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

SENATE BILL NO. 2274
(Senators Armstrong, Poolman, Unruh)
(Representatives Karls, Streyle, Toman)

AN ACT to create and enact a new section to chapter 62.1-05 of the North Dakota Century Code, relating to chief law enforcement officer certification for certain firearms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 62.1-05 of the North Dakota Century Code is created and enacted as follows:

Chief law enforcement officer certification - Certain firearms.

1. For purposes of this section:

   a. "Chief law enforcement officer" means any official, or the designee of the official, the bureau of alcohol, tobacco, firearms and explosives, or any successor agency, identified by regulation as eligible to provide any required certification for the making or transfer of a firearm.

   b. "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm. A chief law enforcement officer is not required to make any certification under this section the officer knows to be untrue, but the officer may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm the possession of which is not prohibited by law.

   c. "Firearm" has the same meaning as provided in the National Firearms Act [26 U.S.C. § 5845(a)].

2. When a chief law enforcement officer's certification is required by federal law or regulation for the transfer or making of a firearm, the chief law enforcement officer, within thirty days of receipt of a request for certification, shall provide the certification if the applicant is not prohibited by law from receiving or possessing the firearm or is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm. If the chief law enforcement officer is unable to make a certification as required by this section, the officer shall provide the applicant with a written notification of the denial and the reason for this determination.

3. In making the certification required by subsection 2, a chief law enforcement officer or designee may require the applicant to provide only the information as is required by federal or state law to identify the applicant and conduct a criminal background check, including a check of the national instant criminal background check system, or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm. A chief law enforcement officer may not require access to or consent for an inspection of any private premises as a condition of making a certification under this section.

4. Chief law enforcement officers and their employees who act in good faith are immune from liability arising from any act or omission in making a certification as required by this section.

5. An applicant whose request for certification is denied may appeal the chief law enforcement officer's decision to the district court for the county in which the applicant resides in

accordance with the procedures provided in section 28-34-01. If the court finds that the applicant is not prohibited by law from receiving or possessing the firearm, or is not the subject of a proceeding that could result in the prohibition, or that there is insufficient evidence to support the chief law enforcement officer's determination that the officer cannot truthfully make the certification, the court shall order the chief law enforcement officer to issue the certification and award court costs and reasonable attorney's fees to the applicant.

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-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2274.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 92	Nays 0	Absent 2

Secretary of the Senate

Received by the Governor at 8:41 A.M. on April 10, 2015.

Approved at 3:08 P.M. on April 13, 2015.

Governor

Filed in this office this 13 day of April, 2015,

at 4:37 o'clock P M.

Secretary of State