Summary of 2013 Firearm Bill

During the 2013 legislative session, the General Assembly passed an omnibus gun bill, [S.L. 2013-369](http://www.ncleg.net/EnactedLegislation/SessionLaws/HTML/2013-2014/SL2013-369.html). This is the second consecutive long session in which the General Assembly has made major changes to the gun laws. I blogged about one aspect of the 2011 bill [here](http://nccriminallaw.sog.unc.edu/?p=2913), and briefly summarized the 2013 bill [here](http://nccriminallaw.sog.unc.edu/?p=4371). A more detailed summary of the 2013 bill follows.

1. **Permit holders can have guns locked in vehicles on school grounds.** The bill amends G.S. 14-269.2 (weapons on educational property) to allow concealed carry permit holders to have guns on school grounds so long as they are “in a closed compartment or container within the person’s locked vehicle or in a locked container securely affixed to the person's vehicle.” (Section 2.)
2. **Permit holders can have guns in establishments that sell alcohol.** The bill amends G.S. 14-269.3 (generally prohibiting weapons in “any assembly where a fee has been charged for admission thereto, or into any establishment in which alcoholic beverages are sold and consumed”) to exempt concealed carry permit holders. Note that owners of bars and other covered establishments retain the right to exclude concealed weapons under G.S. 14-415.11(c), and it remains unlawful for any person to carry a gun, openly or concealed, “while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or in the person’s blood a controlled substance previously consumed,” under G.S. 14-415.11(c2). (Section 3.)
3. **Permit holders can have guns at parades.** It amends G.S. 14-277.2, which generally prohibits the possession of weapons at parades, funeral processions, and demonstrations, to allow concealed carry permit holders to possess concealed handguns at parades and funeral processions. (Section 15.)
4. **Expanded concealed carry rights for certain government officials who hold concealed carry permits.** The bill amends G.S. 14-415.27 (expanded permit scope for district attorneys and certain others) to include judges, magistrates, clerks of court, and registers of deeds, as well as district attorneys, assistant district attorneys, and district attorney investigators, who hold a concealed carry permit. These permit holders are exempt from the limitations in G.S. 14-415.11(c), and so may carry a concealed weapon even on school grounds, in courthouses, in “law enforcement or correctional facilit[ies],” in state offices, and perhaps even on private premises posted against concealed weapons, though the last point may be unclear in light of property owners’ rights to exclude others under the trespass laws. (Section 22.) The bill also adds judges, magistrates, clerks of court, and registers of deeds who hold a concealed carry permit to the list of persons exempt from G.S. 14-269, the statute that generally criminalizes carrying a concealed weapon. District attorneys, assistant district attorneys, and district attorney investigators who hold a concealed carry permit were already exempt. (Section 21.) These two provisions appear to be largely redundant.
5. **Limits local government authority to prohibit concealed handguns.** The bill further limits local government authority to regulate concealed handguns. Local regulation is generally prohibited under G.S. 14-415.23. Since 2011, that statute has allowed local governments to adopt ordinances to “prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government.” The 2013 bill narrows the definition of “recreational facilities” to (a) exclude playgrounds, which previously were included; (b) exclude greenways, walkways, and bike paths, the status of which was arguably unclear under prior law; and (c) include athletic fields only when they have been “scheduled for use with the municipality or county office responsible for operation of the park or recreational area,” a limitation absent from prior law. The bill also clarifies, to some extent, which appurtenant premises are included with certain recreational facilities. For example, appurtenant restrooms are included under athletic fields and appurtenant changing areas are included under swimming pools. (Section 6.)
6. **Changes to NICS reporting procedures regarding mental health determinations and to procedures for restorations of gun rights.** The bill amends G.S. 122C-54(d1), which concerns the obligation of clerks of court to report certain events, such as court determinations of insanity and incompetence, to the national instant background check system (NICS). The bill expands clerks’ obligation in several ways, including by requiring reporting when a person is found to “lack[] the capacity to manage the individual’s own affairs due to marked subnormal intelligence or mental illness, incompetency, condition, or disease,” and by requiring reporting in some instances when a person is involuntarily committed for substance abuse treatment. It also requires reporting within 48 hours, exclusive of weekends and holidays; prior law required reporting “as soon as practicable.” (Section 7.) The bill also amends G.S. 122C-54.1 to expand and clarify the procedure for individuals to petition a district court judge for restoration of their gun rights after a disqualifying mental health determination has been made and reported to NICS. Generally, the person must show by a preponderance of the evidence that he or she “will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest.” (Section 9.)
7. **Permit information not public record.** The bill amends G.S. 14-415.17, G.S. 14-405, and G.S. 14-406, to provide that most records kept by the sheriff in connection with concealed carry permits and handgun purchase permits, and records kept by dealers in connection with firearm sales, are confidential and are not public records. (Sections 12, 13, 17.4.)
8. **Changes to handgun purchase permit procedures.** The bill makes several changes to the handgun purchase permit process in G.S. 14-404, including (a) requiring the sheriff to act within 14 days, rather than 30; (b) requiring the sheriff to provide a detailed, written factual and legal justification for any denial; and (c) clarifying that beyond the sheriff’s $5.00 fee, “no other costs or fees . . . shall be charged for the permit, including . . . any costs for investigation, processing, or medical background checks by the sheriff or others providing records to the sheriff.” The bill also creates a process for revoking a purchase permit if the permit holder becomes ineligible. (Section 17.2(a).)
9. **Expanded sentencing enhancement for felonies committed with guns.** The bill expands the sentencing enhancement in G.S. 15A-1340.16A, which applies to individuals who commit a felony by “using, displaying, or threatening the use or display of a firearm or deadly weapon.” The enhancement previously applied only to Class A through E felonies, but now applies to all felonies, adding 12 months to Class H or I sentences, 36 months to Class F or G sentences, and 72 months (was, 60 months) to Class A through E sentences. (Section 5.)
10. **Armed habitual felon.** The bill creates a new status offense, “armed habitual felon,” patterned on the existing habitual felon laws. It increases the punishment for a defendant who, having been convicted of one “felony . . . in which the person used or displayed a firearm,” commits a second such felony. (Section 26.)