

HOUSE BILL NO. 1248

Introduced by

Representative B. Koppelman

1 A BILL for an Act to amend and reenact sections 37-17.1-29 and 62.1-01-03 of the North
2 Dakota Century Code, relating to the possession of a dangerous weapon; and to declare an
3 emergency.

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

5 **SECTION 1. AMENDMENT.** Section 37-17.1-29 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **37-17.1-29. Firearms and dangerous weapons in emergencies.**

8 1. Notwithstanding any other law, a person acting on behalf or under the authority of the
9 state or a political subdivision may not do any of the following during a declared
10 emergency:

11 a. Prohibit or restrict the otherwise lawful possession, use, carrying, transfer,
12 transportation, storage, or display of a firearm, dangerous weapon, or
13 ammunition;

14 b. Seize or confiscate, or authorize the seizure or confiscation of, any otherwise
15 lawfully possessed firearm, dangerous weapon, or ammunition unless the person
16 acting on behalf of or under the authority of the state or political subdivision is
17 defending that person or another from an assault, arresting an individual in actual
18 possession of a firearm, dangerous weapon, or ammunition for a violation of law,
19 or seizing or confiscating the firearm, dangerous weapon, or ammunition as
20 evidence of a crime; or

21 c. Require registration of any firearm, dangerous weapon, or ammunition for which
22 registration is not otherwise required by law.

23 2. Subdivision a of subsection 1 as it relates to transfer of a firearm, dangerous weapon,
24 or ammunition does not apply to the commercial sale of firearms, dangerous weapons,

1 or ammunition if an authorized authority has ordered an evacuation or general closure
2 of businesses in the affected area.

3 3. Any individual aggrieved by a violation of this section may commence a civil action
4 against any person who subjects the individual, or causes the individual to be
5 subjected, to an action prohibited by this section.

6 4. In addition to any other remedy, an individual aggrieved by the seizure or confiscation
7 of a firearm, dangerous weapon, or ammunition in violation of this section may bring
8 an action for the return of the firearm, dangerous weapon, or ammunition, or the value
9 of the firearm, dangerous weapon, or ammunition, if the firearm, dangerous weapon,
10 or ammunition is no longer available, in the district court of the county in which that
11 individual resides, in which the firearm, dangerous weapon, or ammunition is located,
12 or in which the seizure or confiscation occurred.

13 5. In any action to enforce this section, the court shall award a prevailing plaintiff costs
14 and reasonable attorney's fees.

15 6. For purposes of this section, "dangerous weapon" and "firearm" have the same
16 meaning as in section 62.1-01-01.

17 **SECTION 2. AMENDMENT.** Section 62.1-01-03 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **62.1-01-03. Limitation on authority of political subdivision regarding firearms and**
20 **dangerous weapons - Civil action.**

21 1. A political subdivision, including home rule cities or counties, may not enact a zoning
22 ordinance or any other ordinance relating to the purchase, sale, ownership,
23 possession, transfer of ownership, registration, or licensure of firearms, dangerous
24 weapons, and ammunition which is more restrictive than state law. All such existing
25 ordinances are void.

26 2. A person aggrieved under subsection 1 may bring a civil action against a political
27 subdivision for damages as a result of an unlawful ordinance. In a successful action
28 brought by a person under this subsection, the court shall order the political
29 subdivision to pay the reasonable attorney's fees and costs of the aggrieved person.

30 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.