

2019 HOUSE JUDICIARY COMMITTEE

HB 1163

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1163
1/30/2019
31798

- Subcommittee
 Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to the possession of firearms or dangerous weapons; and to provide a penalty.

Minutes:

Chairman Koppelman: Opened the hearing on HB 1163.

Rep. B. Koppelman: Introduced this bill. This bill just takes the misdemeanor offenses out of the concealed weapons license chapter that have to those that are the good guy misdemeanors. Those are ones that commonly conceal carry. If they were to conceal carry in a place that they shouldn't for a short time and do nothing else wrong, they could essentially become criminals. I think that is the wrong approach. This is changing those incidents to an infraction. First section applies to bingo halls and bar and that sort of thing. The second section deals with public gathering places and the third section has to be in a vehicle or an off highway vehicle. This would take those out and make them infractions. The bill that we already kicked out altered how we do multiple infractions and when they can be considered a misdemeanor. This would just give you a ticket.

Opposition: None

Neutral: None

Hearing closed

Do Pass Motion Made by Rep. Magrum; Seconded by Rep. McWilliams

Discussion:

Chairman K. Koppelman: This bill is basically the possession issue and presumably the innocent possession as was mentioned in testimony.

Roll Call Vote: 12 Yes 2 No 0 Absent Carrier: Rep. Magrum

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 HB 1163**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Magrum Seconded By Rep. McWilliams

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson		X
Rep. Becker	X				
Rep. Terry Jones	X				
Rep. Magrum	X				
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones		X			
Rep. Satrom	X				
Rep. Simons	X				
Rep. Vetter	X				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Magrum

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1163: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1163 was placed on the
Eleventh order on the calendar.

2019 SENATE ENERGY AND NATURAL RESOURCES

HB 1163

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1163
3/14/2019
Job Number 33701

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to the possession of firearms or dangerous weapons; and to provide a penalty.

Minutes:

No attachments

Chair Unruh: Opened the hearing.

Representative Ben Koppelman, District 16 (0:35-4:45) Introduced the bill. The concept is simple; in our laws that have to do with how we restrict the 2nd amendment rights, we have created a list of places where you may not carry a firearm. Sometimes for those that exercise their constitutional right and the right to constitutional carry or concealed carry with a license, there still are places where you cannot carry, and sometimes those lines overlap or get blurred. I think we have lower level penalties for those. There are three instances that are mentioned in the bill that are all misdemeanors. Various gun bills over the years, various testimony from different individuals who carry on a regular basis. It seems to me that these individuals are not individuals who would use the weapon that they carry every day in a way that would be threatening or intimidating. You wouldn't know they were around because that's how they operate. What the concern is, in an incidental situation where they are used to carrying every day, they carry into a place where they aren't supposed to; that we don't make criminals out of them for that mistake. I realize that an infraction is still technically a criminal offence, and this bill would be moving the misdemeanors down to infractions, however an infraction doesn't affect people's everyday lives, like employment the same way a misdemeanor or a felony does. We do have in law the ability for infractions to be elevated if they are repeatedly offended. Under current law, they don't have to be same infraction to be elevated, at the very least any two infractions may be elevated to a misdemeanor already. The law abiding citizens that want to exercise their 2nd amendment right, that we have restricted in some ways, shouldn't be getting a misdemeanor offense, certainly not for the first time, for an incidental instance where they violated the time, place, and manner that we have put into law. There are three areas, one area 'public places', another is liquor establishments, and the third one deals with automobiles, although I'm not sure how effective it is in the aftermath of constitutional carry legislation.

Vice-Chair Kreun: What is the difference in penalties between the Class A misdemeanor and infraction and Class B misdemeanor and infraction?

Representative B Koppelman: I believe an infraction has a maximum \$1,000. A Class B misdemeanor is up to misdemeanor up to \$20,000; a Class A misdemeanor is up to \$30,000 up into felonies.

Vice-Chair Kreun: In applying for a job, does the infraction have the same weight as a misdemeanor, if they apply and you ask for a criminal record/background check?

Representative B Koppelman: In the applications I have reviewed, typically our applications would ask about felonies or misdemeanors. Some would say that an infraction is a type of misdemeanor, I don't know that that is how most people would interpret it, ultimately the employer could do a background check to find out the full extent of past crimes.

Cheyl Biller, Fargo, Chapter Lead, North Dakota Moms Demand Action for Gun Sense in America (8:00-10:10) Testified in opposition. I am here to encourage you to oppose proposals that would further weaken our gun laws in North Dakota. This bill would drastically lower the penalty for people carrying hidden loaded handguns in k-12 schools, college building, public daycare centers, and bars. Carrying a loaded handgun in these areas is a misdemeanor; violations subject to potential imprisonment and hefty fines. This bill seeks to lower that penalty to a mere infraction, which doesn't carry the possibility of jail time. Lowering the penalties for carry hidden loaded handguns in these places is a mistake and sends wrong message. This bill implies that knowingly and unlawfully carrying a concealed handgun into a bar or college dorm is on par with something like defacing a state historical marker or putting up a billboard without affixing the proper identification; crimes which are also infractions, but carry significantly less risk to the public. School administrators and educators overwhelmingly oppose the presence of guns in schools because they know it's risky, and this bill would make the penalty for unlawfully carrying a gun into a school around children as young as five, a mere slap on the wrist. Guns, while purposeful and useful, are not toys. We should be modeling and teaching our young people to handle them with an appropriated level of responsibility. It should be common sense that there are places like bars, schools, public sporting events and other places where children are, where people shouldn't be carrying guns. Alcohol and guns don't mix, impulsive, still maturing college students don't mix, and children and guns don't mix. Please do your part to protect the citizens of North Dakota and vote no.

No agency testimony.

Chair Unruh: Closed the hearing.

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1163
3/28/2019
Job Number 34315

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to the possession of firearms or dangerous weapons; and to provide a penalty.

Minutes:

No attachments

Chair Unruh: This was Representative Ben Koppelman's bill, it says that if somebody accidentally carries in the wrong place, they would be guilty of an infraction instead of a misdemeanor.

Senator Piepkorn: Is the accidentally implied?

Chair Unruh: Or purposefully. The intent was to make sure that people who were trying to do it lawfully weren't hit with a misdemeanor the first time around.

Senator Roers: I feel like this makes it difficult for law enforcement. Anybody who willfully carries a gun into a place they aren't supposed to is going to say it was an accident. It becomes a burden of proof; it seems like a guy who is carrying a gun doesn't accidentally walk into a place not knowing he's carrying a gun.

Senator Roers: Moved a Do Not Pass.

Senator Piepkorn: Seconded.

Senator Piepkorn: The major change here, is lowering the penalty to an infraction. I think we should leave that up to the judge, the judge has that discretion when it comes to imposing a penalty. An infraction is simply a \$1000 fine. Another infraction within a year could be up to \$1500, I think the judge have authority and discretion to put that up to a maximum of one-year imprisonment as well. I would be satisfied with giving the judge to sentence someone to 30 days imprisonment and \$1500 in fines. I think the citizens would be happy. I think this should be left up to a judge.

Senator Schaible: I see us going into a realm, we've just opened up our constitutional carry, we're kind of in a new realm here where people are starting to carry legally, whether they are used to it or not. I think we're getting to a place where if a person is going to carry, they are going to carry everywhere they go, it's going to become part of their habits. The intention of this bill was, if you do this all the time and accidentally go into something, it was the idea that a misdemeanor was probably too severe, that's the intent of the bill. We're not looking for

people that intentionally do this. I think that if people are intentionally breaking the law, whether it's a misdemeanor or an infraction, they're going to do it regardless. I don't think this is burdensome, as we go down this road, having more carries, we're not that long to where it's been really opened up. I think this is an attempt to make sure we don't penalize an accident. I don't have a problem with this bill.

Chair Unruh: I plan to support it too, for multiple offenses, this allows for the first offense to be an infraction, but I think for multiple offenses the penalty would increase.

Senator Piepkorn: I don't know where you are getting your view on that stiffer penalty for multiple offenses. This is the law, don't you think we should put some responsibility on that gun owner to know when and where they can carry a gun into a place? This is the law, now that we've got constitutional carry, put some responsibility on the carrier of that gun to know where they can go. If they are caught in a place, it's still up to the judge, it doesn't call for a maximum imprisonment, or any imprisonment, or a maximum fine or any fine. Each of these circumstances will be different. We don't have to start cutting slack now, let's get people used to what the law is. Put some responsibility on that individual.

Senator Schaible: I don't think ignorance of the law is an excuse, I think you need to be responsible for what you do. The thing is, if you are getting in the habit of carrying, you might not even know that you are doing it. I don't know if we need to penalize someone who is making an honest mistake, yes if they are doing it intentionally, I'd agree. I think there is enough discretion with the courts and the judge, and even what they charge them for that if they feel it's an intentional thing, there's ways around that. As a gun owner, that's the problem with me, I don't carry because I don't want to have something like this, that I don't want to make a mistake, I believe most of our gun owners in this state are there for the right reasons, they are doing it for protection. They are honest and trying to be law abiding, I don't think we are loosening up, we're just giving them a break on an accident.

Chair Unruh: Our public gathering definition isn't clear. I have from chapter 12.1-32 the penalties and sentencing. 'An infraction is up to \$1000 fine that may be imposed. Any person convicted of an infraction who has within one year prior to commission of the infraction, who has been previously convicted of an offense as an infraction may be sentenced through conviction of a class B misdemeanor, and if the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.' There is some wiggle room for those who aren't accidentally doing it, there's an additional punishment if they do it within that one-year time.

A roll call vote was taken.

Motion fails 2-4-0.

Senator Cook: Moved a Do Pass.

Vice-Chair Kreun: Seconded.

A roll call vote was taken.

Motion passes 4-2-0.

Chair Unruh will carry.

Closed the meeting.

Date: 3/28
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1163**

Senate Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen. Roers Seconded By Sen. Piepkorn

Senators	Yes	No	Senators	Yes	No
Senator Jessica Unruh		X	Senator Merrill Piepkorn	X	
Senator Curt Kreun		X			
Senator Donald Schaible		X			
Senator Dwight Cook		X			
Senator Jim Roers	X				

Total (Yes) 2 No 4

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/28
 Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1163**

Senate Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen. Cook Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Jessica Unruh	x		Senator Merrill Piepkorn		x
Senator Curt Kreun	x				
Senator Donald Schaible	x				
Senator Dwight Cook	x				
Senator Jim Roers		x			

Total (Yes) 4 No 2

Absent 0

Floor Assignment Sen. Unruh

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1163: Energy and Natural Resources Committee (Sen. Unruh, Chairman)
recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
HB 1163 was placed on the Fourteenth order on the calendar.