

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlund

1 A BILL for an Act ~~to create and enact chapter 20.1-18 of the North Dakota Century Code,~~
 2 ~~relating to a database identifying whether private land is open to hunters;~~ to amend and reenact
 3 sections 12.1-22-03, 20.1-01-17, 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of the
 4 North Dakota Century Code, relating to criminal trespass and hunting on private land; to provide
 5 a statement of legislative intent; to provide for a ~~legislative management~~ study of access to
 6 land; and to provide a penalty to repeal sections 20.1-01-17 and 20.1-01-20; to provide for a
 7 report to the legislative management and interim legislative committees; to provide a penalty; to
 8 provide a contingent effective date; to provide a contingent expiration date; and to declare an
 9 emergency.

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

11 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is
 12 amended and reenacted as follows:

13 **12.1-22-03. Criminal trespass – ~~Noncriminal offense on posted property.~~**

- 14 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
 15 or privileged to do so, the individual enters or remains in a dwelling or in highly
 16 secured premises.
- 17 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~ the individual is
 18 not licensed or privileged to do so, the individual:
- 19 a. ~~Enters~~ enters or remains in or on any building, occupied structure, or storage
 20 structure, or separately secured or occupied portion thereof; or
- 21 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~
 22 building or structure, or any other place the individual is not licensed or privileged
 23 to be, except as provided in subsection 3 and sections 20.1-01-18, 20.1-01-19,
 24 and 20.1-03-42, and 20.1-18-03.

1 3. a.—~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~
2 ~~not licensed or privileged to do so, the individual enters or remains in any place~~
3 ~~as to which notice against trespass is given by actual communication to the actor~~
4 ~~by the individual in charge of the premises or other authorized individual or by~~
5 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~
6 ~~name of the person posting the premises must appear on each sign in legible~~
7 ~~characters.~~

8 ~~b.— Even if the conduct of the owner, tenant, or individual authorized by the owner~~
9 ~~varies from the provisions of subdivision a, an individual may be found guilty of~~
10 ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~
11 ~~substantially complied with subdivision a and notice against trespass is clear~~
12 ~~from the circumstances.~~

13 ~~c.— An individual who violates subdivision a is guilty of a class A misdemeanor for the~~
14 ~~second or subsequent offense within a two-year period.~~

15 4. a. An individual, knowing the individual is not licensed or privileged to do so, may
16 not enter or remain in a place as to which notice against trespass is given by
17 posting in a manner reasonably likely to come to the attention of intruders on
18 property that is privately owned and open to the public after being requested to
19 leave the property by a duly authorized individual. A violation of this subdivision is
20 a noncriminal offense.

21 b. A peace officer shall cite an individual who violates subdivision a or commits a
22 noncriminal offense under section 20.1-01-18 with a fine of two hundred fifty
23 dollars for each violation.

24 c. The peace officer citing the individual shall:

25 (1) Take the name and address of the individual; and

26 (2) Notify the individual of the right to request a hearing if posting bond by mail.

27 d. The peace officer may not take the individual into custody or require the
28 individual to proceed with the peace officer to any other location for the purpose
29 of posting bond. The officer shall provide the individual with an envelope for use
30 in mailing the bond.

- 1 e. An individual cited may appear before the designated official and pay the
2 statutory fine for the violation at or before the time scheduled for hearing.
- 3 f. If the individual has posted bond, the individual may forfeit bond by not appearing
4 at the designated time.
- 5 g. If the individual posts bond by mail, the bond must be submitted within fourteen
6 days of the date of the citation and the individual cited shall indicate on the
7 envelope or citation whether a hearing is requested. If the individual does not
8 request a hearing within fourteen days of the date of the citation, the bond is
9 deemed forfeited and the individual is deemed to have admitted to the violation
10 and to have waived the right to a hearing on the issue of commission of the
11 violation. If the individual requests a hearing, the court for the county in which the
12 citation is issued shall issue a summons to the individual requesting the hearing
13 notifying the individual of the date of the hearing before the designated official.
- 14 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
15 at the individual's request, the individual may make a statement in explanation of
16 the individual's action. The official may at that time waive or suspend the statutory
17 fine or bond.
- 18 i. A citing peace officer may not receive the statutory fine or bond.
- 19 j. The bond required to secure appearance before the judge must be identical to
20 the statutory fine established in subdivision b.

21 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~
22 ~~property of another after being requested to leave the property by a duly authorized~~
23 ~~individual. An individual who violates this subsection is guilty of a class A~~
24 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

25 ~~6.4.~~ This section does not apply to ~~a~~:

- 26 a. A peace officer in the course of discharging the peace officer's official duties; or
27 b. An individual who enters land to access buried and aboveground infrastructure
28 for operations, inspection, repair, or maintenance purposes, if the individual has a
29 right to operate, inspect, repair, or maintain the infrastructure.

30 **SECTION 2. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is
31 amended and reenacted as follows:

12.1-22-03. Criminal trespass - Noncriminal offense on posted property.

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
 - ~~a. Enters~~ enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion ~~thereof; or~~
 - ~~b. Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~ building or structure, or any other place the individual is not licensed or privileged to be, except as provided in subsection 3.
3. ~~a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.~~
 - ~~b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.~~
 - ~~c. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~
4. ~~a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders~~ on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual. A violation of this subdivision is a noncriminal offense.

- 1 b. A peace officer shall cite an individual who violates subdivision a with a fine of
2 two hundred fifty dollars for each violation.
- 3 c. The peace officer citing the individual shall:
4 (1) Take the name and address of the individual; and
5 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 6 d. The peace officer may not take the individual into custody or require the
7 individual to proceed with the peace officer to any other location for the purpose
8 of posting bond. The officer shall provide the individual with an envelope for use
9 in mailing the bond.
- 10 e. An individual cited may appear before the designated official and pay the
11 statutory fine for the violation at or before the time scheduled for hearing.
- 12 f. If the individual has posted bond, the individual may forfeit bond by not appearing
13 at the designated time.
- 14 g. If the individual posts bond by mail, the bond must be submitted within fourteen
15 days of the date of the citation and the individual cited shall indicate on the
16 envelope or citation whether a hearing is requested. If the individual does not
17 request a hearing within fourteen days of the date of the citation, the bond is
18 deemed forfeited and the individual is deemed to have admitted to the violation
19 and to have waived the right to a hearing on the issue of commission of the
20 violation. If the individual requests a hearing, the court for the county in which the
21 citation is issued shall issue a summons to the individual requesting the hearing
22 notifying the individual of the date of the hearing before the designated official.
- 23 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
24 at the individual's request, the individual may make a statement in explanation of
25 the individual's action. The official may at that time waive or suspend the statutory
26 fine or bond.
- 27 i. A citing peace officer may not receive the statutory fine or bond.
- 28 j. The bond required to secure appearance before the judge must be identical to
29 the statutory fine established in subdivision b.

30 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~
31 ~~property of another after being requested to leave the property by a duly authorized~~

~~individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~

~~6.4.~~ This section does not apply to ~~a:~~

~~a. A peace officer in the course of discharging the peace officer's official duties; or~~

~~b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure.~~

SECTION 3. AMENDMENT. Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.

1. Only the owner or tenant or an individual authorized by the owner of land may post the land. Land may be posted by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land or by designating the land as closed to hunters in a database or other electronic application available to the public which is operated and maintained by the state for purposes of electronic posting. ~~The~~ land is physically posted, the name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances.

SECTION 4. AMENDMENT. Section 20.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

1 **20.1-01-18. Hunting on posted land and trapping on private land without permission**
2 **unlawful - Penalty.**

3 ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally-
4 ~~posted~~land belonging to another without first obtaining the permission of the person legally
5 entitled to grant the same~~permission~~. unless the land is legally posted or the individual is
6 requested to leave by a duly authorized person. ~~No person~~ A person may not enter upon
7 privately owned land for the purpose of trapping protected fur-bearing animals without first
8 gaining the written permission of the owner or operator of that land. A person who violates this
9 section is guilty of a~~class B misdemeanor~~noncriminal offense subject to the fines and
10 procedures under subsection 3 of section 12.1-22-03 for the first offense and a class A
11 misdemeanor for a subsequent offense within a two-year period~~unless the land is designated~~
12 ~~as closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is~~
13 ~~legally posted in accordance with section 20.1-01-17.~~

14 **SECTION 5. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **20.1-01-18. Hunting on posted land and trapping on private land without permission**
17 **unlawful - Penalty.**

18 No person may hunt or pursue game, or enter for those purposes, upon ~~legally~~
19 ~~posted~~privately owned land belonging to another without first obtaining the permission of the
20 person legally entitled to grant the same. No person may enter upon privately owned land for
21 the purpose of trapping protected fur-bearing animals without first gaining the written permission
22 of the owner or operator of that land. A person who violates this section is guilty of a ~~class B~~
23 ~~misdemeanor for the first offense and a class A misdemeanor for a subsequent offense within a~~
24 ~~two-year period.~~

25 **SECTION 6. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **20.1-01-19. When ~~posted~~private land may be entered.**

28 ~~Any person~~An individual may enter upon ~~legally posted~~private land to recover game shot or
29 killed on land where the ~~person~~individual had a lawful right to hunt.

30 **SECTION 7. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm**
2 **prima facie evidence of intent to hunt game.**

3 Proof that a ~~person having an individual~~ had a firearm, or other weapon declared legal by
4 governor's proclamation, in the person's possession and a valid license to hunt game in the
5 relevant area when the individual or a group including the individual entered upon the legally
6 ~~posted~~private premises of another without permission of the owner or tenant is prima facie
7 evidence the ~~person~~individual or the group including the individual entered to hunt or pursue
8 game.

9 **SECTION 8. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **20.1-03-42. Guiding on prohibited lands.**

12 1. A person may not act as a hunting guide or hunting outfitter on land the person knows
13 is owned by the state unless the appropriate state agency permits or authorizes the
14 guiding or outfitting, on private land enrolled by the department for purposes of
15 hunting, on land in which the department pays in lieu of taxes, or on federal lands
16 without being authorized or permitted as required by the appropriate federal agency,
17 ~~or.~~

18 2. A person may not act as a hunting guide or outfitter on private lands ~~that are posted~~
19 ~~against hunting or trespassing under section 20.1-01-17 or private lands that are~~
20 ~~designated as closed to hunters or open to hunters with permission under section~~
21 ~~20.1-18-02,~~ without first informing and obtaining permission from the landowner to
22 conduct guiding or outfitting on the land. If the landowner did not grant the permission
23 in writing, there is a presumption that the permission did not exist.

24 ~~— **SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~
25 ~~follows:~~

26 ~~— **20.1-18-01. Hunters access advisory group.**~~

27 ~~— 1. The hunters access advisory group consists of:~~

28 ~~— a. The agriculture commissioner or the commissioner's designee;~~

29 ~~— b. The director or the director's designee;~~

30 ~~— c. The chief information officer or the officer's designee;~~

31 ~~— d. A representative of the North Dakota association of counties;~~

1 ~~_____ e. Two members of an agriculture committee; and~~

2 ~~_____ f. Two members of a sportsmen committee.~~

3 ~~_____ 2. The hunters access advisory group shall oversee the development of the hunters-~~
4 ~~access database identifying private land in the state as open to hunters, closed to~~
5 ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

6 ~~_____ 3. The hunters access advisory group shall establish guidelines for the development of~~
7 ~~the database and acceptance criteria for county data used to develop the database.~~

8 ~~_____ **20.1-18-02. Hunters access database.**~~

9 ~~_____ 1. The hunters access database must use color coding or other clear indicators to~~
10 ~~designate private land in the state as open to hunters, closed to hunters, or open to~~
11 ~~hunters with permission from the owner or lawful occupant.~~

12 ~~_____ 2. A landowner or lawful occupant may designate which of the three categories in-~~
13 ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~
14 ~~landowner or lawful occupant does not designate a category must be indicated in the~~
15 ~~database as open to hunters if the county in which the land is located is included in the~~
16 ~~database.~~

17 ~~_____ 3. If a landowner or lawful occupant designates land as open to hunters with permission,~~
18 ~~the landowner or lawful occupant shall provide contact information to be included in the~~
19 ~~database for hunters to request permission to hunt on the land.~~

20 ~~_____ 4. The database must be accessible electronically to the public and may be made~~
21 ~~available to the public through other means, including smartphone applications.~~

22 ~~_____ 5. To be included in the database, a county shall provide geographic information system-~~
23 ~~data or other data to the information technology department which meets the criteria~~
24 ~~established by the hunters access advisory group.~~

25 ~~_____ **20.1-18-03. Noncompliance with database and posting - Penalty.**~~

26 ~~_____ 1. Until the county in which private land is located is included in the hunters access-~~
27 ~~database, the land is deemed open unless posted in accordance with section~~
28 ~~20.1-01-17.~~

29 ~~_____ 2. After a county is included in the database:~~

30 ~~_____ a. A hunter may not enter land in the county which is designated in the database as~~
31 ~~closed to hunters or open to hunters with permission unless the hunter has~~

1 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~
2 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~
3 ~~a second and subsequent knowing violation of this subdivision; and~~

4 ~~b. A hunter without permission may enter land in the county which is not designated~~
5 ~~in the database as closed to hunters or open to hunters with permission, unless~~
6 ~~the land is posted in accordance with section 20.1-01-17.~~

7 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~
8 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~
9 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~
10 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~
11 ~~subsequent knowing violation of this subsection.~~

12 ~~SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT. It is~~
13 ~~the intent of the legislative assembly that several counties will be included in an operational~~
14 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~
15 ~~include all counties whose data meet the specifications of the hunters access database~~
16 ~~advisory group by September 1, 2022.~~

17 **SECTION 9. REPEAL.** Sections 20.1-01-17 and 20.1-01-20 of the North Dakota Century
18 Code are repealed.

19 **SECTION 10. ~~LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR~~**
20 **~~HUNTING AND TRAPPING - REPORT TO LEGISLATIVE MANAGEMENT AND INTERIM~~**
21 **~~LEGISLATIVE COMMITTEES.~~**

22 1. During the 2019-20 interim, the ~~legislative management~~land access committee shall
23 ~~consider studying~~study access to public and private lands ~~for hunting, trapping,~~ and
24 related issues and shall provide recommendations regarding electronic posting of
25 land. The study must include consideration of the numbers of calls to law enforcement
26 regarding trespassers and hunting violations, the number of citations and convictions
27 for trespass and hunting violations, the locations where trespass and hunting
28 violations occur the most and least in the state, how sportsmen are impacted by
29 legislation regarding access to land in the state, and whether and how state laws
30 regarding land access affect tribal lands. ~~The legislative management~~Before August 1,
31 2020, the land access committee shall report its findings and recommendations,

1 together with any legislation required to implement the recommendations, to the
2 ~~sixty-seventh legislative assembly.~~legislative management, interim energy and natural
3 resources committee, and interim agriculture committee.

4 2. a. The voting members of the committee, who must be appointed by the legislative
5 management are:

6 (1) Two members representing landowners;

7 (2) Two members representing sportsmen;

8 (3) Four members of the legislative assembly, one of whom must be selected
9 by the committee as chairman of the committee, including:

10 (a) One member of the majority party in the house of representatives;

11 (b) One member of the minority party in the house of representatives;

12 (c) One member of the majority party in the senate; and

13 (d) One member of the minority party in the senate; and

14 (4) A representative of the North Dakota association of counties.

15 b. The nonvoting members of the committee are:

16 (1) The agriculture commissioner or the commissioner's designee;

17 (2) The director of the game and fish department or the director's designee;

18 (3) The chief information officer or the officer's designee; and

19 (4) A game warden.

20 3. A member of the committee who is not a state employee is entitled to reimbursement
21 for mileage and expenses as provided by law for state officers and employees, to be
22 paid by the legislative council. A state employee who is a member of the committee is
23 entitled to receive that employee's regular salary and is entitled to reimbursement for
24 mileage and expenses to be paid by the employing agency. A member of the
25 committee who is a member of the legislative assembly is entitled to receive per diem
26 compensation at the rate provided under section 54-35-10 for each day performing
27 official duties of the committee. The legislative council shall pay the per diem
28 compensation and reimbursement for travel and expenses as provided by law for any
29 member of the committee who is a member of the legislative assembly.

1 **SECTION 11. EDUCATION AND MARKETING.** The game and fish department and the
2 tourism division of the department of commerce shall provide public education and marketing
3 regarding the changes to land access in this Act.

4 **SECTION 12. CONTINGENT EFFECTIVE DATE.** If the legislative management does not
5 receive agreed upon recommendations regarding electronic posting of land from the land
6 access committee in section 9 of this Act before August 1, 2020, sections 2, 5, 6, 8, and 9
7 become effective on August 1, 2020.

8 **SECTION 13. CONTINGENT EXPIRATION DATE.** If the legislative management does not
9 receive agreed upon recommendations regarding electronic posting of land from the land
10 access committee in section 9 of this Act before August 1, 2020, sections 1, 3, 4, and 7 are
11 effective until July 31, 2020, and after that date are ineffective.

12 **SECTION 14. EMERGENCY.** Sections 1, 3, 4, 7, 10, and 11 of this Act are declared to be
13 an emergency measure.