

2021 HOUSE POLITICAL SUBDIVISIONS

HB 1383

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

HB 1383
2/11/2021

Relating to the limitation on enforcing or providing assistance regarding violations of federal firearm laws

Chairman Dockter: (3:00). Opened the hearing.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Firearm accessory
- Limits on enforcing

Rep. Becker: Introduced the bill.

Andrew Kordonowy: In favor, testimony #6432.

Additional written testimony:

Gordon Greenstein #6332, Dwayne McDevitt #5903.

Chairman Dockter: (3:31). Closed the hearing.

Carmen Hickle, Committee Clerk

HB 1383

Bill of rights- Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.

NDCC 37-02-01. Militia - How constituted - Exceptions.

All able-bodied male citizens and all able-bodied males of foreign birth who have declared an intention to become citizens, who are between the ages of eighteen and forty-five years and who are residents of this state, and other volunteers allowed by law constitute the militia unless exempted by the laws of the United States or by the laws of this state.

Restrictions to firearms and firearm accessories prevents the citizens of ND from being able to protect and defend the state in time of need as required of them by current NDCC.

HB 1383

House Political Subdivisions

Chairman Doctor and Committee Members

I am in support of HB 1383. I believe this would be an excellent bill because of potential gun control legislation at the federal level. This bill would prohibit any state agency, political subdivision, or law enforcement from participating in the investigation, prosecution, or enforcement of a violation of a federal statute, order, rule, or regulation purporting to regulate a firearm, firearm accessory, or firearm ammunition. We have a President overreaching his authority and I believe the democrats in Washington, DC will also try to overreach their authority.

Thank You

Gordon Greenstein

US Navy (Veteran)

US Army (Retired)

To the North Dakota State Legislature:

Since We The People of North Dakota can no longer depend on the federal government, especially under Joe Biden, to act in a legal and fair manner it behooves the North Dakota government to act on its own to protect the constitutional rights of its citizens. As many of us know the 2020 presidential election was stolen by state governors and state attorney generals, county election officials, foreign nations, the main stream media, many US politicians, and several federal courts including the SCOTUS, by refusing to even hear evidence. Their goal is plain, to strip US citizens of as many constitutional rights as they can get away with in the hopes of bringing their "New World Order" into being. Joe Biden has already begun the process of, once again, bringing this country to its knees with unlimited illegal alien migration into the US from any country with ZERO vetting while giving them undeserved public funding, sending American jobs overseas once again after President Trump largely brought them back, and by abruptly cancelling our energy independence, and more!

If we as a state cannot let go of federal money as a tradeoff for unconstitutional rules and regulations we will cease to exist as a nation, which Joe Biden and company will usher in as soon as they can. If we can't get tough now, waiting till our hands are tied behind our backs won't make it easier. We must restrict the federal governments overreach in regards to firearms by voting YES on 1383.

Thank you, Dwayne McDevitt

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1383
2/19/2021

Relating to the limitation on enforcing or providing assistance regarding violations of federal firearm laws
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Chairman Dockter: (10:11). Opens for committee work.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Contracts with Federal Agents
- Amendment

Rep. Ertelt: Made a motion on page 1 line 17 add federal and strike county and replace with federal district.

Rep. Nehring: Second the motion.

Voice vote carried.

Rep. Nehring: Made to motion for an amendment contracts entered into prior to.

Rep. Simons: Second the motion.

Rep. Nehring: Withdrew his motion.

Rep. Simons: Withdrew his second.

Rep. Ertelt: Referenced a document from Stephanie Dassinger, ND League of Cities. Testimony #6992.

Rep. Ertelt: Made a motion to put an emergency clause for an amendment.

Rep. Johnson: Second the motion.

Voice vote carried.

Rep. Ertelt: Made a do pass motion as amended.

Rep. Nehring: Second the motion.

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	N
Representative Claire Cory	Y
Representative Sebastian Ertelt	Y
Representative Clayton Fegley	N
Representative Patrick Hatlestad	N
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	N
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	N
Representative Luke Simons	Y
Representative Nathan Toman	Y

9-5-0

Rep. Ertelt: will carry the bill.

Chairman Dockter: (10:54).

Carmen Hickle, Committee Clerk

February 19, 2021

Dr. 2/19/21
1051

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1383

Page 1, line 3, after "laws" insert "; and to declare an emergency"

Page 1, line 17, after the first "the" insert "federal"

Page 1, line 17, replace "county" with "federal district"

Page 2, after line 2, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1383: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1383 was placed on the Sixth order on the calendar.

Page 1, line 3, after "laws" insert "; and to declare an emergency"

Page 1, line 17, after the first "the" insert "federal"

Page 1, line 17, replace "county" with "federal district"

Page 2, after line 2, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

HB 1383

Problems created by HB 1383:

- Prohibits agency or political subdivision or law enforcement from assisting federal agencies in federal investigation of firearm violations. Also requires a federal agency who seeks assistance in such matters to go to state district court and first demonstrate a national security threat exists.
- There are not enough Federal Agents in North Dakota to enforce violations without the assistance of local and state law enforcement.
- This would negatively affect the local and state law enforcement for ND. This would include the Bureau of Criminal Investigation (BCI) as BCI has two current agents that are federally deputized with DEA and ATF. Also, the Bismarck Police Department has two officers is federally deputized with DEA. Other local law enforcement agencies have officers who are federally deputized as US Marshals.
- If new federal firearms laws would pass, this mean the deputized BCI agents and Bismarck PD detectives would be allowed to enforce the federal law, but remaining BCI agents and local law enforcement officers would not be allowed to assist their own coworker(s).
- There are also federal agents on multiple drug tasks forces around the state.
- Enactment of this would also have unintended consequences, and possibly fracture relationships between local and federal law enforcement who regularly work together on a multitude of criminal investigations. Those investigations may have firearms violations intertwined with other criminal offenses making it nearly impossible for law enforcement to discern when local officers could assist and when their assistance would cross into violation of this new statute.
- This bill also provides no language as to what happens if a local law enforcement officer were to act in violation of the statute. What is the remedy? Who seeks the remedy? Who is this new statute intended to protect, the alleged criminal?
- May also result in litigation regarding the need to divulge a national security threat in a state district court.

- Constitutional issues - Potential federal preemption/Supremacy Clause issues with respect to the national security threat/state district court provision, and with respect to potential conflicts with federal statutes, such as 21 U.S.C. § 873, 34 U.S.C. § 12541 that address joint law enforcement task forces, where investigation of firearm violations may be involved directly or indirectly. The Supremacy Clause is implicated in forcing federal authorities to seek a ND State District Court order to enforce a federal statute, order, rule, or regulation. It is hard to believe that a ND State District Court would be the proper venue to determine if a "national security threat exists".

2021 SENATE JUDICIARY

HB 1383

2021 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1383
4/5/2021

A BILL for an Act to create and enact a new section to chapter 62.1-01 of the North Dakota Century Code, relating to the limitation on enforcing or providing assistance regarding violations of federal firearm laws.
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Hearing called to order all Senators Present: **Myrdal, Luick, Dwyer, Bakke, Fors, Heitkamp, Larson.** [10:00]

Discussion Topics:

- Federal Executive Orders
- State Freedom

Rep. Rick Becker, R-Bismarck provided testimony in favor #11342 [10:00]

Andrew Kordonoy, Dickinson, ND, provided testimony in favor [10:22]

Cory Lee, Stark County, provided testimony in favor [10:29]

Casey Miller, ND BCI provided testimony in opposition [10:31]

Jeremy , Attorney Generals Office provided testimony in opposition [10:54]

Dennis Otterness, West Fargo Police Chief, provided testimony in opposition #11331 [11:09]

Donelle Preske, Sheriffs Association, provided testimony in opposition

Stephanie Dassinger, League of Cities, provided testimony in opposition [11:28]

Blair Thorsen, Peace Officers Association, provided testimony in opposition [11:29]

Hearing Adjourned [11:30]

Jamal Omar, Committee Clerk

HB 1383 - 2nd Amendment Preservation Bill

What does it do?

State and local law enforcement may not enforce federal regulations pertaining to firearms, firearm accessories, and ammunition that are more restrictive than state law.

2a allows an exception if taken to court, and a national threat is determined to exist.

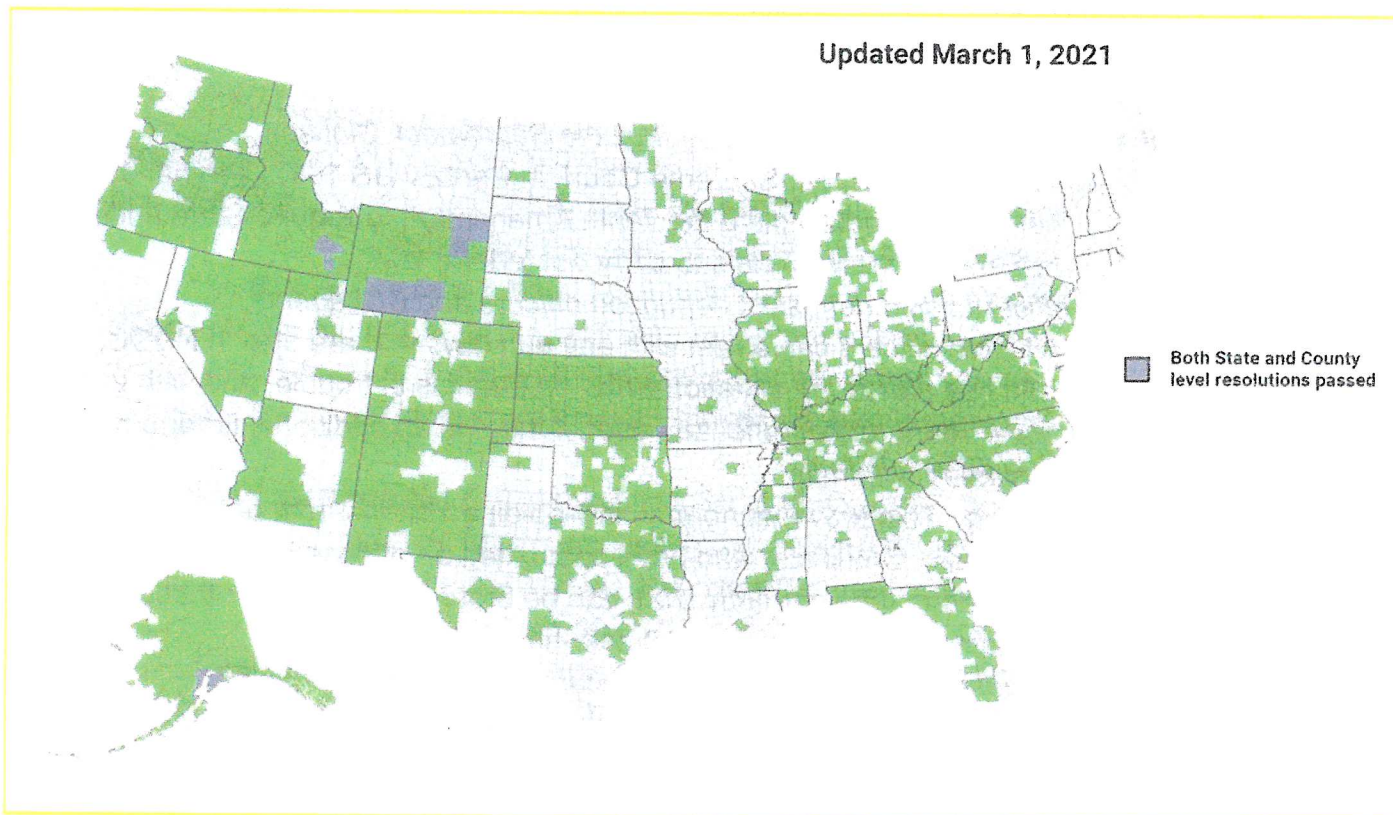
2b is the part that indicates it only applies to federal laws that *exceed* state law.

2c allows exceptions for involvement of any assault, threat, coercion, harassment, domestic violence, terrorizing, stalking, or menacing.

3 clarifies that state and local law enforcement *may* assist federal agents for *all* other offenses.

States and Counties that have this already:

(And 4 additional states are pending)



Why do we need it?

Currently, the President and the majority party in Congress have made it clear that they want to promptly implement significant gun control...

- gun restriction was significant component of the Biden-Harris campaign platform.
- Feb 14 2021, Biden put out White House Statement calling on Congress to enact legislation with significant restrictions and control measures.
- Mar 24 2021, Biden calls for ban on "assault weapons"
- Mar 26 2021, White House says to "expect executive orders on gun measures"
- Mar 31 2021, Democrats ask Biden to take executive action
- Apr 2 2021, Biden working on Executive Orders on gun control that cannot be dismantled in the courts.

HR 127, "*Sabika Sheikh Firearm Licensing and Registration Act*"

- was introduced Jan 4, 2021 and sent to subcommittee Mar 1, 2021.
- extraordinary in its overreach and restriction (see separate handout).
- can pass if put into reconciliation or if abandon the filibuster rule.

What are the responses to concerns raised?

- *It's "unconstitutional" and goes against the Supremacy Clause.*
 - To the contrary; the Supreme Court, in *Printz v US* 1997 (see handout) held that it would violate the Tenth Amendment to require State and local law enforcement officials to carry out federal law.
- *Local officers could not assist deputized officers and BCI agents.*
 - All local officers can assist with any gun laws that are also in NDCC, also with any harrowing situation when an agent is in trouble, and with every non-firearm related offense - even if there is an additional firearm offense.
- *Protects alleged criminals.*
 - Wrong. This prevents normal, law-abiding citizens from being treated like criminals. Criminals, who have committed an offense beyond just owning the firearm they currently own, can be brought to justice for those actual crimes. This bill provides NO safe-harbor for criminals.
- *This will mess with contracts between state and federal agencies.*
 - All contracts and MOU's are predicated on the fact that federal agencies must follow federal law, and state agencies must follow state law. This will not mess with any contracts.
- *There won't be enough federal agents to enforce all the new gun restrictions.*
 - Yes. Precisely. Federal government, please leave us be.

BATTLE for the
of the NATION

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THE BIDEN PLAN TO END OUR GUN VIOLENCE EPIDEMIC

Joe Biden knows that gun violence is a public health epidemic. Almost 40,000 people die as a result of firearm injuries every year in the United States, and many more are wounded. Some of these deaths and injuries are the result of mass shootings that make national headlines. Others are the result of daily acts of gun violence or suicides that may not make national headlines, but are just as devastating to the families and communities left behind.

Joe Biden has taken on the National Rifle Association (NRA) on the national stage and won – twice. In 1993, he shepherded through Congress the Brady Handgun Violence Prevention Act, which established the background check system that has since kept more than 3 million firearms out of dangerous hands. In 1994, Biden – along with Senator Dianne Feinstein – secured the passage of 10-year bans on assault weapons and high-capacity magazines. As president, Joe Biden will defeat the NRA again.

Joe Biden also knows how to make progress on reducing gun violence using executive action. After the tragedy at Sandy Hook Elementary School in 2012, President Obama tasked Vice President Biden with developing both legislative proposals and executive actions to make our communities safer. As a result of this effort, the Obama-Biden Administration took more than two dozen actions, including narrowing the so-called “gun show loophole,” increasing the number of records in the background check system, and expanding funding for mental health services.

It’s within our grasp to end our gun violence epidemic and respect the Second Amendment, which is limited. As president, Biden will pursue constitutional, common-sense gun safety policies. Biden will:

Hold gun manufacturers accountable. In 2005, then-Senator Biden voted against the Protection of Lawful Commerce in Arms Act, but gun manufacturers successfully lobbied Congress to secure its passage. This law protects these manufacturers from being held civilly liable for their products – a protection granted to no other industry. Biden will prioritize repealing this protection.

Get weapons of war off our streets. The bans on assault weapons and high-capacity magazines that Biden, along with Senator Feinstein, secured in 1994 reduced the lethality of mass shootings. But, in order to secure the passage of the bans, they had to agree to a 10-year sunset provision and when the time came, the Bush administration failed to extend them. As president, Biden will



BRIEFING ROOM

Statement by the President Three Years After the Parkland Shooting

FEBRUARY 14, 2021 • STATEMENTS AND RELEASES

Three years ago today, a lone gunman took the lives of 14 students and three educators at Marjory Stoneman Douglas High School in Parkland, Florida. In seconds, the lives of dozens of families, and the life of an American community, were changed forever.

"Today, I am calling on Congress to enact commonsense gun law reforms, including requiring background checks on all gun sales, banning assault weapons and high-capacity magazines, and eliminating immunity for gun manufacturers who knowingly put weapons of war on our streets."

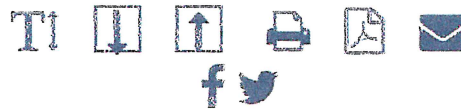
In schools and shopping malls. In churches, mosques, synagogues, and temples. In movie theaters and concert halls. On city street corners that will never get a mention on the evening news. All across our nation, parents, spouses, children, siblings, and friends have known the pain of losing a loved one to gun violence. And in this season of so much loss, last year's historic increase in homicides across America, including the gun violence disproportionately devastating Black and Brown individuals in our cities, has added to the number of empty



T

Biden Calls for Gun Control: 'The Time to Act Is Now'

By Susan Jones | February 15, 2021 | 5:16am EST



(CNSNews.com) - The Biden White House on Valentine's Day released a "Statement by the President" announcing action to end our epidemic of gun violence and make our schools and communities safer."



Second Amendment supporters protest new gun legislation at the Utah State Capitol on February 8, 2020. (Photo by GEORGE FREY/AFP via Getty Images)

"Today, I am calling on Congress to enact commonsense gun law reforms, including requiring background checks on all gun sales, banning assault weapons and high-capacity magazines, and eliminating immunity for gun manufacturers who knowingly put weapons of war on our streets," the statement says.



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US gun control: Biden calls for a ban or assault weapons



March 24, 2021 · 5 min read



Joe Biden



Ten people were killed at a supermarket in Colorado on Monday

President Joe Biden has vowed to take "common-sense steps" to crack down on firearms following two mass shootings in the US in less than a week.

He renewed his call to ban assault weapons and high-capacity magazines and urged Congress to pass bills that would end loopholes in background checks.

BUSINESS NEWS MARCH 25, 2021 / 1:46 PM / UPDATED 10 DAYS AGO

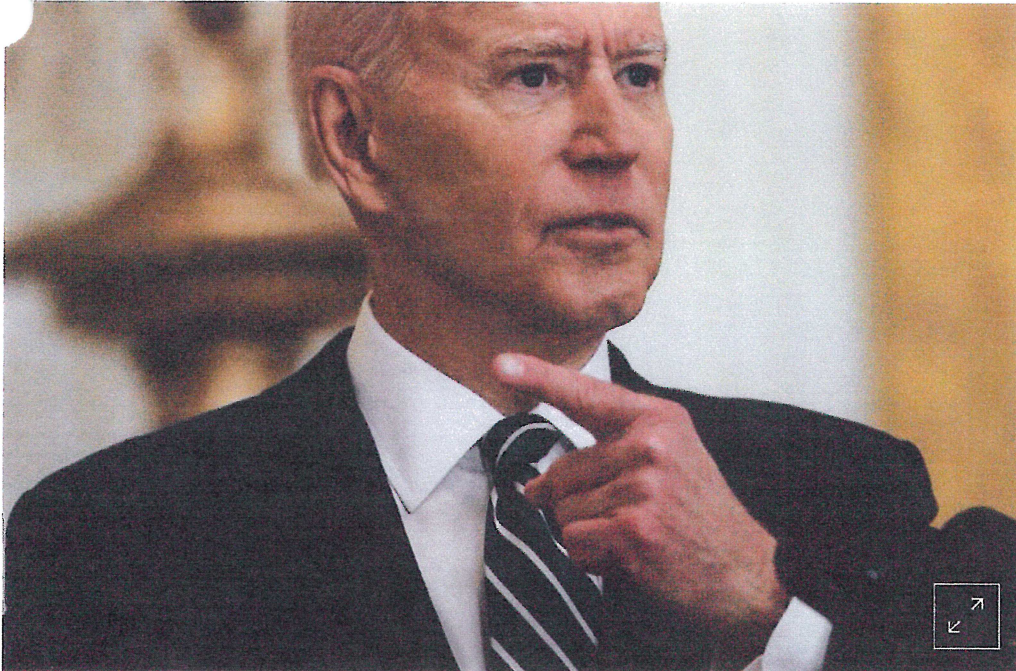
Biden says passing gun control measures is a 'matter of timing'

By Jarrett Renshaw, Nandita Bose

3 MIN READ



WASHINGTON (Reuters) - President Joe Biden said on Thursday that passing new gun control measures in Congress is “a matter of timing” after two mass shootings in a week rattled the United States and put pressure on him to take action to stop firearms violence.



U.S. President Joe Biden speaks as he holds his first formal news conference in the East Room of the White House in Washington, U.S., March 25, 2021. REUTERS/Leah Millis

While Biden, a long-time advocate of gun control measures including increased background checks on gun buyers and banning assault-style weapons, made clear his support for

RECOMMENDED



Georgia teen fatally shot during 'target practice' with friends: officials



Facebook admits to pulling Noah Green's accounts after fatal Capitol incident



Easter crowds return to Jerusalem as more than half of Israel has been vaccinated

NEWS

ON NY

Jen Psaki says Biden will sign gun control executive orders

By Steven Nelson

March 26, 2021 | 3:10pm | Updated



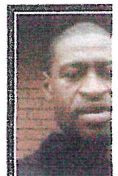
Couple... \$500,000



Inside S... Cuomo's open se



Hundred restaura



JEN PSAKI
White House Press Secretary

C-SPAN

THE WHITE HOUSE
WASHINGTON

LIVE

MORE ON: GUN CONTROL

Biden says he's optimistic about passing gun control through divided Senate

Sen. Murphy says he thinks he can get 60 votes on guns

Gun manufacturers, federal

White House press secretary Jen Psaki on Friday confirmed that President Biden intends to sign executive orders on gun control.

Psaki replied "Yes" to a journalist's question about whether reporters should "be expecting executive orders from the president on gun measures."

But she said the timing was unclear due to a review process.

"When the president was the vice president in the

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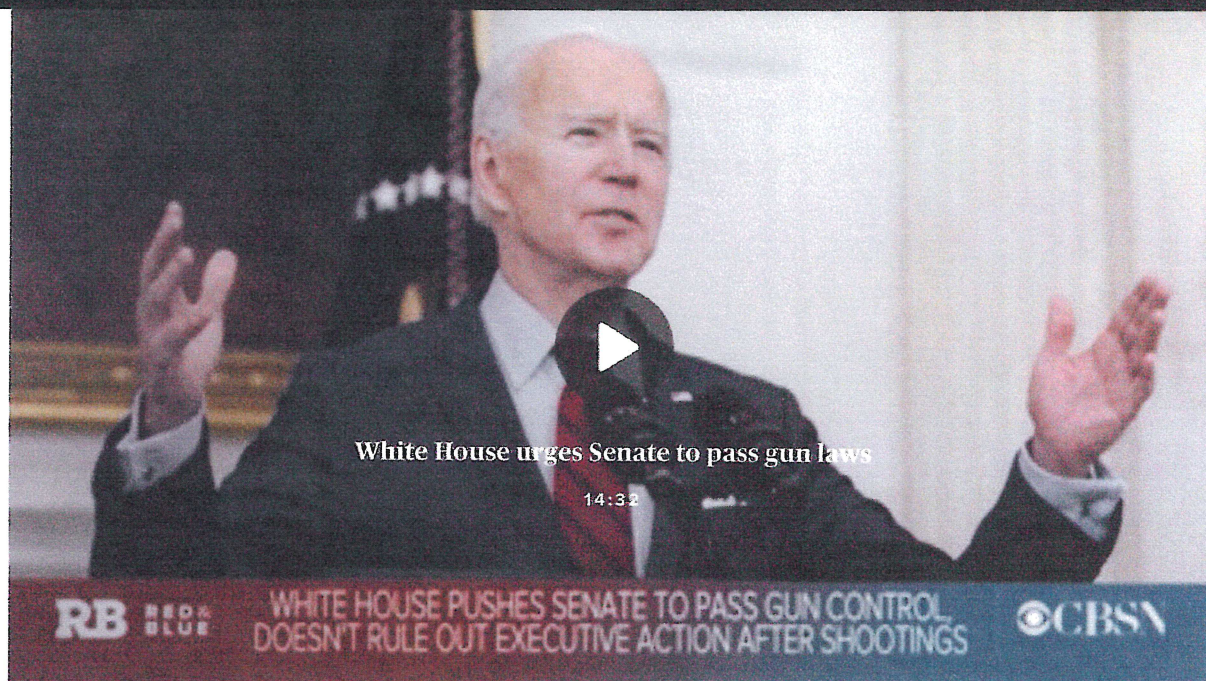
SHOWS

LIVE

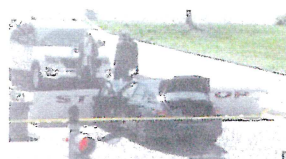


House Democrats ask Biden to take executive action on concealable assault-style firearms

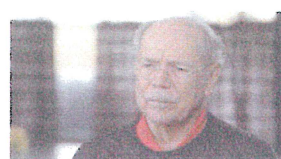
BY GRACE SEGERS
MARCH 31, 2021 / 1:48 PM / CBS NEWS



White House urges Senate to pass gun laws



Security concerns after U.S. Capitol attack



Half a century covering Muhammad Ali



CDC: Fully vaccinated Americans can travel

Washington – Four House Democrats sent a letter to



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AdChoices



Analysis: Biden White House tries to craft gun executive orders that can't be undone

By Trevor Hunnicutt 2 days ago



By Trevor Hunnicutt



© Reuters/JONATHAN ERNST U.S. President Joe Biden comments on the shooting in Colorado at the White House in Washington

WASHINGTON (Reuters) - The White House is trying to craft a series of executive actions for President Joe Biden to sign to try to limit gun violence, hoping they cannot be quickly dismantled in court, according to aides and gun safety groups.

These are 10 of the 19 pages of the bill, which was introduced to Congress on Jan 4, 2021.

I highlighted and underlined some of the numerous areas of concern.

Can you imagine up to \$150,000 fine and 20 years in prison for possessing a gun you currently own, but didn't pay the license fee and undergo the psych eval to get the Federal license?

Please help preserve
the 2nd Amendment.

Vote Yes on HB 1383

117TH CONGRESS
1ST SESSION

H. R. 127

To provide for the licensing of firearm and ammunition possession and the registration of firearms, and to prohibit the possession of certain ammunition.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2021

Ms. JACKSON LEE introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the licensing of firearm and ammunition possession and the registration of firearms, and to prohibit the possession of certain ammunition.

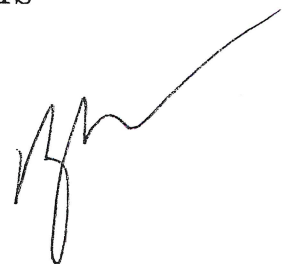
1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Sabika Sheikh Firearm
5 Licensing and Registration Act".

6 **SEC. 2. LICENSING OF FIREARM AND AMMUNITION POSSES-**
7 **SION; REGISTRATION OF FIREARMS.**

8 (a) FIREARM LICENSING AND REGISTRATION SYS-
9 TEM.—



1 (1) IN GENERAL.—Chapter 44 of title 18,
2 United States Code, is amended by adding at the
3 end the following:

4 **“§ 932. Licensing of firearm and ammunition posses-**
5 **sion; registration of firearms**

6 “(a) IN GENERAL.—~~The Attorney General~~, through
7 the Bureau of Alcohol, Tobacco, Firearms and Explosives,
8 shall establish a system for licensing the possession of fire-
9 arms or ammunition in the United States, and for the reg-
10 istration with the Bureau of each firearm present in the
11 United States.

12 “(b) FIREARM REGISTRATION SYSTEM.—

13 “(1) **REQUIRED INFORMATION**.—Under the
14 firearm registration system, the owner of a firearm
15 shall transmit to the Bureau—

16 “(A) the make, model, and serial number
17 of the firearm, the identity of the owner of the
18 firearm, the date the firearm was acquired by
19 the owner, and where the firearm is or will be
20 stored; and

21 “(B) a notice specifying the identity of any
22 person to whom, and any period of time during
23 which, the firearm will be loaned to the person.

1 “(2) DEADLINE FOR SUPPLYING INFORMA-
2 TION.—The transmission required by paragraph (1)
3 shall be made—

4 “(A) in the case of a firearm acquired be-
5 fore the effective date of this section, within 3
6 months after the effective date of this section;
7 or

8 “(B) in the case of a firearm acquired on
9 or after the effective date, on the date the
10 owner acquires the firearm.

11 “(3) DATABASE.—

12 “(A) IN GENERAL.—The Attorney General
13 shall establish and maintain a database of all
14 firearms registered pursuant to this subsection.

15 “(B) ACCESS.—The Attorney General shall
16 make the contents of the database accessible to
17 all members of the public, all Federal, State,
18 and local law enforcement authorities, all
19 branches of the United States Armed Forces,
20 and all State and local governments, as defined
21 by the Bureau.

22 “(c) LICENSING SYSTEM.—

23 “(1) REQUIREMENTS.—

24 “(A) GENERAL LICENSE.—Except as oth-
25 erwise provided in this subsection, the Attorney

1 General shall issue to an individual a license to
2 possess a firearm and ammunition if the indi-
3 vidual—

4 “(i) has attained 21 years of age;

5 “(ii) after applying for the license—

6 “(I) undergoes a criminal back-
7 ground check conducted by the na-
8 tional instant criminal background
9 check system established under sec-
10 tion 103 of the Brady Handgun Vio-
11 lence Prevention Act, and the check
12 does not indicate that possession of a
13 firearm by the individual would violate
14 subsection (g) or (n) of section 922 or
15 State law;

16 “(II) undergoes a psychological
17 evaluation conducted in accordance
18 with paragraph (2), and the evalua-
19 tion does not indicate that the indi-
20 vidual is psychologically unsuited to
21 possess a firearm; and

22 “(III) successfully completes a
23 training course, certified by the Attor-
24 ney General, in the use, safety, and

1 storage of firearms, that includes at
2 least 24 hours of training; and
3 “(iii) demonstrates that, on issuance
4 of the license, the individual will have in
5 effect an insurance policy issued under
6 subsection (d).

7 “(B) ANTIQUE FIREARM DISPLAY LI-
8 CENSE.—The Attorney General shall issue to
9 an individual a license to display an antique
10 firearm in a residence of the individual if the
11 individual—

12 “(i) is the holder of a license issued
13 under subparagraph (A);

14 “(ii) supplies proof that the individual
15 owns an antique firearm;

16 “(iii) describes the manner in which
17 the firearm will be displayed in accordance
18 with regulations prescribed by the Attorney
19 General, and certifies that the firearm will
20 be so displayed; and

21 “(iv) demonstrates that the individual
22 has provided for storage of the firearm in
23 a safe or facility approved by the Attorney
24 General for the storage of firearms.

1 “(C) **MILITARY-STYLE WEAPONS LI-**
2 **CENSE.**—The Attorney General shall issue to
3 an individual a license to own and possess a
4 military-style weapon if the individual—

5 “(i) is the holder of a license issued
6 under subparagraph (A); and

7 “(ii) after applying for a license under
8 this subparagraph, **successfully completes a**
9 **training course**, certified by the Attorney
10 General, in the use, safety, and storage of
11 the weapon, that includes at least 24 hours
12 of training and live fire training.

13 “(2) **PSYCHOLOGICAL EVALUATION.**—A psycho-
14 logical evaluation is conducted in accordance with
15 this paragraph if—

16 “(A) the evaluation is conducted in compli-
17 ance with such standards as shall be established
18 by the Attorney General;

19 “(B) the evaluation is conducted by a li-
20 censed psychologist approved by the Attorney
21 General;

22 “(C) **as deemed necessary by the licensed**
23 **psychologist involved, the evaluation included a**
24 **psychological evaluation of other members of**

PRINTZ V. UNITED STATES, 521 U.S. 898 (1997)

The Brady Handgun Violence Prevention Act, a federal law, called for State and local law enforcement officials to conduct background checks on people seeking to buy a gun.

Two law enforcement officials from Montana and Arizona challenged the law on constitutional grounds. The Court of Appeals found the mandatory background check constitutional.

The U.S. Supreme Court, however, held that it would violate the Tenth Amendment to require State and local law enforcement officials to carry out federal law.

Statement of the Facts:

The federal Gun Control Act of 1968 was designed to limit the sale and ownership of guns. In that law, certain people were disqualified from owning a gun, including convicted felons, fugitives, people who are mentally ill, and non-citizens who had no legal status in the country. In 1993, the Brady Handgun Violence Prevention Act required that background checks be completed to ensure that guns were not falling into the hands of those disqualified from possessing a gun.

The Brady Act's background check system was to go into effect in 1998. In the interim, the Brady Act called for gun purchasers to fill out a personal information form. Gun distributors were mandated to provide that Brady form to local law enforcement. Then, law enforcement officials had five days to determine, through a reasonable effort, that the potential gun purchaser was qualified to own a gun under the Gun Control Act.

Two chief law enforcement officers from Montana and Arizona (Jay Printz being one of the two) challenged the Brady Act's interim procedure, arguing that it forced state officials to enforce federal law.

Rule of Law or Legal Principle Applied: It is a violation of the Constitution for a federal law to direct State and local law enforcement officers to administer a federal regulatory scheme of conducting background checks on gun purchasers.

Reasoning: The majority opinion focused on history, the Constitution's structure, and Court precedent to reach its decision.

With regard to history, there is no evidence through the history of federal laws that the Federal Government commanded the executive branches of States to carry out Congress's bidding. It is true that the Federal Government has commanded State judges to enforce Federal laws. That, however, is inherent in the hierarchy of courts that goes from State to Federal.

With regard to the Constitution's structure, it is clear that our system of government is based on "dual sovereignty," in which federalism provides a distinction between the powers of the State versus the power of the Federal Government. It would violate federalism principles to give the Federal Government complete control of State law enforcement, at no cost to the Federal Government. Finally, with regard to Court precedent, Court decisions like *New York v. U.S.*, stand for the proposition that the Federal Government may not compel the States to administer a federal regulatory program.

Concurring Opinion (O'Connor): The Brady Act violates the Tenth Amendment by forcing State and local officials to perform background checks pursuant to federal law.

Concurring Opinion (Thomas): It should be emphasized that the Tenth Amendment affirms the principle that the Federal Government is one of limited, enumerated powers. Here, the Federal Government acted outside of its authority.



West Fargo Police Department

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Denis E. Otterness
Chief of Police

House Bill 1383

Good morning members of the Senate Judiciary Committee. I want to thank you for the opportunity to be here today. My name is Denis Otterness and I am the Chief of Police for the City of West Fargo. I have been a sworn law enforcement officer for the past 30 years and have served in my current role since September of last year.

I am appearing before you and offering my testimony today in opposition to House Bill 1383. If passed, this bill will significantly impact the positive working relationships we currently have with our Federal law enforcement partners and negatively impact public safety in our communities. Over the course of my career I have seen the many benefits to establishing strong partnerships across local, county, state and federal agencies.

By way of background, I think it's important you know that prior to coming to West Fargo I spent a majority of my 30 year law enforcement career working for the City of Bloomington, a suburb of Minneapolis, Minnesota. During this time I worked 10 ½ years in my department's Special Investigation Unit, in an undercover capacity, primarily investigating drug and human trafficking cases. For nearly eight of those years I was assigned to the Drug Enforcement Administration as a Task Force Officer investigating, disrupting and dismantling large scale drug trafficking organizations. Following my assignment at the Drug Enforcement Administration I spent nearly six years testifying as an expert witness in United States District Court, in the District of Minnesota, in Federal drug and firearms trafficking trials.

The West Fargo Police Department participates on several task forces in the Fargo-Moorhead metro area. I have detectives assigned to the Drug Enforcement Administration Task Force, the United States Marshal's Service High Plains Fugitive Task Force and recently had a detective assigned part time on the Bureau of Alcohol, Tobacco, Firearms and Explosives Task Force. We also have detectives assigned to a Metro Area Street Crimes Unit and N.D. Bureau of Criminal Investigation Narcotics Task Force. Participation and collaboration in these task forces allows for greater information sharing, in addition to pooling and sharing of resources (financial and personnel).

Restricting North Dakota law enforcement from partnering with our federal counterparts will have a significant impact on public safety. Based on my experience our federal partners bring a multitude of resources not always available on a local level. Prohibiting working relationships, especially as it relates to firearms violations, will bring unintended consequences. Our federal law enforcement partners give



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Denis E. Otterness
Chief of Police

us the ability to infiltrate interstate criminal organizations involved in drug trafficking, illegal firearms trafficking, human trafficking, organized retail crime and other criminal activity. Because all of these acts are criminal in nature, and typically involve transfers of large quantities of United States Currency, they nearly always have a firearms nexus. It has been my experience that federal investigation and prosecution has been highly effective when dealing with interstate criminal organizations and career criminals that victimize citizens in our communities.

I would like to provide you with two recent examples of why it is important to defeat this legislation. Over the course of the last two weeks the West Fargo Police Department has responded to two shootings. While I can't provide specific details surrounding these active and on-going investigations I can tell you that both shootings involved unintended juvenile victims being struck by gunfire. These shootings involved suspects well-known to law enforcement and were targeted events. During both of these incidents my department has received significant support from our federal law enforcement partners. Because there is a firearms nexus in both cases the ATF has provided investigative personnel and resources. The Federal Bureau of Investigation has provided analytical support and the United States Marshal's Service assisted in apprehending two subjects who were wanted in connection to these shootings and had fled our local jurisdiction. These cases highlight why it's important that North Dakota law enforcement be able to continue working with our federal counterparts to provide the highest level of public safety to the residents of our communities.

I want to thank you again for the opportunity to be here today and will stand for any questions you might have.

Denis Otterness
Chief of Police
West Fargo Police Department

2021 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1383
4/7/2021

A BILL for an Act to create and enact a new section to chapter 62.1-01 of the North Dakota Century Code, relating to the limitation on enforcing or providing assistance regarding violations of federal firearm laws.
--

Hearing called to order all Senators Present: **Myrdal, Luick, Dwyer, Bakke, Fors, Heitkamp, Larson.** [9:27]

Discussion Topics:

- 2nd Amendment Rights
- Statutory provisions for firearms

Senator Dwyer Moved Amendment
21.0822.03001 [9:39]

Senator Myrdal Seconded the Motion

Vote Passed 7-0-0

Vote to Amend HB 1383	Vote
Senator Diane Larson	Y
Senator Michael Dwyer	Y
Senator JoNell A. Bakke	Y
Senator Robert O. Fors	Y
Senator Jason G. Heitkamp	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Senator Dwyer Moved a DO PASS AS
AMENDED [9:40]

Senator Luick Seconded the Motion

Vote Passed 7-0-0

Senator Dwyer Carried the Bill

Vote to DO PASS AS AMENDED	Vote
Senator Diane Larson	Y
Senator Michael Dwyer	Y
Senator JoNell A. Bakke	Y
Senator Robert O. Fors	Y
Senator Jason G. Heitkamp	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Hearing Adjourned [9:41]

Jamal Omar, Committee Clerk

April 7, 2021

8/10/21
417

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1383

Page 1, line 3, after "laws" insert "; and to declare an emergency"

Page 1, line 8, remove "As used in this section, "firearm accessory" means an item used in conjunction with or"

Page 1, remove lines 9 and 10

Page 1, line 11, remove "2."

Page 1, line 15, remove ", firearm accessory,"

Page 1, line 16, after "ammunition" insert "enacted after January 1, 2021, if the federal statute, order, rule, or regulation is more restrictive than state law,"

Page 1, line 21, after "chapter" insert "12.1-16,"

Page 1, line 21, after "12.1-17" insert ", 12.1-18, 12.1-20, 12.1-41, 19-03.1, or is a felony offense"

Page 1, line 22, replace "3." with "2."

Page 2, line 2, after "firearms" insert "or an offense that firearms are incidental to, including a drug offense, homicide, assault, kidnapping, sex offense, or human trafficking"

Page 2, after line 2, insert:

"3. This section does not prohibit law enforcement from providing assistance to a federal agency or official if the investigation also pertains to a felony violation of state law.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

REPORT OF STANDING COMMITTEE

HB 1383, as reengrossed: Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1383 was placed on the Sixth order on the calendar.

Page 1, line 3, after "laws" insert "; and to declare an emergency"

Page 1, line 8, remove "As used in this section, "firearm accessory" means an item used in conjunction with or"

Page 1, remove lines 9 and 10

Page 1, line 11, remove "2."

Page 1, line 15, remove ", firearm accessory."

Page 1, line 16, after "ammunition" insert "enacted after January 1, 2021, if the federal statute, order, rule, or regulation is more restrictive than state law."

Page 1, line 21, after "chapter" insert "12.1-16."

Page 1, line 21, after "12.1-17" insert ", 12.1-18, 12.1-20, 12.1-41, 19-03.1, or is a felony offense"

Page 1, line 22, replace "3." with "2."

Page 2, line 2, after "firearms" insert "or an offense that firearms are incidental to, including a drug offense, homicide, assault, kidnapping, sex offense, or human trafficking"

Page 2, after line 2, insert:

"3. This section does not prohibit law enforcement from providing assistance to a federal agency or official if the investigation also pertains to a felony violation of state law."

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2021 CONFERENCE COMMITTEE

HB 1383

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

HB 1383
4/14/2021
Conference committee

Relating to the limitation on enforcing or providing assistance regarding violations of federal firearm laws

Chairman Pyle: (10:30). Opened the conference committee.

Rep. Pyle: Present.

Rep. Nehring: Present.

Rep. Adams: Present.

Sen. Dwyer: Present.

Sen. Luick: Present

Sen. Bakke: Present.

Discussion Topics:

- Emergency measure
- Firearm accessory

Rep. Nehring: Explained the proposed amendments 21.0822.03002 # 11504 an # 11505.

Sen. Dwyer: Clarified the proposed amendments.

Rep. Nehring: Made a motion that the Senate recede and further amend LC #21.0822.03003.

Sen. Luick: Second the motion.

Roll call vote.

Rep. Pyle: Yes

Rep. Nehring: Yes

Rep. Adams: Yes

Sen. Dwyer: Yes

Sen. Luick: Yes

Sen. Bakke: Yes

Roll call 6-0-0 carried.

Sen. Dwyer: Will carry for the bill for the Senate.

Rep. Nehring: Will carry the bill for the House.

House Political Conference Committee

HB 1383

04/14/21

Page 2

Rep. Pyle: Adjourned the conference committee.

Carmen Hickle, Committee Clerk and Donna Whetham

April 14, 2021

DO 4/14/21
(of)

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1383

That the Senate recede from its amendments as printed on page 1543 of the House Journal and page 1256 of the Senate Journal and that Reengrossed House Bill No. 1383 be amended as follows:

Page 1, line 3, after "laws" insert "; and to declare an emergency"

Page 1, line 16, after "ammunition" insert "enacted after January 1, 2021, if the federal statute, order, rule, or regulation is more restrictive than state law."

Page 1, line 21, after "chapter" insert "12.1-16."

Page 1, line 21, after "12.1-17" insert ", 12.1-18, 12.1-20, 12.1-41, or 19-03.1"

Page 2, line 2, after "firearms" insert "or an offense to which firearms are incidental, including a drug offense, homicide, assault, kidnapping, sex offense, or human trafficking"

Page 2, after line 2, insert:

"4. This section does not prohibit law enforcement from providing assistance to a federal agency or official if the investigation also pertains to a felony violation of state law.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

**2021 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1383 as Reengrossed

House Political Subdivisions Committee

- Action Taken**
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Nehring Seconded by: Sen. Luick

Representatives	4-14		Yes	No	Senators	4-14		Yes	No
Rep. Pyle Chairman	P		X		Sen. Dwyer	P		X	
Rep. Nehring	P		X		Sen. Luick	P		X	
Rep. Adams	P		X		Sen. Bakke	P		X	
Total Rep. Vote					Total Senate Vote				

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Nehring Senate Carrier Sen. Dwyer

LC Number 21.0822 . 03003 of amendment

LC Number 21.0822 . 05000 of engrossment

REPORT OF CONFERENCE COMMITTEE

HB 1383, as reengrossed: Your conference committee (Sens. Dwyer, Luick, Bakke and Reps. Pyle, Nehring, Adams) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1256, adopt amendments as follows, and place HB 1383 on the Seventh order:

That the Senate recede from its amendments as printed on page 1543 of the House Journal and page 1256 of the Senate Journal and that Reengrossed House Bill No. 1383 be amended as follows:

Page 1, line 3, after "laws" insert "; and to declare an emergency"

Page 1, line 16, after "ammunition" insert "enacted after January 1, 2021, if the federal statute, order, rule, or regulation is more restrictive than state law,"

Page 1, line 21, after "chapter" insert "12.1-16,"

Page 1, line 21, after "12.1-17" insert ", 12.1-18, 12.1-20, 12.1-41, or 19-03.1"

Page 2, line 2, after "firearms" insert "or an offense to which firearms are incidental, including a drug offense, homicide, assault, kidnapping, sex offense, or human trafficking"

Page 2, after line 2, insert:

"4. This section does not prohibit law enforcement from providing assistance to a federal agency or official if the investigation also pertains to a felony violation of state law.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

Reengrossed HB 1383 was placed on the Seventh order of business on the calendar.

21.0822.03002
Title.

Prepared by the Legislative Council staff for
Representative Becker
April 12, 2021

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1383

That the Senate recede from its amendments as printed on page 1543 of the House Journal and page 1256 of the Senate Journal and that Reengrossed House Bill No. 1383 be amended as follows:

Page 1, line 3, after "laws" insert "; and to declare an emergency"

Page 1, line 16, after "ammunition" insert "enacted after January 1, 2021, if the federal statute, order, rule, or regulation is more restrictive than state law."

Page 1, line 21, after "chapter" insert "12.1-16."

Page 1, line 21, after "12.1-17" insert ", 12.1-18, 12.1-20, 12.1-41, 19-03.1, or is a state felony offense"

Page 2, after line 2, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

21.0822.03002

SECOND ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1383

Introduced by

Representatives Becker, Dockter, Kasper, Nehring, Rohr, M. Ruby, Steiner

Senators Elkin, Kannianen, Meyer, Wobbema

1 A BILL for an Act to create and enact a new section to chapter 62.1-01 of the North Dakota
2 Century Code, relating to the limitation on enforcing or providing assistance regarding violations
3 of federal firearm laws; and to declare an emergency.

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

5 **SECTION 1.** A new section to chapter 62.1-01 of the North Dakota Century Code is created
6 and enacted as follows:

7 Federal firearms laws - Limitations on enforcement.

8 1. As used in this section, "firearm accessory" means an item used in conjunction with or
9 mounted on a firearm but is not essential to the basic function of a firearm. The term
10 includes a detachable firearm magazine.

11 2. An agency or political subdivision of the state and a law enforcement officer or
12 individual employed by an agency or political subdivision of the state may not provide
13 assistance to a federal agency or official or act independently with respect to the
14 investigation, prosecution, or enforcement of a violation of a federal statute, order,
15 rule, or regulation purporting to regulate a firearm, firearm accessory, or firearm
16 ammunition enacted after January 1, 2021, if the federal statute, order, rule, or
17 regulation is more restrictive than state law, unless:

18 a. The federal agency appeals to the federal district court of the federal district in
19 which the violation or possible violation occurred or would occur and the court
20 finds probable cause that a national security threat exists;

21 b. The violation also is a violation under this title; or

22 c. The violation also is a violation of chapter 12.1-16, 12.1-17, 12.1-18, 12.1-20,
23 12.1-41, 19-03.1, or is a state felony offense.

1 3. This section does not prohibit an agency or political subdivision of the state or a law
2 enforcement officer or individual employed by an agency or political subdivision of the
3 state from providing assistance to a federal agency or official for an offense not related
4 to firearms.

5 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.