

2013 SENATE JUDICIARY

SB 2145

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2145
1/22/2013
Job #17500

Conference Committee

Committee Clerk Signature



Minutes:

Relating to carrying a firearm at a public gathering

Senator David Hogue - Chairman

Senator Erbele - District 28 - Introduces the bill and explains this bill has nothing to do with recent shootings. It was brought in at the end of last session and he waited to introduce it this session. He said they are striking 7 words. They are taking out, licensed to practice law in this state. He said there are many municipal court judges who are not attorneys. This would allow all municipal court judges to carry.

Paul Hammers - Municipal Court Judge and a school teacher - He points out that judges are allowed to carry at public gatherings given other stipulations such as qualifying annually with law enforcement. He feels if you have the responsibilities of the office you should have the privileges of the office also.

Opposition - 0
Neutral - 0

Senator Nelson - Asks Senator Hogue to explain subsection 3 and he does.

Committee discusses the subsection 3 and that it says a political subdivision can adopt a less restrictive measure.

Hammers - Said he wants to state that he isn't here just for himself but other judges who are in areas experiencing an increase crime. He speaks of having to qualify annually with law enforcement and demonstrate the same safety and proficiency with a fire arm as local police officers would in any jurisdiction.

Senator Armstrong - Asks where that jurisdiction would end to which Mr. Hammers responds 1.5 miles out of the city limit.

Close the hearing SB2145

Committee decides to vote on SB2145

Senator Grabinger motions a do pass
Senator Armstrong seconds

Discussion

Senator Hogue asks Senator Nelson if her question on subsection 3 was answered. Senator Nelson describes school systems that have security whereas some of the smaller schools do not. Senator Armstrong said he does not understand the correlation between a license to practice law and a license to carry a gun. Said he agrees with the witness, Mr. Hammer. Senator Hogue mentions that the witness's example did not advance the bill. He said he probably would not vote for this. Committee discusses public gatherings and school functions and conceal and carry proficiency.

Vote -6 yes, 1 no
Motion passes

Senator Lyson will carry

Date: 1/22/13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2145**

Senate 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 S. Grabinger Seconded By S. Armstrong

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue		X	Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 6 No 1

Absent _____

Floor Assignment S. Lyson

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

REPORT OF STANDING COMMITTEE

SB 2145: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2145 was placed on the
Eleventh order on the calendar.

2013 HOUSE JUDICIARY

SB 2145

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2145
March 20, 2013
Job 20246

Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL relating to carrying a firearm at a public gathering.

Minutes:

Testimony 1

Chairman Koppelman: Opened the hearing on SB 2145

00:58 Senator Erbele: Introduced the bill. It relates to a section of the code regarding fire arms. All this bill seeks to do is to strike the words "license to practice law in this state as it refers to a municipal judge".

3:09 Paul Hammers, Municipal Court Judge in Napoleon and teacher: Handout #1, see attached. Described an incident in which he had students with him in his car. He discussed the increase in violence.

13:22 Representative Hanson: Does this bill by striking that language apply to anyone else?

Paul Hammers: It would only apply to Municipal Court Judges.

Vice Chairman Klemin: Does it apply to equipment?

Paul Hammers: It does.

Vice Chairman Klemin: Do you have security there?

Paul Hammers: I do at all court proceedings.

Vice Chairman Klemin: How about metal detectors?

Paul Hammers: We do not hold our city court in the county courthouse so we don't have any detectors there. We use what the city council uses.

14:38 Vice Chairman Klemin: On subsection 3 on page 2, has the city been enacted an ordinance that would supersede this section?

Paul Hammers: Jurisdiction goes to 1.5 miles out of the city, should I run into anyone outside those 1.5 miles, I am illegally carrying.

16:14 Vice Chairman Klemin: You have a concealed weapons license?

Paul Hammers: Downtown in the Civic Center you can't carry a weapon. The idea of public gatherings has been invaded. If they charge an admission you can consider that a public gathering.

17:01 Vice Chairman Klemin: Does the municipal judges have an association, if so, do they have a position on this?

Paul Hammers: They don't have a position. Many are members of the Bar so it doesn't apply. The retired judges can carry under the Retired Peace Officer statute.

Do Pass Roll call vote: Yes = 13, No = 0, Absent = 1

Carrier: Representative Maragos

Hearing closed.

Date: 3-20-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2145

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 _____ Seconded By _____

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) 13 No 0

Absent 1

Floor Assignment Rep. maragos

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

REPORT OF STANDING COMMITTEE

SB 2145: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2145 was placed on the
Fourteenth order on the calendar.

2013 TESTIMONY

SB 2145

The Honorable Paul Hamers
Municipal Court Judge
Napoleon, ND 58561

20 March 2013

Chairman
House Judiciary Committee
63rd Legislative Assembly of North Dakota

RE: Written Testimony in support of SB 2145

Dear Members of the House Judiciary Committee,

Let me begin by giving you some background information about myself. I am a North Dakota native born in Tioga and raised in Dickinson. Much like my father, I am also a retired veteran that became a teacher. Serving one's country, state, and community is both a duty and a privilege. I currently teach at Napoleon High School. I am married to a beautiful lady in the nursing profession. We are raising two incredible children together. I also serve as the Municipal Court Judge for the City of Napoleon. I wear many hats and would not have it any other way.

I have an extensive background as a military firearms instructor, a contracted civilian firearms instructor, and a North Dakota Dangerous Weapons Test Administrator. Because of this I am intimately familiar with the legalities of carrying concealed firearms. I have legally carried a concealed firearm on my person every day since 1987. Very few people are allowed to carry firearms legally at public gatherings which, by definition, include the environment of my current profession. This did not bother me because schools in North Dakota present a warm, inviting, and safe environment, but an event took place nearly a year ago which created a reason for me to be concerned.

On the fourth Tuesday of March 2012, acting in my capacity as a municipal court judge, I issued three arrest warrants for residents of Napoleon and/or the surrounding area. The next morning I transported four of my students downtown to a local business as part of a class field trip. While returning to the school we passed by the residence of an individual that was named in one of the warrants issued less than twenty-four hours before. The man was sitting in a chair on his porch, but by the time I drove the remaining two blocks to the school parking lot, the man pulled up behind me. Halting his vehicle in the middle of the street, he angrily slung his door open and approached me. I placed myself between the irate individual and my students instructing them to quickly go into the building. With that action I must have struck some sense into this angry individual because he quickly halted and issued a sheepish apology for following me to the school parking lot. He drove away.

The small community of Napoleon has experienced an increase in violent crime during the state's recent industrial prosperity. In the past year the reported cases of domestic violence, burglary, and assault have all increased dramatically in Logan County. An individual that was fatally wounded by law enforcement officers near Belfield this past June lived and worked in Napoleon prior to this incident. He had also circulated through the city court. An employee of Napoleon's local implement dealer was forcefully removed from the premises by law enforcement authorities for brandishing a knife and threatening fellow employees. The police were called to break up a knife fight at a local bar.

Title 62, Chapter 62.1-02-05 exempts municipal court judges "*licensed to practice law in this state*" from restrictions on carrying firearms at public gatherings. Licensed municipal court judges may carry concealed weapons, without a permit, nearly anywhere within the state as long as they maintain the same firearms proficiency as peace officers. Licensed municipal court judges have the privilege of choosing a firearm as a personal protection option. Non-licensed municipal court judges are prohibited from carrying firearms at public gatherings even if they possess a valid concealed weapons permit.

Title 40, Chapter 40-18 of the North Dakota Century Code outlines the jurisdiction and qualifications of municipal court judges. In cities with a population of less than five thousand residents a municipal court judge does not have to be licensed to practice law. If the municipal judge is not licensed to practice law then the only restriction on jurisdiction concerns Title 39, Chapter 39-08-01 of the North Dakota Century Code; operating a vehicle while under the influence of intoxicating substances. Under this section a licensed judge may hear cases involving a limited number of repeat offenses, while a non-licensed judge has no authority even in the case of a first time offender. Continuing education requirements and all other responsibilities are identical for licensed and non-licensed judges alike.

If a non-licensed municipal court judge and a licensed municipal court judge are granted the same jurisdiction (with the sole exception of DUI cases), are required to meet identical continuing education requirements, and are placed in the same peril by nature of performing their assigned duties, then it stands to reason that both should be granted the same privilege of carrying concealed firearms at public gatherings as a personal protection option.

Carrying a loaded, concealed firearm on one's person is a great responsibility. I have come here today not only for myself, but to correct what I believe was an unintentional prohibition on the privilege of non-licensed municipal court judges to make personal protection choices. Please consider voting to eliminate the exclusionary wording in Title 62, Chapter 62.1-02-05. Please vote to grant the choice of personal protection options to licensed and non-licensed municipal judges alike. Please vote in favor of SB 2145 and the removal of the phrase "*licensed to practice law in this state*" Title 62, Chapter 62.1-02-05.

Thank you for the privilege of coming before you today to share my concerns.

Sincerely,



Paul Hamers
USA Retired