

# Open Carry Law in North Carolina

by Vance R. Parker, J.D., M.B.A. | Feb 8, 2017



***Disclaimer: This article is merely a survey of laws affecting the open carry of firearms in North Carolina, and may be incomplete. It has been published for general interest only and is not a legal opinion. Please consult with a NC criminal attorney to learn how NC firearms and criminal laws may relate to your particular situation.***

Open carry (the practice of openly carrying a firearm on one's person in public) in North Carolina was not created by any particular state law or statute. Rather, open carry results from the people's right to keep and bear arms provided by both our state's constitution and the federal Constitution.

As most already know, the Second Amendment of the United States Constitution, adopted on December 15, 1791, reads "A well regulated Militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

Article I, Section 30 of our state Constitution, modeled on the Second Amendment of the U.S. Constitution, begins: "A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed..."

The right of the people to keep and bear arms stated in both the federal and NC constitutions descends from an even older tradition. The right to keep and bear arms has long been supported in English common law, and was influenced by the English Bill of Rights of 1689. The eighteenth century

English jurist Sir William Blackstone described the right to keep and bear arms as an auxiliary right, which supports the natural rights of self-defense, resistance to oppression, and the civic duty to act together in defense of the state.

## LIMITATIONS

Anyone seeking to legally open carry must understand that three bodies of law may apply: federal, state, and local.

### Federal Limitations

A thorough discussion of federal firearms law and open carry is beyond the scope of this article. When on federal property, such as when at a federal courthouse or at a post office, beware that federal law may apply instead of NC state law.

With respect to federal courthouses and U.S. Postal Service offices, open carry is prohibited at both locations.

### NC State Law Limitations

Open carry is prohibited in the following places or situations, or by the following persons, under NC state law:

Schools or at curricular or extracurricular activities sponsored by a school (Class I Felony) N.C. Gen Stat § 14-269.2

Assemblies and establishments. Open carry is prohibited in any assembly where a fee has been charged for admission, or in any establishment where alcoholic beverages are both

sold and consumed (note that the owner or organization sponsoring an event, however, may permit open carry by participants in the event) N.C. Gen Stat. § 14-269.3

State buildings such as the State Capitol Building, Executive Mansion, Western Residence of the Governor, or on the grounds of these buildings, including any building used to house any court of the General Court of Justice. N.C. Gen. Stat. § 14-269.3

Events occurring in public places. It is unlawful for any person participating in, affiliated with, or present as a spectator at any parade, funeral procession, picket line, or demonstration upon any public place, owned or under the control of the State of North Carolina, or any of its political subdivisions, to possess or have immediate access to any dangerous weapon. N.C. Gen. Stat. § 14-277.2

Going armed to the terror of the people. It is a common law infraction to arm oneself with a weapon, including a firearm, for the purpose of terrifying others, and go about on public highways in a manner to cause terror to others.

State Fairgrounds. Open carry by members of the public who are not law enforcement officers is prohibited on the State Fairgrounds during the NC State Fair.

On private property where prohibited by notice. NC law allows a private business or property owner to

post a notice prohibiting a concealed handgun. N.C. Gen. Stat. § 14-415.11. Even though this statute technically only mentions concealed handguns, it is likely that NC courts would extend that prohibition to openly carried weapons also.

Minors. In general, a minor under age 18 may not carry a handgun in a public place. N.C. Gen. Stat. § 14-269.7

Persons acquitted of a crime by reason of insanity. It is a Class H felony for a person who has been acquitted of a crime in NC by reason of insanity, or who has been found to lack the capacity to proceed in the prosecution of such crimes, to possess or have control of a firearm at any time. N.C. Gen. Stat. § 15A-1002 and N.C. Gen. Stat. § 14-415.3

Convicted felons. People who have been convicted of felonies are prohibited from possessing firearms. This does not apply to people whose felony has been pardoned, or to people who have had their firearms rights judicially restored. N.C. Gen. Stat. §§ 14-415.1, 14-415.4

### Municipal and Local Restrictions

North Carolina state law allows for certain municipal and state limitations on firearms carry, with case law in this area not fully developed. Anyone who wants to carry openly in North Carolina must understand and follow local laws, ordinances, regulations, and restrictions.

### USE OF THE HANDGUN

As a legal matter, the gun owner should keep the gun holstered, particularly in a public place, except in emergency circumstances. NC law creates penalties for inappropriate firearm use:

It is a Class A1 misdemeanor to point any gun or pistol at any person, whether loaded or unloaded, either in

fun or otherwise. N.C. Gen. Stat. § 14-34

Use of the firearm inappropriately could additionally draw a felony charge. Assault in North Carolina does not require actual harm, and can mean only pointing a firearm inappropriately at another person. Any person who assaults another person with a deadly weapon with the intent to kill may be punished as a Class E felon. N.C. Gen. Stat. § 14-32(c)

### Stand Your Ground Law

North Carolina's "Stand Your Ground" law defines justifiable use of a firearm in emergency situations:

[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:

a) He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another.

b) Under the circumstances permitted under this N.C. Gen. Stat. § 14-51.2, if he or she is in his or her home, workplace, or car and is in fear for his, hers, or another's life.

N.C. Gen. Stat. § 14-51.2 and § 14-51.3.

Exceptions to the use of deadly force as allowed above

include use in self-defense against law enforcement officers and bondsmen acting in their official capacities.

The second part of the law is referred to as the "Castle Doctrine" referring to the notion that one's home is one's castle, and one should be able to defend the home against intruders.

Regardless of the Stand Your Ground law, if the firearm is discharged in an altercation, law enforcement and the legal system may later scrutinize every second of the event. When the use of deadly force is later reviewed, it will be very important for the gun owner to have exercised clear judgement, and to have minimized harm to any innocent bystanders.

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