

2013 HOUSE JUDICIARY

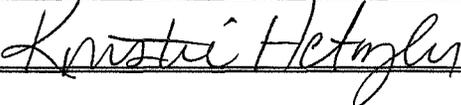
HB 1467

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1467
January 29, 2013
Job 17902

Conference Committee



Explanation or reason for introduction of bill/resolution:

Emergencies and firearms.

Minutes:

Testimony 1

Chairman Koppelman: Opens.

Rep Karls: Testimony 1.

Rep Hogan: Where did you get the text of this? Did you work with Legislative counsel?

Rep Karls: It was based on legislation that is currently in the Nebraska legislature.

Rep Larson: Marshall Law and Declaring an emergency differs?

Rep Karls: I do not know. I will research it.

Rep Delmore: Have any other states adopted this policy?

Rep Larson: 30 other states and I have the list is you want to look at it.

Rep Delmore: What's the definition of emergency? Are we looking at only national disaster, what if it is an act of terrorism, will Homeland Security have a trump card?

Rep Karls: We have an entire chapter in our code called emergency services and it covers many of those situations.

Rep Delmore: How will this bill affect that chapter?

Rep Karls: This will add another section to the chapter, it would simply state that guns cannot be taken away by law abiding citizens.

Rep Karls: I might be submitting an amendment, subsection 6h, point 05 where it suspends or limits the sale, dispensing, or transportation of alcohol beverages, fire arms,

explosives and combustibles. To be consistent we may want to take firearms out of that sentence.

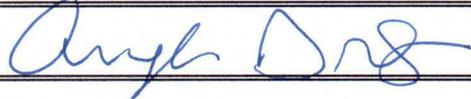
Chairman Koppelman: We will wait for that amendment before acting.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1467
February 19, 2013
Job 19160

Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to emergencies and firearms.

Minutes:

Attachment 1

Rep Karls explained the bill and amendment.

Rep Delmore: Would this limit the Governor from saying he doesn't want anybody carry guns if there is a bad disaster?

Chairman Koppelman: Subsection 6, item h. The Governor would not be able to suspend or limit the sale, dispensing or transportation of firearms or ammunition in this amendment.

Rep Karls: This was modeled after what happened in Hurricane Katrina where the police chief in New Orleans declared they would confiscate all weapons. People were not given their weapons back after the crisis was over. There are approximately 30 states that have passed or are passing these laws as a protection for law-abiding citizens to be able to keep their weapons legally in a time of disaster.

Rep Karls moved the amendment.

Rep Toman seconded.

Rep Delmore: I have a huge problem with the Governor of this state not being allowed to say this is too volatile a situation. I think the Governor has some executive powers and this is taking away from it. I can't support the amendment.

Voice Vote: Couldn't call.

Roll Call Vote:

Yes: 8

No: 5

Absent: 1

Chairman: The amendment passes.

Rep Paur: I move a Do Pass on 1467 as Amended.

Rep Karls: Second.

Roll Call Vote:

Yes: 10

No: 3

Absent: 1

Carried by **Rep Boehning**.

Chairman adjourned meeting.

V1-
2/19/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1467

Page 1, line 2, after "firearms" insert "; and to amend and reenact subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code, relating to the powers of the governor in an emergency"

Page 2, after line 11, insert:

"SECTION 2. AMENDMENT. Subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

- h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, ~~firearms, explosives, and combustibles,~~ not including ammunition."

Re-number accordingly

Date: 2-19-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1467

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Karls Seconded By Rep. Toman

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore		/
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		/
Rep. Randy Boehning	/		Rep. Kathy Hogan		/
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar		/			
Rep. Diane Larson	/				
Rep. Andrew Maragos		/			
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 8 No 5

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote

Date: 2-19-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB1467**

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Paur Seconded By Rep. Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore		/
Vice Chairman Lawrence Klemin			Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan		/
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar		/			
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Boehning

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1467: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1467 was placed on the Sixth order on the calendar.

Page 1, line 2, after "firearms" insert "; and to amend and reenact subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code, relating to the powers of the governor in an emergency"

Page 2, after line 11, insert:

"SECTION 2. AMENDMENT. Subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

- h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, ~~firearms~~, explosives, and combustibles, not including ammunition."

Re-number accordingly

2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1467

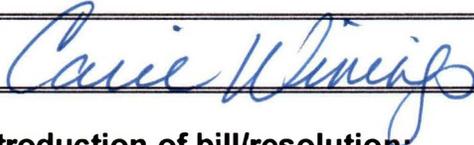
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1467
03/29/2013
Job Number 20667

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 37-17.1 of the North Dakota Century Code, relating to emergencies and firearms; and to amend and reenact subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code, relating to the powers of the governor in an emergency.

Minutes:

Chairman Dever: Opened the hearing on HB 1467.

Representative Karls, District 35: See Attachment #1 for testimony as sponsor and in favor of the bill.

(3:55) Chairman Dever: I understand that someone else was going to testify but the fog caused them to not be able to land.

Representative Karls: Yes, Darren Gones for the national NRA office was going to testify on this bill.

Chairman Dever: If they passed federal legislation, why is state legislation necessary?

Representative Karls: In many cases that is done. As you see 30 states have already passed it and I have the list of states if you would like it. It just emphasizes that this is a really important thing to protect our 2nd Amendment rights.

Chairman Dever: Or removes any confusion.

Senator Nelson: I am not sure if I favor this bill or not yet, but comparing us to New Orleans is not anything like here. It is a whole different culture down there.

Chairman Dever: I was thinking of that too. A lot of law enforcement officers walked away from their job in that situation and I don't think that would happen here either.

(6:22) Charles Pifer, Bismarck Resident: Testified in support of the bill. I want to support this bill because of what did happen in New Orleans. We do have a different culture up here but I work in emergency services so I am aware of peoples change when disaster happens. When people get hungry or desperate or feel there is no law enforcement they turn into different people. People that you think you wouldn't have to protect yourself against, you do have to. The police in New Orleans not only left their jobs, some of them were caught looting and raping people while they were on duty. We may have to protect ourselves from law enforcement. I do believe we have a higher standard up here and we have more responsible people, but tough situations bring out the worst in people. For law abiding citizens to not be able to protect their own property and have their guns confiscated by the government and destroyed and never get them back, I think it is very important that we are allowed to protect our property and our families.

Senator Nelson: Since there is a federal law, why do we need this?

Greg Wilz, Homeland Security Director: Good question and I don't have any better answer than what Representative Karls provided you. I just wanted to see what was going to go on with the bill in terms of emergency services here. Do I think it is needed? Personally, I am going to say that we ought to do this. Here is why; I am as morally and ethically to the right as I can be. I am a law abiding citizen but at the end of the day if I had to choose between watching my son starve to death or stealing food, what do you think I would do? There becomes a social breakdown when an emergency event goes to chaos and frankly what happened in the gulf was a breakdown to chaos and at the end of the day

just short of mandating marshal law. I do not know if it could happen in North Dakota, but at the end of the day, I never say never.

Senator Nelson: My closest thing to something similar to Katrina would be the flood/fire in Grand Forks. I don't think law enforcement would have spent their time going around looking for guns when there was so much else that needed to be done.

Greg Wilz: Agreed. I will tell you that in 1997, 2007, and 2009 there was looting. It does happen here. It is not as prevalent as it would be across this nation but it does happen here.

Senator Nelson: When we flood this year, can I tell people that they can keep their guns or someone is going to come and get them. That is what they are going to ask me.

Greg Wilz: I cannot answer that.

Chairman Dever: The question in my mind is whether the law enforcement officer on the street is necessarily aware that there is such a federal law.

Greg Wilz: I cannot reply to that. I do not know.

Chairman Dever: Comments on Kosovo. Closed the hearing on HB 1467.

Senator Cook: (Comments inaudible) this will put it into civil court by putting it into law in North Dakota. **Moved a Do Pass.**

Vice Chairman Berry: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 1 nay, 0 absent.

Vice Chairman Berry: Carrier.

Date: 3/29

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1467

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Cook Seconded By Senator Berry

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais		✓
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Berry

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1467, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO PASS (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1467 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1467

Rep. Karen Karls, District 35, Bismarck

Testimony on HB 1467

January 29, 2013

Mr. Chairman and members of the committee:

HB 1467 seeks to protect ND's law-abiding citizens from the confiscation of legal firearms during states of emergency.

You may ask, "When will this ever happen in ND?" To answer this question, let's look at recent history, back....to August of 2005. Hurricane Katrina was one of the strongest storms to impact the coast of the United States during the last 100 years. With sustained winds during landfall of 125 mph, Katrina caused widespread devastation along the central Gulf Coast states, especially in the city New Orleans.

After Hurricane Katrina, many New Orleans residents legally armed themselves to protect their lives and property from civil disorder. With no way to call for help, and police unable to respond, honest citizens were able to defend themselves and their neighbors against looters, arsonists and other criminals.

However, just when these people needed guns the most, New Orleans's Police Superintendent ordered the confiscation of firearms, allegedly under a state emergency powers law. "No one will be able to be armed," he said. "Guns will be taken. Only law enforcement will be allowed to have guns."

Law enforcement and national-guard troops were sent door to door to take firearms from law-abiding hurricane survivors protecting themselves from looters and thugs who ruled the streets

Of course, no one condones the mindless violence of those who would loot a helpless city, or shoot at rescue workers. But one reason for the citizens to retain a legal right to arms is precisely because the courts have said that government has no legal duty to protect them. (3

See, e.g. *DeShaney v. Winnebago County Dep't of Social Services*, 489 U.S. 189, 197 (1989) ("[A] State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause."). Legislative bodies can, and should, act to protect the self-defense rights of citizens at the times when those rights are most important.

Congress and President Bush also saw the need to act to protect gun owners' rights during emergencies. H.R. 5013, the "Disaster Recovery Personal Protection Act," was introduced in the House by then Congressman Bobby Jindal (LA - 1) and passed the House on July 25, 2006 with a broad bi-partisan margin of 322-99. Senator David Vitter (R-La) introduced the Senate version of the bill and added it as an Amendment to Homeland Security Appropriations. On October 9, 2006, President George W. Bush signed this legislation into law.

The Emergency Powers bill prohibits the state and local governments from confiscating legal firearms from law-abiding citizens during natural disasters. 30 states and the federal government have now passed such protective bills, because of overwhelming, bi-partisan support and an outcry for protection from the people.

2-19-13

/

13.0800.01001
Title.

Prepared by the Legislative Council staff for
Representative Karls
January 29, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1467

Page 1, line 2, after "firearms" insert "; and to amend and reenact subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code, relating to the powers of the governor in an emergency"

Page 2, after line 11, insert:

"SECTION 2. AMENDMENT. Subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

- h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, ~~firearms, explosives, and combustibles,~~ not including ammunition."

Renumber accordingly

Rep. Karen Karls, District 35, Bismarck

Testimony on HB 1467

Senate GVA Committee -- March 29, 2013

Mr. Chairman and members of the committee:

HB 1467 seeks to protect ND's law-aiding citizens from the confiscation of legal firearms during states of emergency.

You may ask, "When will this ever happen in ND?" To answer this question, let's look at recent history, back....to August of 2005. Hurricane Katrina was one of the strongest storms to impact the coast of the United States during the last 100 years. With sustained winds during landfall of 125 mph, Katrina caused widespread devastation along the central Gulf Coast states, especially in the city New Orleans.

After Hurricane Katrina, many New Orleans residents legally armed themselves to protect their lives and property from civil disorder. With no way to call for help, and police unable to respond, honest citizens were able to defend themselves and their neighbors against looters, arsonists and other criminals.

However, just when these people needed guns the most, New Orleans's Police Superintendent ordered the confiscation of firearms, allegedly under a state emergency powers law. He stated, "No one will be able to be armed. Guns will be taken. Only law enforcement will be allowed to have guns."

Law enforcement and national-guard troops were sent door to door to take firearms from law-abiding hurricane survivors protecting themselves from looters and thugs who ruled the streets

Of course, no one condones the mindless violence of those who would loot a helpless city, or shoot at rescue workers. But one reason for the citizens to retain a legal right to arms is precisely because the courts have said that government has no legal duty to protect them.

(e.g. *DeShaney v. Winnebago County Dep't of Social Services*, 489 U.S. 189, 197 (1989) ("[A] State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause."). Legislative bodies can, and should, act to protect the self-defense rights of citizens at the times when those rights are most important.

Congress and President Bush also saw the need to act to protect gun owners' rights during emergencies. H.R. 5013, the "Disaster Recovery Personal Protection Act," was introduced in the House by then Congressman Bobby Jindal (LA - 1) and passed the House on July 25, 2006 with a broad bi-partisan margin of 322-99. Senator David Vitter (R-La) introduced the Senate version of the bill and added it as an Amendment to Homeland Security Appropriations. On October 9, 2006, President George W. Bush signed this legislation into law.

The Emergency Powers bill prohibits the state and local governments from confiscating legal firearms from law-abiding citizens during natural disasters. 30 states and the federal government have now passed such protective bills, because of overwhelming, bi-partisan support.

This concludes my testimony, Mr. Chairman and members of the committee.