for permitting young children to use a firearm. Under current law it is unlawful for anyone other than a parent, guardian, or person standing in loco parentis to permit a child under 12 to use a firearm without supervision by the parent, guardian, or person standing in loco parentis. This section requires parent or guardian permission for any person to allow a child under 12 to have access to, or possess a firearm and would require adult supervision, but the supervision could be provided by any adult with the parent or guardian's permission.

**Section 5** amends the statute that provides for an enhanced sentence when a defendant uses, displays or threatens to use or display a firearm in the commission of a felony. Current law provides an additional 60 month sentence upon conviction of a Class A through E felony. This section increases the enhancement for an A through E felony to 72 months, and would provide an enhanced sentence of 36 months for an F or G felony, and an enhanced sentence of 12 months for a Class H or I felony.

**Section 6** amends the statute designating the areas in which local governments can regulate the possession of concealed handguns by more specifically defining the term "recreational facilities" and also specifically excluding certain areas from the definition.

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**Sections 7 and 8** specify what mental health determinations must be transferred by the clerk of court to the National Instant Criminal Background Check System (NICS) and require the transmission be done within 48 hours, excluding weekends and holidays, of receipt by the clerk of the judicial determination. The Administrative Office of the Courts shall adopt rules to ensure transmission in a uniform manner.

**Sections 9 through 11** makes changes to various statutes governing the reinstatement of the right to possess firearms after certain mental health determinations or findings and would create a process that applies to all determinations or findings. These sections make clarifying changes to several statutes.

**Sections 12 and 13** amends the statutes relating to records of concealed carry permits and sale of weapons to provide that they are not public records under the public records law. The records still remain available upon request to all State and local law enforcement agencies.

**Section 14** amends G.S. 14-269.4, which prohibits weapons on specified State property, to clarify that the current exemption for concealed carry permit holders also applies to those who are exempt from obtaining a concealed carry permit by virtue of federal law which authorizes them to carry concealed as current and retired law enforcement officers.

**Section 15** amends G.S. 14-277.2, which prohibits weapons at parades, funeral processions, picket lines, or demonstrations, to provide an exception that allows a person with a concealed carry permit to carry a concealed handgun at parades and funeral processions, so long as the person in legal possession or control of the property on which they are carrying concealed has not posted a notice prohibiting concealed handguns.

**Section 16** amends G.S. 14-415.21, which provides criminal penalties for violating the conditions of a concealed carry permit, to increase the penalty for carrying concealed on property that has a posted notice prohibiting concealed carry and for carrying concealed while consuming alcohol or with any amount of alcohol in the person's system, from a Class 2 misdemeanor to a Class 1 misdemeanor.

**Section 17.1** clarifies that the sheriffs' issue a "permit" and not a license for the purchase of a weapon described in the Article.

**Section 17.2.(a)** amends the pistol permit issuance statute to:

- Require the sheriff to cite the specific facts upon which a permit is denied, and to list the applicable law which precluded the issuance of the permit. The list of denials (with no personal identifying information) is designated a public record. The list is to be organized by the quarters of the year, showing the number of denials and the reasons in each three month period, and the list shall only be released for past, completed quarters.
- Provide that if the clerk of superior court has received notice of a matter that disqualifies a person from obtaining a pistol purchase permit, then a record of the matter is to be reported to the National Instant Criminal Background Check System (NICS).
- Provide that there is no limitation on the number or frequency of purchase permits that may be issued, and that no other costs or fees other than the \$5.00 permit fee set forth in the section may be charged.
- Establish a requirement that the sheriff revoke a purchase permit if any event or condition occurring subsequent to the issuance would have precluded the issuance of the permit. A procedure is set forth for revoking the permit, to include written notice to the permittee and a process for appeal. A willful failure to surrender a revoked permit is designated a Class 2 misdemeanor.

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**Section 17.2.(b)** requires the Administrative Office of the Courts to report to the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2013, on the progress towards implementing the requirement in Section 17.2(a) that the permit-disqualifying matters be reported to NICS, and with any recommendations for legislation relating to that requirement.

**Section 17.2.(c)** sets July 1, 2014, as the effective date for clerks to report permit-disqualifying events to NICS.

**Section 17.3** requires sheriffs, no later than January 31, 2014, to determine whether any issued and unexpired permits are subject to revocation, and to immediately initiate revocation procedures. A report by the sheriffs, or the N.C. Sheriffs' Association on the sheriffs' behalf, is to be submitted to the Joint Legislative Oversight Committee on Justice and Public Safety with the results of the review no later than March 31, 2014.

**Section 17.4** amends the statute that sets forth the requirement for the keeping of a record of issued purchase permits. The record shall include if the permit has been revoked, and the date the permittee received notice of the revocation. It also provides that the record is not a public record; however, the sheriff shall make the records available upon request to any federal, State, and local law enforcement agencies and shall also make the records available to the court if the records are required to be released pursuant to a court order. Any application to a court for release of the list of permit holders and permit application information shall be by a petition to the chief judge of the district court for the district in which the person seeking the information resides.

**Section 18** makes a technical correction by deleting a reference to a repealed statute.

**Sections 19** amends the law providing for the sale of a service side arm of a deceased or retiring law enforcement officer to the retiree or a surviving family member. Prior law required the person receiving the firearm to obtain a permit. The amendment provides only that a determination be made that the person is not ineligible to own, possess, or receive a firearm under State or federal law.

**Section 20** requires a sheriff to revoke the concealed carry permit of any permittee who is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit.

**Sections 21 and 22** provide that any North Carolina district court or superior court judge, magistrate, clerk of court, or register of deeds who has a concealed handgun permit is exempt from the general prohibition against carrying a concealed weapon and from the prohibitions against carrying a weapon on certain premises or in certain circumstances.

**Section 23** allows hunting with a suppressor or other device designed to muffle or minimize the report of a firearm.

**Sections 24 and 25** amend the definition of "qualified retired law enforcement officer" as it applies to carrying a concealed handgun to make it consistent with the definition in federal law for which this definition is used and make clarifying changes.

**Section 26** creates the status offense of "armed habitual felon" that would be applicable to any person who has been convicted of or pled guilty to a prior firearm-related felony offense in which evidence of the person's use, display, or threatened use or display of a firearm was needed to prove an element of the felony or was needed to establish the requirement for an enhanced or aggravated sentence. The district attorney would have the discretion to charge a person who commits a second firearm-related felony as an armed habitual felon. The bill provides for the defendant to be charged separately for the principal firearm-related felony and for the status offense of armed habitual felon. The person would first be tried for the principal firearm-related felony, and the status offense would not be revealed to the jury unless

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the person is found guilty of the principal firearm-related felony. If the person is found guilty of the principal felony, the armed habitual felon charge would then be presented to the jury. If the jury finds the defendant is an armed habitual felon, the defendant would be sentenced as a Class C felon – unless the principal firearm-related felony was a Class A, B1, or B2 felony. A person sentenced as an armed habitual felon would receive a minimum term of imprisonment of not less than 10 years; the sentence could not be suspended, and the defendant could not be placed on probation. When sentencing a person for the status offense of armed habitual felon, the conviction used to establish the person's status as an armed habitual felon would not count towards the person's prior record level. Sentences imposed for armed habitual felon status would run consecutively with, and begin at the expiration of, any sentence already being served by the defendant.

**Section 27** requires that when a defendant is found guilty of a felony offense, the presiding judge must determine whether the defendant used or displayed a firearm while committing the felony. If the judge makes that determination, that fact must be included when entering the judgment imposing the sentence for the felony conviction.

**Section 28** provides the effective dates: Sections 1 through 6, 14 through 16, 18, 21, 23, 25, and 26 of this act become effective October 1, 2013, and apply to offenses committed on or after that date. Section 17.3 and the effective date section are effective when they become law. Section 27 of the act becomes effective October 1, 2013, and applies to any judgment entered for a felony conviction on or after that date. Except as otherwise provided in the act, the remainder of the act becomes effective October 1, 2013. 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.