

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

HOUSE BILL NO. 1461
(Representatives Porter, DeKrey, Delzer, Devlin, Grande)
(Senator Lyson)

AN ACT to amend and reenact section 62.1-04-03 of the North Dakota Century Code, relating to concealed weapons permits; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

62.1-04-03. (Effective through June 30, 2011) License to carry a firearm or dangerous weapon concealed.

1. The director of the bureau of criminal investigation shall issue a license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the director by a resident or nonresident citizen of the United States if the following criteria are met:
 - a. The applicant is at least twenty-one years of age for a class 1 license or at least eighteen years of age for a class 2 license.
 - b. The applicant has a valid reason for carrying the firearm or dangerous weapon concealed, including self-protection, protection of others, or work-related needs.
 - c. The applicant is not a person specified in section 62.1-02-01.
 - d. The applicant has the written approval for the issuance of a license from the sheriff of the applicant's county of residence, and, if the city has one, the chief of police or a designee of the city in which the applicant resides. The approval by the sheriff may not be given until the applicant has successfully completed a background investigation in that county and has successfully completed the testing procedure conducted by a certified firearm or dangerous weapon instructor. The person conducting the testing may assess a charge of up to fifty dollars for conducting this testing. The attorney general may certify a firearm or dangerous weapon instructor based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation.
 - e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed a background investigation or criminal records check conducted by that agency. To pass a background investigation, an applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidents of domestic violence. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records.
 - f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that person's control.
2. The attorney general shall offer class 1 and class 2 licenses to carry a firearm or dangerous weapon concealed pursuant to the following requirements:
 - a. An applicant for a class 1 license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete

an open book test based upon a manual, demonstrate familiarity with a firearm or dangerous weapon, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm or dangerous weapon to be concealed may be satisfied by one of the following:

- (1) Certification of familiarity with a firearm or dangerous weapon by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous weapon instructor;
 - (2) Evidence of equivalent experience with a firearm or dangerous weapon through participation in an organized shooting competition, law enforcement, military service, or dangerous weapon course of training;
 - (3) Possession of a license from another state to carry a firearm or dangerous weapon, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
 - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm or dangerous weapon.
- b. An applicant for a class 2 license is required to successfully complete the open book test offered for the class 1 license.
- c. Licenses issued before August 1, 2009, regardless of the age of the licenseholder, convert to a class 2 license upon renewal and no additional testing is required. No additional testing is required to renew a class 2 concealed weapons license. A class 1 license may be renewed upon successful completion of the class 1 requirements within one year before submission of the application for renewal. A license issued under this section before August 1, 2009, and a class 2 license may be upgraded to a class 1 license upon successful completion of the class 1 requirements and satisfaction of the age requirement.
3. The sheriff is required to process the application within thirty days after the completion of the testing portion unless the application is for renewal of a license and in such case the application must be processed within thirty days after its receipt by the sheriff, the chief of police is required to process the application within ten working days of receipt by the agency, and the bureau of criminal investigation is required to process the application and make a determination within thirty days of receipt from the forwarding agency.
 4. The license fee for a concealed weapons license is forty-five dollars, which must be credited to the attorney general's operating fund. The license fee must be paid before the license is issued by the director of the bureau of criminal investigation.
 5. The director of the bureau of criminal investigation shall prescribe the form of the application and license, which must include the name, address, description, a photograph, and the signature of the individual. The application form must require sufficient information to properly conduct a background investigation and be accompanied by two sets of classifiable fingerprints. The two sets of classifiable fingerprints are not required for a renewal of a concealed weapons license. The license is valid for three years. The license must be prepared in triplicate, and the original must be delivered to the licensee, the duplicate must be sent by mail, within seven days after issuance, to the sheriff of the county in which the applicant resides, and the triplicate must be preserved for six years by the director. In those cases in which the licensee resides in a city, an additional copy of the license must be made and sent by mail, within seven days after issuance, to the chief of police of the city in which the applicant resides. The individual shall notify the director of the bureau of criminal investigation of any change of address or any other material fact which would affect the restrictions on or the need for the license.

6. The director of the bureau of criminal investigation may deny an application or revoke or cancel a license after it has been granted for any material misstatement by an applicant in an application for the license or any violation of this title.
7. The applicant may appeal a denial or revocation of this license to the district court of Burleigh County.
8. Information collected from an applicant under this section is confidential information. However, the information may be disclosed:
 - a. To a governmental agency or court for a law enforcement purpose, including the investigation, prosecution, or punishment of a violation of law.
 - b. To a court to aid in a decision concerning sentence, probation, or release pending trial or appeal.
 - c. Pursuant to a court order or a judicial, legislative, or administrative agency subpoena issued in this state.
9. The attorney general may adopt any rules necessary to carry out this title.

(Effective after June 30, 2011) License to carry a firearm or dangerous weapon concealed.

1. The director of the bureau of criminal investigation shall issue a license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the director by a resident or nonresident citizen of the United States if the following criteria are met:
 - a. The applicant is at least twenty-one years of age for a class 1 license or at least eighteen years of age for a class 2 license.
 - b. The applicant has a valid reason for carrying the firearm or dangerous weapon concealed, including self-protection, protection of others, or work-related needs.
 - c. The applicant is not a person specified in section 62.1-02-01 and for a class 1 license the applicant:
 - (1) Has not been convicted of a felony;
 - (2) Has not been convicted of a crime of violence;
 - (3) Has not been convicted of an offense involving the use of alcohol;
 - (4) Has not been convicted of an offense involving the unlawful use of narcotics or other controlled substances;
 - (5) Has not been convicted of an offense involving moral turpitude;
 - (6) Has not been convicted of an offense involving domestic violence;
 - (7) Has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
 - (8) Is qualified to purchase and possess a firearm under federal law.
 - d. The applicant has the written approval for the issuance of a license from the sheriff of the applicant's county of residence, and, if the city has one, the chief of police or a designee of the city in which the applicant resides. The approval by the sheriff may not be given until the applicant has successfully completed a background investigation in that county and has successfully completed the testing procedure conducted by a certified firearm or dangerous weapon instructor. The person conducting the testing may assess a charge of

up to fifty dollars for conducting this testing. The attorney general may certify a firearm or dangerous weapon instructor based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation.

- e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed a background investigation or criminal records check conducted by that agency. To pass a background investigation, an applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidents of domestic violence. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records. The bureau may deny approval for a class 1 license if the bureau has reasonable cause to believe that the applicant or permitholder has been or is a danger to self or others as demonstrated by evidence, including past pattern of behavior involving unlawful violence or threats of unlawful violence; past participation in incidents involving unlawful violence or threats of unlawful violence; or conviction of a weapons offense. In determining whether the applicant or permitholder has been or is a danger to self or others, the bureau may inspect expunged records of arrests and convictions of adults and juvenile court records.
 - f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that person's control.
2. The attorney general shall offer class 1 and class 2 licenses to carry a firearm or dangerous weapon concealed pursuant to the following requirements:
- a. An applicant for a class 1 license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm or dangerous weapon, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm or dangerous weapon to be concealed may be satisfied by one of the following:
 - (1) Certification of familiarity with a firearm or dangerous weapon by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous weapon instructor;
 - (2) Evidence of equivalent experience with a firearm or dangerous weapon through participation in an organized shooting competition, law enforcement, military service, or dangerous weapon course of training;
 - (3) Possession of a license from another state to carry a firearm or dangerous weapon, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
 - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm or dangerous weapon.
 - b. An applicant for a class 2 license is required to successfully complete the open book test offered for the class 1 license.
 - c. Licenses issued before August 1, 2009, regardless of the age of the licenseholder, convert to a class 2 license upon renewal and no additional testing is required. No additional testing is required to renew a class 2 concealed weapons license. A class 1 license may be renewed upon successful completion of the class 1 requirements within one year before submission of the application for renewal. A license issued under this section before August 1, 2009, and a class 2 license may be upgraded to a class 1

license upon successful completion of the class 1 requirements and satisfaction of the age requirement.

3. The sheriff is required to process the application within thirty days after the completion of the testing portion unless the application is for renewal of a license and in such case the application must be processed within thirty days after its receipt by the sheriff, the chief of police is required to process the application within ten working days of receipt by the agency, and the bureau of criminal investigation is required to process the application and make a determination within thirty days of receipt from the forwarding agency.
4. The license fee for a concealed weapons license is forty-five dollars, which must be credited to the attorney general's operating fund. The license fee must be paid before the license is issued by the director of the bureau of criminal investigation.
5. The director of the bureau of criminal investigation shall prescribe the form of the application and license, which must include the name, address, description, a photograph, and the signature of the individual. The application form must require sufficient information to properly conduct a background investigation and be accompanied by two sets of classifiable fingerprints. The two sets of classifiable fingerprints are not required for a renewal of a concealed weapons license. The license is valid for five years. The license must be prepared in triplicate, and the original must be delivered to the licensee, the duplicate must be sent by mail, within seven days after issuance, to the sheriff of the county in which the applicant resides, and the triplicate must be preserved for six years by the director. In those cases in which the licensee resides in a city, an additional copy of the license must be made and sent by mail, within seven days after issuance, to the chief of police of the city in which the applicant resides. The individual shall notify the director of the bureau of criminal investigation of any change of address or any other material fact which would affect the restrictions on or the need for the license.
6. The director of the bureau of criminal investigation may deny an application or revoke or cancel a license after it has been granted for any material misstatement by an applicant in an application for the license or any violation of this title.
7. The applicant may appeal a denial or revocation of this license to the district court of Burleigh County.
8. Information collected from an applicant under this section is confidential information. However, the information may be disclosed:
 - a. To a governmental agency or court for a law enforcement purpose, including the investigation, prosecution, or punishment of a violation of law.
 - b. To a court to aid in a decision concerning sentence, probation, or release pending trial or appeal.
 - c. Pursuant to a court order or a judicial, legislative, or administrative agency subpoena issued in this state.
9. The attorney general may adopt any rules necessary to carry out this title.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

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. 1461 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 94 Nays 0 Absent 0

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

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