

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 489
Committee Substitute Favorable 5/25/11
PROPOSED SENATE COMMITTEE SUBSTITUTE H489-CSSA-71 [v.4]

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Short Title: Dangerous Weapon Restrictions in Emergencies.

(Public)

Sponsors:

Referred to:

March 29, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE POSSESSION, STORAGE, AND USE OF DANGEROUS
3 WEAPONS DURING A STATE OF EMERGENCY FOR SELF DEFENSE IN A
4 PERSON'S HOME OR FOR OTHER LAWFUL PURPOSES IN A PERSON'S HOME;
5 AND TO AUTHORIZE THE TRANSPORTATION, POSSESSION, SALE, OR
6 PURCHASE OF AMMUNITION FOR SELF DEFENSE PURPOSES IN A PERSON'S
7 HOME OR FOR OTHER LAWFUL PURPOSES IN A PERSON'S HOME.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 14-288.7 is repealed.

10 SECTION 2. G.S. 14-288.12 reads as rewritten:

11 "§ 14-288.12. Powers of municipalities to enact ordinances to deal with states of
12 emergency.

13 (a) The governing body of any municipality may enact ordinances designed to permit
14 the imposition of prohibitions and restrictions during a state of emergency.

15 (b) The ordinances authorized by this section may permit prohibitions and restrictions:

16 (1) Of movements of people in public places, including directing and
17 compelling the evacuation of all or part of the population from any stricken
18 or threatened area within the governing body's jurisdiction, to prescribe
19 routes, modes of transportation, and destinations in connection with
20 evacuation; and to control ingress and egress of a disaster area, and the
21 movement of persons within the area;

22 (2) Of the operation of offices, business establishments, and other places to or
23 from which people may travel or at which they may ~~eongregate~~; congregate,
24 including places that sell dangerous weapons, notwithstanding subdivision
25 (4) of this subsection.

26 (3) Upon the possession, transportation, sale, purchase, and consumption of
27 alcoholic beverages;

28 (4) Upon the possession, transportation, sale, purchase, storage, and use of
29 dangerous weapons and substances, and ~~gasoline; and gasoline,~~ when
30 necessary to preserve the public peace where there is an imminent risk of
31 damage, injury, or loss of life or property, except that prohibitions and
32 restrictions adopted pursuant to this subdivision shall not do any of the
33 following:



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- 1 a. Prohibit the possession, storage, or use of a dangerous weapon for
2 self-defense in a person's home or for other lawful purposes in a
3 person's home or on other real property in which a person has a
4 lawful possessory or ownership interest.
5 b. Prohibit the transportation, possession, sale, purchase, or use of
6 ammunition for self-defense purposes in a person's home or on other
7 real property in which a person has a lawful possessory or ownership
8 interest.

- 9 (5) Upon other activities or conditions the control of which may be reasonably
10 necessary to maintain order and protect lives or property during the state of
11 emergency.

12 The ordinances may delegate to the mayor of the municipality the authority to determine and
13 proclaim the existence of a state of emergency, and to impose those authorized prohibitions and
14 restrictions appropriate at a particular time.

15 (b1) For purposes of Subdivision (b)(4) of this section, the term 'home' means a building
16 or conveyance of any kind, to include its curtilage, whether the building or conveyance is
17 temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is
18 designed as a temporary or permanent residence.

19 (c) This section is intended to supplement and confirm the powers conferred by
20 G.S. 160A-174(a), and all other general and local laws authorizing municipalities to enact
21 ordinances for the protection of the public health and safety in times of riot or other grave civil
22 disturbance or emergency.

23 (d) Any ordinance of a type authorized by this section promulgated prior to June 19,
24 1969 shall, if otherwise valid, continue in full force and effect without reenactment.

25 (e) Any person who violates any provision of an ordinance or a proclamation enacted or
26 proclaimed under the authority of this section is guilty of a Class 3 misdemeanor."

27 **SECTION 3.** If House Bill 843, 2011 Regular Session, becomes law, then Section
28 2(c) of that act is rewritten to read:

29 **"SECTION 2.(c)** G.S. 14-288.7 is repealed."

30 **SECTION 4.** If House Bill 843, 2011 Regular Session, becomes law, then
31 G.S. 166A-19.31(b), as enacted by Section 1(b) of that act, reads as rewritten:

32 "(b) Type of Prohibitions and Restrictions Authorized. – The ordinances authorized by
33 this section may permit prohibitions and restrictions:

- 34 (1) Of movements of people in public places, including imposing a curfew;
35 directing and compelling the voluntary or mandatory evacuation of all or
36 part of the population from any stricken or threatened area within the
37 governing body's jurisdiction; prescribing routes, modes of transportation,
38 and destinations in connection with evacuation; and controlling ingress and
39 egress of an emergency area, and the movement of persons within the area.
40 (2) Of the operation of offices, business establishments, and other places to or
41 from which people may travel or at which they may ~~congregate.~~ congregate,
42 including places that sell dangerous weapons, notwithstanding subdivision
43 (4) of this subsection.
44 (3) Upon the possession, transportation, sale, purchase, and consumption of
45 alcoholic beverages.
46 (4) Upon the possession, transportation, sale, purchase, storage, and use of
47 dangerous weapons and substances, and ~~gasoline.~~ gasoline, when necessary
48 to preserve the public peace where there is an imminent risk of damage,
49 injury, or loss of life or property, except that prohibitions and restrictions
50 adopted pursuant to this subdivision shall not do any of the following:

- 1 a. Prohibit the possession, storage, or use of a dangerous weapon for
2 self-defense in a person's home or for other lawful purposes in a
3 person's home or on other real property in which a person has a
4 lawful possessory or ownership interest.
- 5 b. Prohibit the transportation, possession, sale, purchase, or use of
6 ammunition for self-defense purposes in a person's home or on other
7 real property in which a person has a lawful possessory or ownership
8 interest.

9 As used in this subdivision, the term 'dangerous weapon and substance' has
10 the same meaning as it does under G.S. 14-288.1.

- 11 (5) Upon other activities or conditions the control of which may be reasonably
12 necessary to maintain order and protect lives or property during the state of
13 emergency.

14 The ordinances authorized by this section need not require or provide for the imposition of all
15 of the types of prohibitions or restrictions, or any particular prohibition or restriction,
16 authorized by this section during an emergency but may instead authorize the official or
17 officials who impose those prohibitions or restrictions to determine and impose the prohibitions
18 or restrictions deemed necessary or suitable to a particular state of emergency."

19 **SECTION 5.** If House Bill 843, 2011 Regular Session, becomes law, then
20 G.S. 166A-19.31, as enacted by Section 1(b) of that act, is amended by adding a new
21 subsection to read:

22 "**(b1)** For purposes of Subdivision (b)(4) of this section, the term 'home' means a building
23 or conveyance of any kind, to include its curtilage, whether the building or conveyance is
24 temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is
25 designed as a temporary or permanent residence."

26 **SECTION 6.** This act is effective when it becomes law.