Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1241
(Representatives Streyle, Brabandt, Karls, B. Koppelman, Toman)
(Senators Armstrong, Larsen, Unruh)

AN ACT to amend and reenact section 20.1-01-36, subsection 1 of section 62.1-01-01, sections 62.1-02-04, 62.1-02-05, 62.1-02-10, and 62.1-03-01, subsection 5 of section 62.1-04-01, section 62.1-04-02, subsections 2 and 7 of section 62.1-04-03, and section 62.1-05-01 of the North Dakota Century Code, relating to firearms and dangerous weapons; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-36 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-36. Suppressor and short-barreled rifle allowed for hunting.

1. An individual in lawful possession of a device that will silence or deaden the sound or natural report of a firearm when the firearm is discharged may hunt any game for which the individual is licensed and for which a firearm is allowed with that device for or attached to the firearm.

2. An individual in lawful possession of a short-barreled rifle may hunt any game for which the individual is licensed and for which a rifle is allowed.

SECTION 2. AMENDMENT. Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses ~~direct contact to deliver~~ voltage for the defense of an individual, unless the device uses a projectile and voltage, then the term includes the device for an individual who is prohibited from possessing a firearm under this title. However, the term includes a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident.

SECTION 3. AMENDMENT. Section 62.1-02-04 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-04. Possession of firearm or dangerous weapon in liquor establishment prohibited - Penalty - Exceptions.

1. An individual who enters or remains in that part of the establishment that is set aside for the retail sale of alcoholic beverages and the consumption of purchased alcoholic beverages or used as a gaming site at which bingo is the primary gaming activity while ~~in the possession of~~that individual knowingly possesses a firearm or dangerous weapon is guilty of a class A misdemeanor. In addition, an individual is guilty of an offense under this section for the

knowing possession of a device that uses a projectile and voltage in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages.

2. This section does not apply to:

   a. A law enforcement officer.

   b. The proprietor.

   c. The proprietor's employee.

   d. A designee of the proprietor when the designee is displaying an unloaded firearm or dangerous weapon as a prize or sale item in a raffle or auction.

   e. Private security personnel while on duty for the purpose of delivering or receiving moneys used at the liquor establishment or at the gaming site at which bingo is the primary gaming activity.

   f. The restaurant part of an establishment if an individual under twenty-one years of age is not prohibited in that part of the establishment.

SECTION 4. AMENDMENT. Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering - Penalty - Application.

1. An individual who knowingly possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" ~~includes~~means an athletic or sporting ~~events, schools or school functions, churches or church functions, political rallies or functions, musical concerts, and individuals in publicly owned parks where hunting is not allowed by proclamation~~ event, a school, a church, and a publicly owned or operated ~~buildings~~building.

2. This section does not apply to:

   a. A law enforcement officer;

   b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;

   c. A competitor participating in an organized sport shooting event;

   d. A gun or antique show;

   e. A participant using a blank cartridge firearm at a sporting or theatrical event;

   f. A firearm or dangerous weapon carried in a temporary residence or motor vehicle;

   g. A student and an instructor at a hunter safety class;

   h. Private security personnel while on duty;

   i. A state or federal park;

   j. An instructor, a test administrator, an official, or a participant in educational, training, cultural, or competitive events involving the authorized use of a dangerous weapon if the event occurs with permission of the person or entity with authority over the function or premises in question;

k. An individual in a publicly owned or operated rest area or restroom;

l. An individual possessing a valid ~~class 1~~ concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry a dangerous weapon concealed if the individual is in a church building or other place of worship and has the approval to carry in the church building or other place of worship by a primary religious leader of the church or other place of worship or the governing body of the church or other place of worship. If a church or other place of worship authorizes an individual to carry a concealed weapon, local law enforcement must be informed of the name of the authorized individual; and

~~l.~~m. A municipal court judge, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer, if the individual maintains the same level of firearms proficiency as is required by the peace officer standards and training board for law enforcement officers. A local law enforcement agency shall issue a certificate of compliance under this section to an individual who is proficient.

3. This section does not prevent any political subdivision from enacting an ordinance that is less restrictive than this section relating to the possession of firearms or dangerous weapons at a public gathering. An enacted ordinance supersedes this section within the jurisdiction of the political subdivision.

SECTION 5. AMENDMENT. Section 62.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-10. Carrying loaded firearm in ~~vehicle~~certain vehicles prohibited - Penalty - Exceptions.

An individual may not keep or carry a loaded firearm in or on any motor vehicle, including an off-highway vehicle or snowmobile in this state. An individual violating this section is guilty of a class B misdemeanor. This prohibition does not apply to:

1. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations while possessing the firearm issued to the member by the organization and while on official duty.

2. A law enforcement officer~~, except while the officer is engaged in hunting or trapping activities with a rifle or shotgun~~.

3. An individual possessing a valid ~~North Dakota~~ concealed weapons license from this state or ~~a valid license issued by another state authorizing the individual to carry a firearm or dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a firearm or dangerous weapon concealed in that state without obtaining a similar license from that state, except while that individual is in the field engaged in hunting or trapping activities~~who has reciprocity under section 62.1-04-03.1 with a handgun, or with a rifle or shotgun if not in the field hunting or trapping.

4. An individual in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.

5. A security guard or private investigator properly licensed to carry firearms.

6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

SECTION 6. AMENDMENT. Section 62.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~An unloaded~~A handgun may not be carried unless by an individual not otherwise prohibited and if:

a. Between the hours of one hour before sunrise and one hour after sunset, the handgun is unloaded and either in plain view or ~~is~~ secured.

b. Between the hours of one hour after sunset and one hour before sunrise, the handgun is unloaded and secured.

2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:

a. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1.

b. An individual on that person's land, or in that individual's permanent or temporary residence, or fixed place of business.

c. An individual while lawfully engaged in target shooting.

d. An individual while in the field engaging in the lawful pursuit of hunting or trapping. However, nothing in this exception authorizes the carrying of a loaded handgun in a motor vehicle.

e. An individual permitted by law to possess a firearm while carrying the handgun unloaded and in a secure wrapper from the place of purchase to that person's home or place of business, or to a place of repair or back from those locations.

f. Any North Dakota law enforcement officer.

g. Any law enforcement officer of any other state or political subdivision of another state if on official duty within this state.

h. Any armed security guard or investigator as authorized by law when on duty or going to or from duty.

i. Any member of the armed forces of the United States when on duty or going to or from duty and when carrying the handgun issued to the member.

j. Any member of the national guard, organized reserves, state defense forces, or state guard organizations, when on duty or going to or from duty and when carrying the handgun issued to the member by the organization.

k. Any officer or employee of the United States duly authorized to carry a handgun.

l. An individual engaged in manufacturing, repairing, or dealing in handguns or the agent or representative of that individual possessing, using, or carrying a handgun in the usual or ordinary course of the business.

m. Any common carrier, but only when carrying the handgun as part of the cargo in the usual cargo carrying portion of the vehicle.

SECTION 7. AMENDMENT. Subsection 5 of section 62.1-04-01 of the North Dakota Century Code is amended and reenacted as follows:

5. A bow and arrow, ~~an unloaded~~ rifle ~~or~~, shotgun, unloaded handgun, or ~~an unloaded~~a weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon commonly referred to as a BB gun, air rifle, or CO_2 gun, while carried in a motor vehicle.

SECTION 8. AMENDMENT. Section 62.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

62.1-04-02. Carrying concealed firearms or dangerous weapons prohibited.

An individual, other than a law enforcement officer, may not carry any firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter. ~~For purposes of this chapter, the term "dangerous weapon" does not include a spray or aerosol containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone) or other irritating agent intended for use in the defense of an individual, nor does the term include any stun gun or device that uses direct contact to deliver voltage for the defense of an individual.~~

SECTION 9. AMENDMENT. Subsection 2 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous weapon licenses to carry a firearm or dangerous weapon concealed under the following requirements:

   a. An applicant for a class 1 firearm license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:

      (1) Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor;

      (2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;

      (3) Possession of a license from another state to carry a firearm, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or

      (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm.

   b. An applicant for a class 2 firearm and dangerous weapon license is required to successfully complete the open book test offered for the class 1 firearm license.

   c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. <u>Class 1 and class 2 permits are equally valid in this state.</u>

   d. Additional testing is not required to renew a class 2 firearm and dangerous weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within thirty days before submission of the application for renewal.

SECTION 10. AMENDMENT. Subsection 7 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

7. The director of the bureau of criminal investigation may deny an application or revoke or cancel a license after it has been granted for any material misstatement by an applicant in an application for the license or any violation of this title. <u>The director of the bureau of criminal investigation shall disclose to the applicant the specific reason for denial or revocation of the license.</u>

SECTION 11. AMENDMENT. Section 62.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and bombs - Penalty - Forfeiture.

1. ~~No~~A person may not purchase, sell, have, or possess a machine gun, fully automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or any other federally licensed firearm or dangerous weapon unless that person has complied with the National Firearms Act [26 U.S.C. 5801-5872].

~~Any federal licensee who purchases, sells, has, or possesses those items for the licensee's protection or for sale must forward a copy of the licensee's federal license along with the required weapons transfer form to the licensee's local county sheriff and to the chief of the bureau of criminal investigation within five days of the receipt of those forms.~~

2. A person who violates this section is guilty of a class C felony. Upon arrest of that person, the firearm or dangerous weapon must be seized. Upon conviction of the person and motion to the court in which the conviction occurred, the firearm or dangerous weapon must be forfeited to the jurisdiction in which the arrest was made. The firearm or dangerous weapon may be sold at public auction, retained for use, or destroyed pursuant to the court's order. If a qualified local program as defined under section 12.1-32-02.2 has paid a reward for information that resulted in forfeiture of the item and the item has been sold, the jurisdiction shall, after payment of expenses for forfeiture and sale, repay the qualified local program for the reward that it has paid.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1241.

House Vote:	Yeas 74	Nays 19	Absent 1
Senate Vote:	Yeas 45	Nays 2	Absent 0

Chief Clerk of the House

Received by the Governor at 12:27 P.M. on April 14, 2015.

Approved at 10:35 A.M. on April 15, 2015.

Governor

Filed in this office this 15th day of April, 2015,

at 2:49 o'clock P M.

Secretary of State