

HOUSE BILL NO. 1169

Introduced by

Representatives Rick C. Becker, B. Koppelman, Magrum, Olson, Paur, Porter, Simons

Senators O. Larsen, Luick, Myrdal, Veda

1 A BILL for an Act to amend and reenact section 12-44.1-30, subsection 3 of section 12-47-34,
2 section 62.1-02-05, subdivision c of subsection 1 of section 62.1-02-13, and sections
3 62.1-03-01, 62.1-04-02, 62.1-04-03, and 62.1-04-04 of the North Dakota Century Code, relating
4 to the possession of firearms and licensing of individuals to carry firearms; and to repeal
5 sections 62.1-02-10 and 62.1-02-10.1 of the North Dakota Century Code, relating to the
6 possession of firearms and licensing of individuals to carry firearms.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 12-44.1-30 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **12-44.1-30. Correctional officers authorized to carry weapons.**

11 The administrator of a correctional facility may allow a qualified correctional officer to carry
12 a weapon, including a firearm, during the transport of another governmental agency's prisoner if
13 the correctional facility has a contract with the governmental agency to transport the agency's
14 prisoners and that contract requires the officer doing the transport to be armed with a weapon.
15 For purposes of this section, "governmental agency" means an agency or department of this
16 state or of any political subdivision in this state, or another state or of a political subdivision of
17 another state, or of the United States. The administrator of a correctional facility shall adopt a
18 policy, approved by the director of the department of corrections and rehabilitation, which
19 establishes the qualifications and training an officer must meet to carry a weapon under this
20 section. ~~Sections~~Section 62.1-02-05, ~~62.1-02-10, and 62.1-03-01~~ do not apply to the
21 possession and use of a firearm by a qualified correctional officer acting in the course of
22 employment as allowed by this section.

23 **SECTION 2. AMENDMENT.** Subsection 3 of section 12-47-34 of the North Dakota Century
24 Code is amended and reenacted as follows:

- 1 3. ~~Sections~~Section 62.1-02-05, ~~62.1-02-10,~~ and ~~62.1-03-01~~ ~~do~~ does not apply to the
2 possession and use of firearms by authorized and trained correctional officers acting
3 in the course of their employment under this section.

4 **SECTION 3. AMENDMENT.** Section 62.1-02-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering -**
7 **Penalty - Application.**

- 8 1. An individual who knowingly possesses a firearm or dangerous weapon at a public
9 gathering is guilty of a class B misdemeanor. For the purpose of this section, "public
10 gathering" means an athletic or sporting event, a school, a church, and a publicly
11 owned or operated building.
- 12 2. This section does not apply to:
- 13 a. A law enforcement officer;
- 14 b. A member of the armed forces of the United States or national guard, organized
15 reserves, state defense forces, or state guard organizations, when on duty;
- 16 c. A competitor participating in an organized sport shooting event;
- 17 d. A gun or antique show;
- 18 e. A participant using a blank cartridge firearm at a sporting or theatrical event;
- 19 f. A firearm or dangerous weapon carried in a temporary residence or motor
20 vehicle;
- 21 g. A student and an instructor at a hunter safety class;
- 22 h. Private security personnel while on duty;
- 23 i. A state or federal park;
- 24 j. An instructor, a test administrator, an official, or a participant in educational,
25 training, cultural, or competitive events involving the authorized use of a
26 dangerous weapon if the event occurs with permission of the person or entity
27 with authority over the function or premises in question;
- 28 k. An individual in a publicly owned or operated rest area or restroom;
- 29 l. An individual ~~possessing a valid concealed weapons license from this state or~~
30 ~~who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry~~
31 ~~a dangerous weapon concealed if the individual~~who is in a church building or

1 other place of worship and has the approval to carry in the church building or
2 other place of worship by a primary religious leader of the church or other place
3 of worship or the governing body of the church or other place of worship. ~~If a~~
4 ~~church or other place of worship authorizes an individual to carry a concealed~~
5 ~~weapon, local law enforcement must be informed of the name of the authorized~~
6 ~~individual; and~~

7 m. A municipal court judge, a district court judge, a staff member of the office of
8 attorney general, and a retired North Dakota law enforcement officer, if the
9 individual maintains the same level of firearms proficiency as is required by the
10 peace officer standards and training board for law enforcement officers. A local
11 law enforcement agency shall issue a certificate of compliance under this section
12 to an individual who is proficient.

13 3. This section does not prevent any political subdivision from enacting an ordinance that
14 is less restrictive than this section relating to the possession of firearms or dangerous
15 weapons at a public gathering. An enacted ordinance supersedes this section within
16 the jurisdiction of the political subdivision.

17 **SECTION 4. AMENDMENT.** Subdivision c of subsection 1 of section 62.1-02-13 of the
18 North Dakota Century Code is amended and reenacted as follows:

19 c. Condition employment upon the fact that an employee or prospective employee
20 holds or does not hold a concealed weapons license or any agreement by an
21 employee or a prospective employee that prohibits an employee from keeping a
22 legal firearm locked inside or locked to a private motor vehicle in a parking lot, ~~if~~
23 ~~the firearm is kept for lawful purposes.~~

24 **SECTION 5. AMENDMENT.** Section 62.1-03-01 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **62.1-03-01. Carrying handgun – Restrictions – Exceptions.**

27 1. ~~AAn individual may carry a handgun may not be carried unless by an~~ the individual
28 not ~~is~~ otherwise prohibited and if:

29 a. ~~Between the hours of one hour before sunrise and one hour after sunset, the~~
30 ~~handgun is unloaded and either in plain view or secured.~~

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- 1 b. ~~Between the hours of one hour after sunset and one hour before sunrise, the~~
2 ~~handgun is unloaded and secured.~~
- 3 2. ~~The restrictions provided in subdivisions a and b of subsection 1 do not apply to:~~
- 4 a. ~~An individual possessing a valid concealed weapons license from this state or~~
5 ~~who has reciprocity under section 62.1-04-03.1.~~
- 6 b. ~~An individual on that person's land, or in that individual's permanent or temporary~~
7 ~~residence, or fixed place of business.~~
- 8 c. ~~An individual while lawfully engaged in target shooting.~~
- 9 d. ~~An individual while in the field engaging in the lawful pursuit of hunting or~~
10 ~~trapping. However, nothing in this exception authorizes the carrying of a loaded~~
11 ~~handgun in a motor vehicle.~~
- 12 e. ~~An individual permitted by law to possess a firearm while carrying the handgun~~
13 ~~unloaded and in a secure wrapper from the place of purchase to that person's~~
14 ~~home or place of business, or to a place of repair or back from those locations.~~
- 15 f. ~~Any North Dakota law enforcement officer.~~
- 16 g. ~~Any law enforcement officer of any other state or political subdivision of another~~
17 ~~state if on official duty within this state.~~
- 18 h. ~~Any armed security guard or investigator as authorized by law when on duty or~~
19 ~~going to or from duty.~~
- 20 i. ~~Any member of the armed forces of the United States when on duty or going to or~~
21 ~~from duty and when carrying the handgun issued to the member.~~
- 22 j. ~~Any member of the national guard, organized reserves, state defense forces, or~~
23 ~~state guard organizations, when on duty or going to or from duty and when~~
24 ~~carrying the handgun issued to the member by the organization.~~
- 25 k. ~~Any officer or employee of the United States duly authorized to carry a handgun.~~
- 26 l. ~~An individual engaged in manufacturing, repairing, or dealing in handguns or the~~
27 ~~agent or representative of that individual possessing, using, or carrying a~~
28 ~~handgun in the usual or ordinary course of the business.~~
- 29 m. ~~Any common carrier, but only when carrying the handgun as part of the cargo in~~
30 ~~the usual cargo carrying portion of the vehicle by law.~~

1 **SECTION 6. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **62.1-04-02. Carrying concealed firearms or dangerous weapons prohibited.**

4 1. An individual under twenty-one years of age, other than a law enforcement officer or
5 member of the armed forces of the United States or national guard, organized
6 reserves, state defense forces, or state guard organizations, may not carry any firearm
7 or dangerous weapon concealed unless the individual is licensed to do so or
8 exempted under this chapter.

9 2. An individual who is a citizen or legal resident of the United States and is at least
10 twenty-one years of age, may carry any firearm or dangerous weapon concealed
11 unless otherwise prohibited by law.

12 **SECTION 7. AMENDMENT.** Section 62.1-04-03 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **62.1-04-03. License to carry a firearm or dangerous weapon concealed - Class 1**
15 **firearm license and class 2 firearm and dangerous weapon license.**

16 1. The director of the bureau of criminal investigation shall issue a class 1 firearm license
17 to carry a firearm or dangerous weapon concealed upon application if the applicant is
18 not otherwise prohibited by law and meets the all of following criteria and the
19 requirements of subsection 3:

20 a. The applicant is at least twenty-one years of age:

21 b. The applicant can demonstrate that the applicant is a resident of this state by
22 providing a copy of a valid driver's license or state-issued identification card from
23 this state which establishes personal identification through photographic means
24 and shows the applicant's name associated with a valid residential street address
25 in this state or the applicant possesses a valid driver's license from the
26 applicant's state of residence which establishes personal identification through
27 photographic means and shows the applicant's name associated with a valid
28 residential street address and a valid concealed weapons license from the
29 applicant's state of residence, which state has reciprocity with this state under
30 section 62.1-04-03.1;

31 c. The applicant:

- 1 (1) Has not been convicted of a felony;
- 2 (2) Has not been convicted of a crime of violence;
- 3 (3) Has not been convicted of an offense involving the use of alcohol within ten
4 years before the date of application;
- 5 (4) Has not been convicted of a misdemeanor offense involving the unlawful
6 use of narcotics or other controlled substances within ten years before the
7 date of application;
- 8 (5) Has not been convicted of an offense involving moral turpitude;
- 9 (6) Has not been convicted of an offense involving domestic violence;
- 10 (7) Has not been adjudicated by a state or federal court as mentally
11 incompetent, unless the adjudication has been withdrawn or reversed; and
- 12 (8) Is qualified to purchase and possess a firearm under federal law;
- 13 d. The applicant has successfully completed the testing procedure conducted by a
14 certified test administrator. The person conducting the testing may assess a
15 charge of up to fifty dollars for conducting this testing. The attorney general may
16 certify a test administrator based upon criteria and guidelines prescribed by the
17 director of the bureau of criminal investigation;
- 18 e. The applicant satisfactorily completes the bureau of criminal investigation
19 application form and has successfully passed the criminal history records check
20 conducted by the bureau of criminal investigation and the federal bureau of
21 investigation. The applicant shall provide all documentation relating to any
22 court-ordered treatment or commitment for mental health or alcohol or substance
23 abuse. The applicant shall provide the director of the bureau of criminal
24 investigation written authorizations for disclosure of the applicant's mental health
25 and alcohol or substance abuse evaluation and treatment records. The bureau
26 may deny approval for a license if the bureau has reasonable cause to believe
27 the applicant or licenseholder has been or is a danger to self or others as
28 demonstrated by evidence, including past pattern of behavior involving unlawful
29 violence or threats of unlawful violence, past participation in incidents involving
30 unlawful violence or threats of unlawful violence, or conviction of a weapons
31 offense. In determining whether the applicant or licenseholder has been or is a

1 danger to self or others, the bureau may inspect expunged records of arrests and
2 convictions of adults and juvenile court records; and

3 f. The applicant is not prohibited under federal law from owning, possessing, or
4 having a firearm under that individual's control.

5 2. The director of the bureau of criminal investigation shall issue a class 2 license to
6 carry a firearm or dangerous weapon concealed upon review of an application
7 submitted to the director if the applicant is not otherwise prohibited by law and all of
8 the following criteria and the requirements of subsection 3 are met:

9 a. ~~The applicant is at least twenty-oneeighteen years of age for a class 1 firearm-~~
10 ~~license or at least eighteen years of age for a class 2 firearm and dangerous-~~
11 ~~weapon license;~~

12 b. The applicant can demonstrate that the applicant is a resident of this state by
13 providing a copy of a valid driver's license or state-issued identification card from
14 this state ~~that~~which establishes personal identification through photographic
15 means and shows the applicant's name associated with a valid residential street
16 address in this state or the applicant possesses a valid driver's license from the
17 applicant's state of residence ~~that~~which establishes personal identification
18 through photographic means and shows the applicant's name associated with a
19 valid residential street address and a valid concealed weapons license from the
20 applicant's state of residence, which state has reciprocity with this state under
21 section 62.1-04-03.1;

22 c. ~~The applicant is not an individual specified in section 62.1-02-01 and for a class 1-~~
23 ~~firearm license the applicant:~~

24 (1) ~~Has not been convicted of a felony;~~

25 (2) ~~Has not been convicted of a crime of violence;~~

26 (3) ~~Has not been convicted of an offense involving the use of alcohol within ten~~
27 ~~years prior to the date of application;~~

28 (4) ~~Has not been convicted of a misdemeanor offense involving the unlawful~~
29 ~~use of narcotics or other controlled substances within ten years prior to the~~
30 ~~date of application;~~

31 (5) ~~Has not been convicted of an offense involving moral turpitude;~~

- 1 ~~(6) Has not been convicted of an offense involving domestic violence;~~
2 ~~(7) Has not been adjudicated by a state or federal court as mentally~~
3 ~~incompetent, unless the adjudication has been withdrawn or reversed; and~~
4 ~~(8) Is qualified to purchase and possess a firearm under federal law;~~
5 ~~e.~~ The applicant has successfully completed the testing procedure conducted by a
6 certified test administrator. The person conducting the testing may assess a
7 charge of up to fifty dollars for conducting this testing. The attorney general may
8 certify a test administrator based upon criteria and guidelines prescribed by the
9 director of the bureau of criminal investigation;
10 e.d. The applicant satisfactorily completes the bureau of criminal investigation
11 application form and has successfully passed the criminal history records check
12 conducted by the bureau of criminal investigation and the federal bureau of
13 investigation. The applicant shall provide all documentation relating to any
14 court-ordered treatment or commitment for mental health or alcohol or substance
15 abuse. The applicant shall provide the director of the bureau of criminal
16 investigation written authorizations for disclosure of the applicant's mental health
17 and alcohol or substance abuse evaluation and treatment records. The bureau
18 may deny approval for a license if the bureau has reasonable cause to believe
19 that the applicant or licenseholder has been or is a danger to self or others as
20 demonstrated by evidence, including past pattern of behavior involving unlawful
21 violence or threats of unlawful violence; past participation in incidents involving
22 unlawful violence or threats of unlawful violence; or conviction of a weapons
23 offense. In determining whether the applicant or licenseholder has been or is a
24 danger to self or others, the bureau may inspect expunged records of arrests and
25 convictions of adults and juvenile court records; and
26 f.e. The applicant is not prohibited under federal law from owning, possessing, or
27 having a firearm under that individual's control.
28 2-3. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous
29 weapon licenses to carry a firearm or dangerous weapon concealed under the
30 following requirements:

- 1 a. An applicant for a class 1 firearm license shall successfully participate in a
2 classroom instruction that sets forth weapon safety rules and the deadly force law
3 of North Dakota, complete an open book test based upon a manual, demonstrate
4 familiarity with a firearm, and complete an actual shooting or certified proficiency
5 exercise. Evidence of familiarity with a firearm to be concealed may be satisfied
6 by one of the following:
- 7 (1) Certification of familiarity with a firearm by an individual who has been
8 certified by the attorney general, which may include a law enforcement
9 officer, military or civilian firearms instructor, or hunter safety instructor;
- 10 (2) Evidence of equivalent experience with a firearm through participation in an
11 organized shooting competition, law enforcement, or military service;
- 12 (3) Possession of a license from another state to carry a firearm, concealed or
13 otherwise, which is granted by that state upon completion of a course
14 described in paragraphs 1 and 2; or
- 15 (4) Evidence that the applicant, during military service, was found to be
16 qualified to operate a firearm.
- 17 b. An applicant for a class 2 firearm and dangerous weapon license is required to
18 successfully complete the open book test offered for the class 1 firearm license.
- 19 c. A North Dakota resident who has a valid class 1 firearm license also may carry a
20 class 2 dangerous weapon without any further testing required. Class 1 and
21 class 2 permits are equally valid in this state.
- 22 d. Additional testing is not required to renew a class 2 firearm and dangerous
23 weapon license. A class 1 firearm license may be renewed upon successful
24 completion of the class 1 firearm requirements within thirty days before
25 submission of the application for renewal.
- 26 ~~3-4.~~ The director of the bureau of criminal investigation shall send by mail to a holder of a
27 license a notice of the procedures for renewal of the license issued under this section.
28 The director shall give the notice at least one hundred fifty days but not more than one
29 hundred eighty days before the expiration of the license.
- 30 ~~4-5.~~ The bureau of criminal investigation is required to process the application and make a
31 determination within sixty days of receipt of the properly completed application.

1 ~~5-6.~~ The fee for a concealed weapons license must be credited to the attorney general's
2 operating fund. All fees must be paid before the license application may be processed
3 by the director of the bureau of criminal investigation. The attorney general shall list
4 the fees associated with the license, including the costs of the fingerprint-based
5 federal criminal history record check, in the attorney general's administrative rules.

6 ~~6-7.~~ The director of the bureau of criminal investigation shall prescribe the form of the
7 application and license, which must include the name, address, description, a
8 photograph, and the signature of the individual. The application form must require
9 sufficient information to properly conduct a criminal history record check and be
10 accompanied by:

11 a. A photocopy of a valid driver's license or identification card issued by this state
12 which establishes personal identification through photographic means and shows
13 the applicant's name associated with a valid residential street address in this
14 state or a valid state-issued driver's license from the applicant's state of
15 residence which establishes personal identification through photographic means
16 and shows the applicant's name associated with a valid residential street address
17 and a valid concealed weapons license from the applicant's state of residence,
18 which has reciprocity with this state under section 62.1-04-03.1; and

19 b. Two sets of classifiable fingerprints. The two sets of classifiable fingerprints are
20 not required for a renewal of a concealed weapons license. The license is valid
21 for five years. The original license must be delivered to the licensee and an
22 electronic copy must be preserved for six years by the director. Access to license
23 information must be available to law enforcement through electronic means for
24 official law enforcement purposes. The applicant or licenseholder shall notify the
25 director of the bureau of criminal investigation of any change of address or any
26 other material fact which would affect the restrictions on or the need for the
27 license.

28 ~~7-8.~~ The director of the bureau of criminal investigation may deny an application or revoke
29 or cancel a license after it has been granted for any material misstatement by an
30 applicant in an application for the license or any violation of this title. The director of

1 the bureau of criminal investigation shall disclose to the applicant the specific reason
2 for denial or revocation of the license.

3 ~~8-9.~~ The applicant may appeal a denial or revocation of this license to the district court of
4 Burleigh County.

5 ~~9-10.~~ Information collected from an applicant under this section is confidential information.
6 However, the information may be disclosed:

- 7 a. To a governmental agency or court for a law enforcement purpose, including the
8 investigation, prosecution, or punishment of a violation of law.
9 b. To a court to aid in a decision concerning sentence, probation, or release pending
10 trial or appeal.
11 c. Pursuant to a court order or a judicial, legislative, or administrative agency
12 subpoena issued in this state.

13 ~~10-11.~~ The availability of a license to carry a firearm or dangerous weapon concealed under
14 this section or under any other provision of law may not be construed to prohibit the
15 carrying of a firearm or dangerous weapon concealed as provided in section
16 62.1-04-02.

17 ~~12.~~ The attorney general may adopt any rules necessary to implement this title.

18 **SECTION 8. AMENDMENT.** Section 62.1-04-04 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **62.1-04-04. Producing license on demand.**

21 Every person while carrying a concealed firearm or dangerous weapon, for which a license
22 to carry concealed is required, shall have on one's person the license issued by this or another
23 state and shall give it to any law enforcement officer for an inspection upon demand by the
24 officer. ~~The failure of any person to give the license to the officer is prima facie evidence that the~~
25 ~~person is illegally carrying a firearm or dangerous weapon concealed.~~

26 **SECTION 9. REPEAL.** Sections 62.1-02-10 and 62.1-02-10.1 of the North Dakota Century
27 Code are repealed.