

LEGAL ISSUES RELATING TO CONCEALED CARRY HANDGUN TRAINING

G.S. 14-51.1 – Intruder Law has been repealed effective December 1, 2011. Information regarding this law also previously referred to as the “Castle Doctrine” is discussed in the current training videos. That information will be incorrect **effective December 1, 2011**.

G.S. 14-51.2 – Home, workplace and motor vehicle protection; presumption of fear of death or, serious bodily harm. [Enacted into law effective December 1, 2011].

“The lawful occupant of a home, motor vehicle, or workplace is presumed to have held a reasonable fear of imminent death or serious bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or serious bodily harm to another if both of the following apply:

- (1) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a home, motor vehicle, or workplace, or if that person had removed or was attempting to remove another against that person’s will from the home, motor vehicle, or workplace.
- (2) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.”

“The presumption of this section shall be rebuttable and does not apply in any of the following circumstances:

- (1) The person against whom the force is used has the right to be in or is a lawful resident of the home, motor vehicle, or workplace.
- (2) The person sought to be removed from the home, motor vehicle, or workplace is a child or grandchild or is otherwise in the lawful custody or under the lawful guardianship of the person against whom the defensive force is used.
- (3) The person who uses defensive force is engaged in, attempting to escape from, or using the home, motor vehicle, or workplace to further any criminal offense that involves the use or threat of physical force or violence against any individual.
- (4) The person against whom the defensive force is used is a law enforcement officer or bail bondsman who enters or attempts to enter a home, motor vehicle, or workplace in the lawful performance of his or her official duties, and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.
- (5) The person against whom the defensive force is used (i) has discontinued all efforts to unlawfully and forcefully enter the home, motor vehicle, or workplace and (ii) has exited the home, motor vehicle, or workplace.”

Basically, a person who unlawfully and by force enters or attempts to enter a person’s home, motor vehicle, or workplace is **PRESUMED** to be doing so with the intent to commit an unlawful act involving force or violence. A lawful occupant within his or her home, motor vehicle, or workplace, **DOES NOT** have a duty to retreat from an intruder.

G.S. 14-51.3 - Use of force in defense of person: relief of criminal and civil liability.

[Enacted into law effective December 1, 2011].

"A person is justified in using force, except deadly force against another when and to the extent that the person reasonably believes that the conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat in any place he or she has the lawful right to be if either of the following applies:

- (1) He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another.
- (2) Under the circumstances permitted pursuant to G.S. 14-51.2"

"A person who uses force as permitted by this section is justified in using such force and is immune from civil or criminal liability for the use of such force, unless the person against whom force was used is a law enforcement officer or bail bondsman who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties."

G.S. 14-51.4 – Justification for defensive force not available.

[Enacted into law effective December 1, 2011].

"The justification described in G.S. 14-51.2 and G.S. 14-51.3 is not available to a person who used defensive force and who:

- (1) Was attempting to commit, committing, or escaping after the commission of a felony.
- (2) Initially provokes the use of force against himself or herself. However, the person who initially provokes the use of force against himself or herself will be justified in using defensive force if either of the following occur:
 - a. The force used by the person who was provoked is so serious that the person using defensive force reasonably believes that he or she was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force which is likely to cause death or serious bodily harm to the person who was provoked was the only way to escape the danger.
 - b. The person who used defensive force withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that he or she desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force."

G.S. 14-269.4 - Weapons on certain State property and in courthouses.

[Changes in current law effective December 1, 2011].

"It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice. If a court is housed in the building containing nonpublic uses in addition to the court, then this prohibition shall apply only to that portion of the building used for court purposes while the building is being used for court purposes.

This section shall not apply to any of the following:"

- (5) **A person with a permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24 who has a firearm in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.**

G.S. 14-415.11 - Permit to carry concealed handgun; scope of permit.

[Changes in current law effective December 1, 2011].

- (c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a concealed handgun in any of the following:
 - (1) **Areas prohibited by G.S. 14.269.2 (EDUCATIONAL PROPERTY), 14-269.3 (ANY ESTABLISHMENT WHERE ALCOHOLIC BEVERAGES ARE SOLD AND CONSUMED & ASSEMBLIES WHERE ADMISSION IS CHARGED), and 14.277.2 (PARADES, PICKET LINES, DEMONSTRATIONS AT PRIVATE HEALTH CARE FACILITIES).**
 - (2) **Areas prohibited by G.S. 14-269.4 (WEAPONS ON CERTAIN STATE PROPERTY AND IN COURTHOUSES) except as allowed under G.S. 14-269.4(6) (LOCKED IN A VEHICLE IN A CLOSED COMPARTMENT OR CONTAINER).**
 - (3) **In an area prohibited by rule adopted under G.S. 120-32.1(LEGISLATIVE BUILDING & OFFICES).**
 - (4) **In any area prohibited by 18 U.S.C. § 922 or any other federal law. (FEDERAL PROPERTY).**
 - (5) **In a law enforcement or correctional facility.**
 - (6) **In a building housing only State or federal offices.**
 - (7) **In an office of the State or federal government that is not located in a building exclusively occupied by the State or federal government.**
 - (8) **On any private premises where notice that carrying a concealed handgun is prohibited by the posting of a conspicuous notice or statement by the person in legal possession or control of the premises.**

NOTE: Financial institutions have been removed from this law, and are now covered by the Section (8) regarding the Posting of Notice on Private Premises.
- (c1) **Any person who has a concealed handgun permit may carry a concealed handgun on the grounds or waters of a park within the State Parks System as defined in G.S. 113-44.9.**
- (c2) **It shall be unlawful for a person, with or without a permit to carry a concealed handgun 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, but a person does not violate this condition if a controlled substance in the person's blood was lawfully obtained and taken in therapeutically appropriate amounts or if the person is on the person's own property.**
- (c3) **As provided in G.S. 14-269.4(5), it shall be lawful for a person to carry any firearm openly, or to carry a concealed handgun with a concealed carry permit at any State-owned rest area, at any State-owned rest stop along the highways, and at any State-owned hunting and fishing reservation.**

G.S. 14-415.23 - Statewide Uniformity.

[Changes in current law effective December 1, 2011].

"It is the intent of the General Assembly to prescribe a uniform system for the regulation of legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun in accordance with G.S. 14-415.11(c), on local government **buildings and their appurtenant premises. A unit of local government may adopt an ordinance 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. If a unit of local government adopts such an ordinance with regard to recreational facilities, then the concealed handgun permittee may nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle. For purposes of this section, the term "recreational facilities" includes only the following: a playground, an athletic field, a swimming pool, and an athletic facility."**

G.S. 14-415.24 - Reciprocity; out-of-state handgun permits.

[Changes in current law effective December 1, 2011].

(a) A valid concealed handgun permit or license issued by another state is valid in North Carolina.

HOW IS THIS DIFFERENT?

North Carolina will honor any valid Concealed Carry Handgun Permit from another state, regardless whether the state recognizes the North Carolina Concealed Carry Permit.

(b) Repealed.

(c) Every 12 months after the effective date of this subsection, the Department of Justice shall make written inquiry of the concealed handgun permitting authorities in each other state as to: (i) whether a North Carolina resident may carry a concealed handgun in their state based upon having a valid North Carolina Concealed handgun permit and (ii) whether a North Carolina resident may apply for a concealed handgun permit in that state based upon having a valid North Carolina concealed handgun permit. The Department of Justice shall attempt to secure from each state permission for North Carolina residents who hold a valid North Carolina concealed handgun permit to carry a concealed handgun in that state, either on the basis of the North Carolina permit or on the basis that the North Carolina permit is sufficient to permit the issuance of a similar license or permit by the other state.