Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

SENATE BILL NO. 2034
(Legislative Management)
(Judiciary Committee)

AN ACT to create and enact a new subsection to section 62.1-02-01, a new subsection to section 62.1-02-05, and a new subsection to section 62.1-02-10 of the North Dakota Century Code, relating to the possession of firearms; to amend and reenact subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, relating to the carrying of a concealed firearm on school property by qualified individuals; to amend and reenact subsections 3 and 7 of section 62.1-01-01, subsection 1 of section 62.1-02-01.1, subsection 1 of section 62.1-02-05, subdivision l of subsection 2 of section 62.1-02-05, section 62.1-02-07, subdivision a of subsection 6 of section 62.1-02-13, and sections 62.1-03-01 and 62.1-04-02 of the North Dakota Century Code, relating to the possession of firearms; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA

SECTION 1. AMENDMENT. Subsections 3 and 7 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Firearm" or "weapon" means any device ~~which will expel,~~that expels or is readily capable of expelling~~,~~ a projectile by the action of an explosive and includes any such device, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon. ~~For a felon who is not sentenced under section 12.1-32-09.1, the term does not include a firearm or weapon that is a rifle that has a barrel sixteen inches [40.64 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72 centimeters] or longer and which is one of the following:~~

   ~~a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899.~~

   ~~b. A replica of any firearm described in subdivision a, if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.~~

   ~~c. A muzzleloading rifle or muzzleloading shotgun that is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.~~

7. "Law enforcement officer" means:

   a. A public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law; or

   b. A retired public servant in good standing who:

      (1) Was authorized by law or by a government agency or branch for at least ten years to enforce the law and to conduct or engage in investigations or prosecutions for violations of law or who was separated from service due to a service-related physical disability;

      (2) Maintains the same level of firearms proficiency as is required by the peace officers standards and training board for law enforcement officers, maintains the standards for qualifications in firearms training for active law enforcement officers as

determined by the former agency of the individual in the state in which the individual resides, or maintains the standards used by a certified firearms instructor qualified to conduct a firearms qualification test for active duty officers in the state in which the individual resides;

(3) Has a photo identification card issued by a local law enforcement agency which identifies the individual as having been employed by a government agency or branch as a law enforcement officer and indicates the individual has passed the firearms proficiency test within twelve months from the date of issue; and

(4) Has not been found by a qualified medical professional to be unqualified for reasons relating to mental health or entered an agreement with a government agency or branch in which the public servant acknowledges a lack of qualifications for reasons relating to the mental health of the public servant~~; or~~

~~c. A retired public servant in good standing who:~~

~~(1) Was separated from service due to a service-related disability;~~

~~(2) Maintains the same level of firearms proficiency as is required by the peace officers standards and training board for law enforcement officers, maintains the standards for qualifications in firearms training for active law enforcement officers as determined by the former agency of the individual in the state in which the individual resides, or maintains the standards used by a certified firearms instructor qualified to conduct a firearms qualification test for active duty officers in the state in which the individual resides;~~

~~(3) Has a photo identification card issued by a local law enforcement agency which identifies the individual as having been employed by a government agency or branch as a law enforcement officer and indicates the individual has passed the firearms proficiency test within twelve months from the date of issue; and~~

~~(4) Has not been found by a qualified medical professional to be unqualified for reasons relating to mental health or entered an agreement with a government agency or branch in which the public servant acknowledges a lack of qualifications for reasons relating to the mental health of the public servant~~.

SECTION 2. AMENDMENT. Subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, is amended and reenacted as follows:

1. The superintendent of public instruction, in consultation with the department of emergency services and the attorney general, shall adopt rules to administer this section and develop criteria for approval of plans under this section.

SECTION 3. A new subsection to section 62.1-02-01 of the North Dakota Century Code is created and enacted as follows:

A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72 centimeters] or longer and which is one of the following:

a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899.

b. A replica of any firearm described in subdivision a, if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or

conventional centerfire fixed ammunition that is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or a black powder substitute and which cannot use fixed ammunition.

SECTION 4. AMENDMENT. Subsection 1 of section 62.1-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual ~~who is~~ prohibited from possessing a firearm due to a conviction of a felony under subdivision b of subsection 1 of section 62.1-02-01 may petition the district court for restoration of the individual's firearm rights. If the felony offense was committed in this state, the petition must be filed with the district court in the county where the offense occurred. If the offense was a felony of another state or the federal government, the petition must be filed ~~with the district court in the county where the petitioner resides~~in the venue where the rights of the individual were revoked. A copy of the petition must be served on the state's attorney's office in the county where the petition is filed in accordance with Rule 5 of the North Dakota Rules of Civil Procedure. The state's attorney's office ~~shall have~~has twenty days to file a written response to the petition with the district court.

SECTION 5. A new subsection to section 62.1-02-05 of the North Dakota Century Code is created and enacted as follows:

This section does not prevent the governing body of a school or the entity exercising control over a publicly owned or operated building or property from authorizing the use of a less than lethal weapon as part of the security plan for the school, building, or property.

SECTION 6. AMENDMENT. Subsection 1 of section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

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" means an athletic or sporting event, a school, a church or other place of worship, and a publicly owned or operated building.

SECTION 7. AMENDMENT. Subdivision l of subsection 2 of section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

l. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry a firearm or 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;

SECTION 8. AMENDMENT. Section 62.1-02-07 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-07. Use of firearm by certain minors prohibited - Penalty.

Any parent, guardian, or other person ~~having charge or custody~~authorized by the parent or guardian of any minor under fifteen years of age who permits that minor to carry or use ~~in public~~ any firearm of any description loaded with powder and projectile~~, except when the minor is under the direct supervision of the parent, guardian, or other person authorized by the parent or guardian~~ in public, is guilty of a class B misdemeanor. This section does not apply if the minor is under the direct supervision of the parent, guardian, or other person authorized by the parent or guardian.

SECTION 9. A new subsection to section 62.1-02-10 of the North Dakota Century Code is created and enacted as follows:

An individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and who has possessed for at least one year a valid driver's license or nondriver identification card issued by the department of transportation.

SECTION 10. AMENDMENT. Subdivision a of subsection 6 of section 62.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

a. Any public or nonpublic elementary school, middle school, or high school property, except as otherwise provided in subsection 2 of section 62.1-02-05.

SECTION 11. AMENDMENT. Section 62.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-03-01. Carrying handgun - ~~Restrictions~~Limitations - Exceptions.

1. ~~A handgun may not be carried unless by an individual not otherwise prohibited and~~Unless otherwise prohibited by law, an individual may carry a handgun 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 secured~~The handgun is unloaded, in plain view or secured, and between the hours of one hour before sunrise and one hour after sunset.

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

2. ~~The restrictions provided in subdivisions~~A limitation under subdivision a ~~and~~or b of subsection 1 ~~do~~does not apply to:

   a. An individual possessing a valid concealed weapons license from this state, an individual not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and who has possessed for at least one year a valid driver's license or nondriver identification card issued by the department of transportation, or an individual 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.

~~n. An individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and has possessed for at least one year a valid driver's license or nondriver identification card issued by the department of transportation.~~

SECTION 12. 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 - License distinctions.

1. An individual, other than a law enforcement officer, may not carry a firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter.

2. An individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under this chapter and who has possessed for at least one year a valid driver's license or nondriver identification card issued by the department of transportation may carry a firearm concealed under this chapter.

3. For purposes of this chapter, the difference between a class 1 and class 2 firearm and dangerous weapon license is only the extent to which a holder of either license may be eligible to receive reciprocal rights in other jurisdictions. A class 1 firearm and dangerous weapon licenseholder is eligible to receive reciprocal rights in more jurisdictions than a class 2 firearm and dangerous weapon licenseholder. The rights and privileges conveyed by a class 1 or class 2 firearm and dangerous weapon license within the state are identical.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2034.

Senate Vote:	Yeas 45	Nays 1	Absent 1
House Vote:	Yeas 82	Nays 6	Absent 6

Secretary of the Senate

Received by the Governor at 10:55 AM. on April 17, 2019.

Approved at 2:33 PM. on April 18, 2019.

Governor

Filed in this office this 19th day of April, 2019,

at 8:42 o'clock A. M.

Secretary of State