

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

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, 20.1-01-18, ~~20.1-01-19,~~ 20.1-01-20, and 20.1-03-42 of the North Dakota
4 Century Code, relating to criminal trespass and hunting on private land; to provide a statement
5 of legislative intent; ~~to provide for a legislative management study;~~ and to provide a penalty.

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

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

9 **12.1-22-03. Criminal trespass – ~~Noncriminal offense on posted property.~~**

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

1 posting in a manner reasonably likely to come to the attention of intruders. The
2 name of the person posting the premises must appear on each sign in legible
3 characters.

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

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

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

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

20 c. The peace officer citing the individual shall:
21 (1) Take the name and address of the individual; and
22 (2) Notify the individual of the right to request a hearing if posting bond by mail.

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

27 e. An individual cited may appear before the designated official and pay the
28 statutory fine for the violation at or before the time scheduled for hearing.

29 f. If the individual has posted bond, the individual may forfeit bond by not appearing
30 at the designated time.

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

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

21 6.4. This section does not apply to ~~a~~:

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

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

26 **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **20.1-01-18. Hunting on posted land and trapping on private land without permission**
29 **unlawful - Penalty.**

30 ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon ~~legally-~~
31 ~~posted~~ land belonging to another without first obtaining the permission of the person legally

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

10 ~~— **SECTION 6. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is~~
11 ~~amended and reenacted as follows:~~

12 ~~— **20.1-01-19. When posted private land may be entered.**~~

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

15 **SECTION 3. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **20.1-01-20. Entering ~~posted private~~ land with a hunting license and a gun or firearm**
18 **prima facie evidence of intent to hunt game.**

19 Proof that a ~~person~~ individual ~~had~~ a firearm, or other weapon declared legal by
20 governor's proclamation, ~~in the person's possession~~ and a valid license to hunt game in the
21 relevant area when the individual or a group including the individual entered upon the legally
22 ~~posted private~~ premises of another without permission of the owner or tenant is prima facie
23 evidence the ~~person~~ individual or the group including the individual entered to hunt or pursue
24 game.

25 **SECTION 4. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **20.1-03-42. Guiding on prohibited lands.**

- 28 1. A person may not act as a hunting guide or hunting outfitter on land the person knows
29 is owned by the state unless the appropriate state agency permits or authorizes the
30 guiding or outfitting, on private land enrolled by the department for purposes of
31 hunting, on land in which the department pays in lieu of taxes, or on federal lands

1 without being authorized or permitted as required by the appropriate federal agency,
2 or.

3 2. A person may not act as a hunting guide or outfitter on private lands ~~that are posted~~
4 ~~against hunting or trespassing under section 20.1-01-17 or private lands that are~~
5 ~~designated as closed to hunters or open to hunters with permission under section~~
6 ~~20.1-18-02,~~ without first informing and obtaining permission from the landowner to
7 conduct guiding or outfitting on the land. If the landowner did not grant the permission
8 in writing, there is a presumption that the permission did not exist.

9 ~~SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~
10 ~~follows:~~

11 ~~20.1-18-01. Hunters access advisory group.~~

12 ~~1. The hunters access advisory group consists of:~~

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

14 ~~b. The director or the director's designee;~~

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

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

17 ~~e. Two members of an agriculture committee; and~~

18 ~~f. Two members of a sportsmen committee.~~

19 ~~2. The hunters access advisory group shall oversee the development of the hunters~~
20 ~~access database identifying private land in the state as open to hunters, closed to~~
21 ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

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

24 ~~20.1-18-02. Hunters access database.~~

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

28 ~~2. A landowner or lawful occupant may designate which of the three categories in~~
29 ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~
30 ~~landowner or lawful occupant does not designate a category must be indicated in the~~

1 ~~database as open to hunters if the county in which the land is located is included in the~~
2 ~~database.~~

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

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

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

11 ~~**20.1-18-03. Noncompliance with database and posting - Penalty.**~~

12 ~~1. Until the county in which private land is located is included in the hunters access~~
13 ~~database, the land is deemed open unless posted in accordance with section~~
14 ~~20.1-01-17.~~

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

16 ~~a. A hunter may not enter land in the county which is designated in the database as~~
17 ~~closed to hunters or open to hunters with permission unless the hunter has~~
18 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~
19 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~
20 ~~a second and subsequent knowing violation of this subdivision; and~~

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

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

29 ~~**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is~~
30 ~~the intent of the legislative assembly that several counties will be included in an operational~~
31 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~

1 ~~include all counties whose data meet the specifications of the hunters access database-~~
2 ~~advisory group by September 1, 2022.~~

3 ~~—SECTION 10. LEGISLATIVE MANAGEMENT STUDY-- ACCESS TO LANDS FOR-~~
4 ~~**HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall~~
5 ~~consider studying access to public and private lands for hunting, trapping, and related issues.~~
6 ~~The legislative management shall report its findings and recommendations, together with any~~
7 ~~legislation required to implement the recommendations, to the sixty-seventh legislative-~~
8 ~~assembly.~~

9 **SECTION 5. EDUCATION AND MARKETING.** The game and fish department and the
10 tourism division of the department of commerce shall provide public education and marketing
11 regarding the changes to land access in this Act.