

Guns at the State Fair

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Agriculture Commissioner Steve Troxler has stated that firearms, even those carried pursuant to a concealed carry permit, will be prohibited at the North Carolina State Fair, which opens next week. Grass Roots North Carolina, a gun-rights group, contends that the Commissioner's policy is unlawful. In the post, I'll explore the legal issue.

Let me start with a disclaimer. The School of Government is policy neutral. Institutionally, we don't have a position on what the law should be. We are educators who try to explain what the law is. So nothing in this post should be construed as expressing an opinion about whether the law should or should not permit guns at the State Fair.

With that out of the way, let's get to the legal analysis.

Concealed carry. The principal concealed carry statute is G.S. 14-415.11. It establishes the general rule that a person with a concealed carry permit "may carry a concealed handgun unless otherwise specifically prohibited by law." So, under the law, concealed carry is allowed at the State Fair unless there is a law specifically prohibiting it, or allowing the Agriculture Commissioner to prohibit it.

To the best of my knowledge, the Commissioner hasn't publicly identified any such law. Discussion in the media has focused on two possible candidates:

1. Specified state property. The concealed carry statute says that concealed carry is not allowed in "areas prohibited by G.S. 14-269.4," which makes it a crime to possess a gun on certain state property. But the statute applies only to "the State Capitol Building, the Executive Mansion, the Western Residence of the Governor," their grounds, and any courthouse. The fairgrounds aren't covered, so this provision can't support the Commissioner's policy.

2. Assemblies where a fee is charged for admission. The concealed carry statute says that concealed carry is not allowed in "[a]reas prohibited by . . . G.S. 14-269.3," which generally makes it unlawful to carry a gun "into any assembly where a fee has been charged for admission." There's a fee to enter the State Fair, so at first glance, it would appear to be covered. However, in 2013, the General Assembly amended G.S. 14-269.3 to create an exception for permit holders, who now may legally carry in such assemblies. See S.L. 2013-369 (adding new G.S. 14-269.3(b)(5)).

There's an exception to the exception where the "person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c)." It seems that the Commissioner is in control of the fairgrounds, so one could argue that this provision gives him the authority to ban concealed carry. However, the reference to G.S. 14-415.11(c) is important. The only part of that subsection that's relevant is subdivision (c)(8), which allows the prohibition of concealed handguns on "private premises" when posted. The fairgrounds aren't private premises, so any signs posted at the fairgrounds couldn't be "in accordance with G.S. 14-415.11(c)." For that reason, I tend to think that the Commissioner doesn't have the authority to ban concealed carry at the State Fair.

However, the issue isn't as open-and-shut as I thought at first. A possible rejoinder to the above argument would be to

note G.S. 14-415.23(a), the statute that allows local governments to prohibit concealed carry in local government buildings and appurtenant premises. That statute requires local governments to post any “prohibition against carrying a concealed handgun[] in accordance with G.S. 14-415.11(c).” The fact that a statute concerning only public property refers to the posting requirement of G.S. 14-415.11(c) may suggest that references to G.S. 14-415.11(c) don’t necessarily incorporate the “private premises” requirement.

Note that even if G.S. 14-269.3 allows the Commissioner to prohibit concealed carry, it does not require him to do so. As far as I know, the only part of the fairgrounds where concealed carry is prohibited by statute is inside any buildings that contain state offices. G.S. 14-415.11(c)(6)-(7).

Open carry. Open carry is a different question. As I noted in [a previous post](#), federal law regarding open carry is unsettled. Under the state constitution, as interpreted in *State v. Kerner*, 181 N.C. 574 (1921), open carry is generally permitted. But *Kerner* states that open carry may be prohibited under a variety of circumstances, including at a “public assembly.” I don’t know whether Grass Roots North Carolina contends that open carry should be permitted at the State Fair, so I don’t know whether any possible litigation will address the issue.