

ROLL CALL TRAINING
FROM NORTH CAROLINA'S 24/7 POLICE
ATTORNEY LAW FIRM

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TOPIC:

THE NORTH CAROLINA POSSESSION OF A FIREARM BY A FELON STATUTE

By Gregory B. Rodgers & M. Kevin Smith (with Some Thoughts by Ralph B. Strickland, Jr.)

SUBJECT:

The North Carolina Possession of a Firearm by a Felon Statute Has been Amended as of December 1, 2004, to Conform to the Federal Firearms Law!

THE NEW STATUTE:

G.S. 14-415.1 will read as rewritten beginning December 1, 2004:

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

- a) **It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any firearm or any weapon of mass death and destruction as defined in G.S. 14-288.8(c). FOR THE PURPOSES OF THIS SECTION, A FIREARM IS (I) ANY WEAPON, INCLUDING A STARTER GUN, WHICH WILL OR IS DESIGNED TO OR MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE, OR ITS FRAME OR RECEIVER, OR (II) ANY FIREARM MUFFLER OR FIREARM SILENCER [emphasis ours.] Every person violating the provisions of this section shall be punished as a Class G felon.**
- b) [Other sections remain the same.]

COMMENTS – THEN & NOW:

THEN: Under the old law, a convicted felon could not purchase, own, possess, or have in his custody, care, or control any handgun unless he was in his own home or lawful place of business.

NOW: *The New Simple Rule, beginning December 1, 2004, is no handgun possession anywhere, anytime, by a convicted felon.*

THEN: A convicted felon could own, control or possess, anytime – anywhere it was legal for a non-convicted felon – a firearm that was not a handgun, with a barrel length greater than 18 inches or an overall length greater than 26 inches.

NOW: *The New Simple Rule, beginning December 1, 2004, is no rifle or shotgun possession, anywhere, anytime, by a convicted felon.*

MESSAGE TO FIRST-LINE SUPERVISORS:

Pay particular attention to this amendment, as these changes represent a huge change in our law concerning possession of a firearm by a felon, all beginning December 1, 2004. Note that many “routine” field encounters (e.g., traffic stops, response to radio calls, etc.) may now result in felony charges that would never have been possible before. Also, this statute may have particular relevance when enforcing domestic violence protective orders under Chapter 50B. And Ralph would like to point out the following:

1. The statute continues to prohibit a felon from possession of a weapon of mass death and destruction (punishing the felon more severely than a non-felon).
2. The amended statute also prohibits the convicted felon from having any weapon, including a starter’s pistol, that can be readily converted to a weapon firing a projectile by explosive.
3. The amended statute prohibits the convicted felon from possessing the frame or receiver of a firearm; he does not have to be in possession of a whole, working firearm. The General Assembly intends to get the convicted felon’s attention and thereby protect the residents of North Carolina.
4. Note: unlike the federal statute, there is no mention in the amended state statute of possession of ammunition alone as being an offense. Well, you can’t win them all.
5. The amended statute prohibits the convicted felon from possessing a firearm muffler or silencer. He does not have to be in possession of a firearm – just the silencer.
6. You know that old saying, “Ignorance of the law is no excuse?” Naturally the maxim applies here! Lots of convicted felons may find themselves surprised upon being arrested under the new statute – beginning December 1, 2004, I bet you.
7. Remember the effective date ... which is ... let me see... Hmmm ...I give up.

EFFECTIVE DECEMBER 1, 2004

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