

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1209
(Representative DeKrey)

AN ACT to create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to the restoration of the right to possess a firearm; and to amend and reenact subsection 3 of section 62.1-01-01 of the North Dakota Century Code, relating to a definition of firearm or weapon.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 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, 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.

SECTION 2. A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:

Restoration of right to possess firearm.

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 in the district where the individual resides for restoration of the individual's firearm rights.
2. The district court may restore the right of an individual to possess a firearm if the court determines, by clear and convincing evidence, that all of the following circumstances exist:
 - a. The individual has paid all fines imposed for the violation resulting in the prohibition;
 - b. The individual has served all terms of imprisonment imposed for the violation resulting in the prohibition;
 - c. The individual has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition; and
 - d. The individual's record and reputation are such that the individual is not likely to act in a manner dangerous to the safety of others.

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-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1209.

House Vote: Yeas 76 Nays 17 Absent 1

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State

