

Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1169

Introduced by

Representatives Rick C. Becker, B. Koppelman, Magrum, Olson, Paur, Porter, Simons

Senators O. Larsen, Luick, Myrdal, Vedaa

A BILL ~~for an Act to amend and reenact section 12-44.1-30, subsection 3 of section 12-47-34, section 62.1-02-05, subdivision c of subsection 1 of section 62.1-02-13, and sections 62.1-03-01, 62.1-04-02, 62.1-04-03, and 62.1-04-04 of the North Dakota Century Code, relating to the possession of firearms and licensing of individuals to carry firearms; and to repeal sections 62.1-02-10 and 62.1-02-10.1 of the North Dakota Century Code, relating to the possession of firearms and licensing of individuals to carry firearms.~~ for an Act to create and enact a new subdivision to subsection 2 of section 62.1-03-01 of the North Dakota Century Code, relating to carrying a handgun; to amend and reenact sections 62.1-04-02 and 62.1-04-04 of the North Dakota Century Code, relating to carrying concealed firearms or dangerous weapons; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~SECTION 1. AMENDMENT.~~ ~~Section 12-44.1-30 of the North Dakota Century Code is amended and reenacted as follows:~~

~~12-44.1-30. Correctional officers authorized to carry weapons.~~

~~The administrator of a correctional facility may allow a qualified correctional officer to carry a weapon, including a firearm, during the transport of another governmental agency's prisoner if the correctional facility has a contract with the governmental agency to transport the agency's prisoners and that contract requires the officer doing the transport to be armed with a weapon. For purposes of this section, "governmental agency" means an agency or department of this state or of any political subdivision in this state, or another state or of a political subdivision of another state, or of the United States. The administrator of a correctional facility shall adopt a policy, approved by the director of the department of corrections and rehabilitation, which establishes the qualifications and training an officer must meet to carry a weapon under this section. Sections~~ Section 62.1-02-05, 62.1-02-10, and 62.1-03-01 do does not apply to the

possession and use of a firearm by a qualified correctional officer acting in the course of employment as allowed by this section.

SECTION 2. AMENDMENT. Subsection 3 of section 12-47-34 of the North Dakota Century Code is amended and reenacted as follows:

~~3. Sections 62.1-02-05, 62.1-02-10, and 62.1-03-01 do~~ does not apply to the possession and use of firearms by authorized and trained correctional officers acting in the course of their employment under this section.

SECTION 3. AMENDMENT. Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering -- Penalty -- Application.

1. An individual who knowingly possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" means an athletic or sporting event, a school, a church, and a publicly owned or operated building.

2. This section does not apply to:

a. A law enforcement officer;

b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;

c. A competitor participating in an organized sport shooting event;

d. A gun or antique show;

e. A participant using a blank cartridge firearm at a sporting or theatrical event;

f. A firearm or dangerous weapon carried in a temporary residence or motor vehicle;

g. A student and an instructor at a hunter safety class;

h. Private security personnel while on duty;

i. A state or federal park;

j. An instructor, a test administrator, an official, or a participant in educational, training, cultural, or competitive events involving the authorized use of a dangerous weapon if the event occurs with permission of the person or entity with authority over the function or premises in question;

- 1 ~~———— k. — An individual in a publicly owned or operated rest area or restroom;~~
- 2 ~~———— l. — An individual possessing a valid concealed weapons license from this state or~~
- 3 ~~who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry~~
- 4 ~~a dangerous weapon concealed if the individual who is in a church building or~~
- 5 ~~other place of worship and has the approval to carry in the church building or~~
- 6 ~~other place of worship by a primary religious leader of the church or other place~~
- 7 ~~of worship or the governing body of the church or other place of worship. If a~~
- 8 ~~church or other place of worship authorizes an individual to carry a concealed~~
- 9 ~~weapon, local law enforcement must be informed of the name of the authorized~~
- 10 ~~individual; and~~
- 11 ~~———— m. — A municipal court judge, a district court judge, a staff member of the office of~~
- 12 ~~attorney general, and a retired North Dakota law enforcement officer, if the~~
- 13 ~~individual maintains the same level of firearms proficiency as is required by the~~
- 14 ~~peace officer standards and training board for law enforcement officers. A local~~
- 15 ~~law enforcement agency shall issue a certificate of compliance under this section~~
- 16 ~~to an individual who is proficient.~~
- 17 ~~—— 3. — This section does not prevent any political subdivision from enacting an ordinance that~~
- 18 ~~is less restrictive than this section relating to the possession of firearms or dangerous~~
- 19 ~~weapons at a public gathering. An enacted ordinance supersedes this section within~~
- 20 ~~the jurisdiction of the political subdivision.~~
- 21 ~~—— **SECTION 4. AMENDMENT.** Subdivision c of subsection 1 of section 62.1-02-13 of the~~
- 22 ~~North Dakota Century Code is amended and reenacted as follows:~~
- 23 ~~———— c. — Condition employment upon the fact that an employee or prospective employee~~
- 24 ~~holds or does not hold a concealed weapons license or any agreement by an~~
- 25 ~~employee or a prospective employee that prohibits an employee from keeping a~~
- 26 ~~legal firearm locked inside or locked to a private motor vehicle in a parking lot, if~~
- 27 ~~the firearm is kept for lawful purposes.~~
- 28 ~~—— **SECTION 5. AMENDMENT.** Section 62.1-03-01 of the North Dakota Century Code is~~
- 29 ~~amended and reenacted as follows:~~

~~62.1-03-01. Carrying handgun -- Restrictions -- Exceptions.~~

~~1. AAn individual may carry a handgun may not be carried unless by anthe individual
notis otherwise prohibited and if:~~

~~a. Between the hours of one hour before sunrise and one hour after sunset, the
handgun is unloaded and either in plain view or secured.~~

~~b. Between the hours of one hour after sunset and one hour before sunrise, the
handgun is unloaded and secured.~~

~~2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:~~

~~a. An individual possessing a valid concealed weapons license from this state or
who has reciprocity under section 62.1-04-03.1.~~

~~b. An individual on that person's land, or in that individual's permanent or temporary
residence, or fixed place of business.~~

~~c. An individual while lawfully engaged in target shooting.~~

~~d. An individual while in the field engaging in the lawful pursuit of hunting or
trapping. However, nothing in this exception authorizes the carrying of a loaded
handgun in a motor vehicle.~~

~~e. An individual permitted by law to possess a firearm while carrying the handgun
unloaded and in a secure wrapper from the place of purchase to that person's
home or place of business, or to a place of repair or back from those locations.~~

~~f. Any North Dakota law enforcement officer.~~

~~g. Any law enforcement officer of any other state or political subdivision of another
state if on official duty within this state.~~

~~h. Any armed security guard or investigator as authorized by law when on duty or
going to or from duty.~~

~~i. Any member of the armed forces of the United States when on duty or going to or
from duty and when carrying the handgun issued to the member.~~

~~j. Any member of the national guard, organized reserves, state defense forces, or
state guard organizations, when on duty or going to or from duty and when
carrying the handgun issued to the member by the organization.~~

~~k. Any officer or employee of the United States duly authorized to carry a handgun.~~

1 ~~l. An individual engaged in manufacturing, repairing, or dealing in handguns or the~~
2 ~~agent or representative of that individual possessing, using, or carrying a~~
3 ~~handgun in the usual or ordinary course of the business.~~

4 ~~m. Any common carrier, but only when carrying the handgun as part of the cargo in~~
5 ~~the usual cargo-carrying portion of the vehicle by law.~~

6 ~~**SECTION 6. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is~~
7 ~~amended and reenacted as follows:~~

8 ~~**62.1-04-02. Carrying concealed firearms or dangerous weapons prohibited.**~~

9 ~~1. An individual under twenty-one years of age, other than a law enforcement officer or~~
10 ~~member of the armed forces of the United States or national guard, organized~~
11 ~~reserves, state defense forces, or state guard organizations, may not carry any firearm~~
12 ~~or dangerous weapon concealed unless the individual is licensed to do so or~~
13 ~~exempted under this chapter.~~

14 ~~2. An individual who is a citizen or legal resident of the United States and is at least~~
15 ~~twenty-one years of age, may carry any firearm or dangerous weapon concealed~~
16 ~~unless otherwise prohibited by law.~~

17 ~~**SECTION 7. AMENDMENT.** Section 62.1-04-03 of the North Dakota Century Code is~~
18 ~~amended and reenacted as follows:~~

19 ~~**62.1-04-03. License to carry a firearm or dangerous weapon concealed – Class 1**~~
20 ~~**firearm license and class 2 firearm and dangerous weapon license.**~~

21 ~~1. The director of the bureau of criminal investigation shall issue a class 1 firearm license~~
22 ~~to carry a firearm or dangerous weapon concealed upon application if the applicant is~~
23 ~~not otherwise prohibited by law and meets the all of following criteria and the~~
24 ~~requirements of subsection 3:~~

25 ~~a. The applicant is at least twenty-one years of age;~~

26 ~~b. The applicant can demonstrate that the applicant is a resident of this state by~~
27 ~~providing a copy of a valid driver's license or state issued identification card from~~
28 ~~this state which establishes personal identification through photographic means~~
29 ~~and shows the applicant's name associated with a valid residential street address~~
30 ~~in this state or the applicant possesses a valid driver's license from the~~
31 ~~applicant's state of residence which establishes personal identification through~~

photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which state has reciprocity with this state under section 62.1-04-03.1;

~~c. The applicant:~~

~~(1) Has not been convicted of a felony;~~

~~(2) Has not been convicted of a crime of violence;~~

~~(3) Has not been convicted of an offense involving the use of alcohol within ten years before the date of application;~~

~~(4) Has not been convicted of a misdemeanor offense involving the unlawful use of narcotics or other controlled substances within ten years before the date of application;~~

~~(5) Has not been convicted of an offense involving moral turpitude;~~

~~(6) Has not been convicted of an offense involving domestic violence;~~

~~(7) Has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and~~

~~(8) Is qualified to purchase and possess a firearm under federal law;~~

~~d. The applicant has successfully completed the testing procedure conducted by a certified test administrator. The person conducting the testing may assess a charge of up to fifty dollars for conducting this testing. The attorney general may certify a test administrator based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation;~~

~~e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed the criminal history records check conducted by the bureau of criminal investigation and the federal bureau of investigation. The applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records. The bureau may deny approval for a license if the bureau has reasonable cause to believe~~

~~the applicant or licenseholder has been or is a danger to self or others as demonstrated by evidence, including past pattern of behavior involving unlawful violence or threats of unlawful violence, past participation in incidents involving unlawful violence or threats of unlawful violence, or conviction of a weapons offense. In determining whether the applicant or licenseholder has been or is a danger to self or others, the bureau may inspect expunged records of arrests and convictions of adults and juvenile court records; and~~

~~f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that individual's control.~~

~~2. The director of the bureau of criminal investigation shall issue a class 2 license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the director if the applicant is not otherwise prohibited by law and all of the following criteria and the requirements of subsection 3 are met:~~

~~a. The applicant is at least twenty-oneeighteen years of age for a class 1 firearm license or at least eighteen years of age for a class 2 firearm and dangerous weapon license;~~

~~b. The applicant can demonstrate that the applicant is a resident of this state by providing a copy of a valid driver's license or state issued identification card from this state thatwhich establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or the applicant possesses a valid driver's license from the applicant's state of residence thatwhich establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which state has reciprocity with this state under section 62.1-04-03.1;~~

~~c. The applicant is not an individual specified in section 62.1-02-01 and for a class 1 firearm license the applicant:~~

~~(1) Has not been convicted of a felony;~~

~~(2) Has not been convicted of a crime of violence;~~

1 ~~_____ (3) Has not been convicted of an offense involving the use of alcohol within ten~~
2 ~~years prior to the date of application;~~
3 ~~_____ (4) Has not been convicted of a misdemeanor offense involving the unlawful~~
4 ~~use of narcotics or other controlled substances within ten years prior to the~~
5 ~~date of application;~~
6 ~~_____ (5) Has not been convicted of an offense involving moral turpitude;~~
7 ~~_____ (6) Has not been convicted of an offense involving domestic violence;~~
8 ~~_____ (7) Has not been adjudicated by a state or federal court as mentally~~
9 ~~incompetent, unless the adjudication has been withdrawn or reversed; and~~
10 ~~_____ (8) Is qualified to purchase and possess a firearm under federal law;~~
11 ~~_____ d. The applicant has successfully completed the testing procedure conducted by a~~
12 ~~certified test administrator. The person conducting the testing may assess a~~
13 ~~charge of up to fifty dollars for conducting this testing. The attorney general may~~
14 ~~certify a test administrator based upon criteria and guidelines prescribed by the~~
15 ~~director of the bureau of criminal investigation;~~
16 ~~_____ e. d. The applicant satisfactorily completes the bureau of criminal investigation~~
17 ~~application form and has successfully passed the criminal history records check~~
18 ~~conducted by the bureau of criminal investigation and the federal bureau of~~
19 ~~investigation. The applicant shall provide all documentation relating to any~~
20 ~~court-ordered treatment or commitment for mental health or alcohol or substance~~
21 ~~abuse. The applicant shall provide the director of the bureau of criminal~~
22 ~~investigation written authorizations for disclosure of the applicant's mental health~~
23 ~~and alcohol or substance abuse evaluation and treatment records. The bureau~~
24 ~~may deny approval for a license if the bureau has reasonable cause to believe~~
25 ~~that the applicant or licenseholder has been or is a danger to self or others as~~
26 ~~demonstrated by evidence, including past pattern of behavior involving unlawful~~
27 ~~violence or threats of unlawful violence; past participation in incidents involving~~
28 ~~unlawful violence or threats of unlawful violence; or conviction of a weapons~~
29 ~~offense. In determining whether the applicant or licenseholder has been or is a~~
30 ~~danger to self or others, the bureau may inspect expunged records of arrests and~~
31 ~~convictions of adults and juvenile court records; and~~

~~f.e. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that individual's control.~~

~~2.3. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous-weapon licenses to carry a firearm or dangerous weapon concealed under the following requirements:~~

~~a. An applicant for a class 1 firearm license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:~~

~~(1) Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor;~~

~~(2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;~~

~~(3) Possession of a license from another state to carry a firearm, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or~~

~~(4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm.~~

~~b. An applicant for a class 2 firearm and dangerous weapon license is required to successfully complete the open book test offered for the class 1 firearm license.~~

~~c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. Class 1 and class 2 permits are equally valid in this state.~~

~~d. Additional testing is not required to renew a class 2 firearm and dangerous-weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within thirty days before submission of the application for renewal.~~

- ~~3.4.~~ The director of the bureau of criminal investigation shall send by mail to a holder of a license a notice of the procedures for renewal of the license issued under this section. The director shall give the notice at least one hundred fifty days but not more than one hundred eighty days before the expiration of the license.
- ~~4.5.~~ The bureau of criminal investigation is required to process the application and make a determination within sixty days of receipt of the properly completed application.
- ~~5.6.~~ The fee for a concealed weapons license must be credited to the attorney general's operating fund. All fees must be paid before the license application may be processed by the director of the bureau of criminal investigation. The attorney general shall list the fees associated with the license, including the costs of the fingerprint-based federal criminal history record check, in the attorney general's administrative rules.
- ~~6.7.~~ The director of the bureau of criminal investigation shall prescribe the form of the application and license, which must include the name, address, description, a photograph, and the signature of the individual. The application form must require sufficient information to properly conduct a criminal history record check and be accompanied by:
- ~~a.~~ A photocopy of a valid driver's license or identification card issued by this state which establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or a valid state-issued driver's license from the applicant's state of residence which establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which has reciprocity with this state under section 62.1-04-03.1; and
 - ~~b.~~ Two sets of classifiable fingerprints. The two sets of classifiable fingerprints are not required for a renewal of a concealed weapons license. The license is valid for five years. The original license must be delivered to the licensee and an electronic copy must be preserved for six years by the director. Access to license information must be available to law enforcement through electronic means for official law enforcement purposes. The applicant or licenseholder shall notify the director of the bureau of criminal investigation of any change of address or any

1 other material fact which would affect the restrictions on or the need for the
2 license.

3 ~~7.8.~~ The director of the bureau of criminal investigation may deny an application or revoke
4 or cancel a license after it has been granted for any material misstatement by an
5 applicant in an application for the license or any violation of this title. The director of
6 the bureau of criminal investigation shall disclose to the applicant the specific reason
7 for denial or revocation of the license.

8 ~~8.9.~~ The applicant may appeal a denial or revocation of this license to the district court of
9 Burleigh County.

10 ~~9.10.~~ Information collected from an applicant under this section is confidential information.
11 However, the information may be disclosed:

12 ~~_____ a.~~ To a governmental agency or court for a law enforcement purpose, including the
13 investigation, prosecution, or punishment of a violation of law.

14 ~~_____ b.~~ To a court to aid in a decision concerning sentence, probation, or release pending
15 trial or appeal.

16 ~~_____ c.~~ Pursuant to a court order or a judicial, legislative, or administrative agency
17 subpoena issued in this state.

18 ~~10.11.~~ The availability of a license to carry a firearm or dangerous weapon concealed under
19 this section or under any other provision of law may not be construed to prohibit the
20 carrying of a firearm or dangerous weapon concealed as provided in section
21 62.1-04-02.

22 ~~12.~~ The attorney general may adopt any rules necessary to implement this title.

23 ~~SECTION 8. AMENDMENT.~~ Section 62.1-04-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 ~~62.1-04-04. Producing license on demand.~~

26 ~~_____ Every person while carrying a concealed firearm or dangerous weapon, for which a license~~
27 ~~to carry concealed is required, shall have on one's person the license issued by this or another~~
28 ~~state and shall give it to any law enforcement officer for an inspection upon demand by the~~
29 ~~officer. The failure of any person to give the license to the officer is prima facie evidence that the~~
30 ~~person is illegally carrying a firearm or dangerous weapon concealed.~~

1 ~~— **SECTION 9. REPEAL.** Sections 62.1-02-10 and 62.1-02-10.1 of the North Dakota Century~~
2 ~~Code are repealed.~~

3 **SECTION 1.** A new subdivision to subsection 2 of section 62.1-03-01 of the North Dakota
4 Century Code is created and enacted as follows:

5 An individual who is not otherwise precluded from possessing a class 2 firearm
6 and dangerous weapon license under chapter 62.1-04 and has possessed for at
7 least one year a valid driver's license or nondriver identification card issued by
8 the department of transportation.

9 **SECTION 2. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **62.1-04-02. Carrying concealed firearms or dangerous weapons**~~prohibited~~.

12 1. An individual, other than a law enforcement officer, may not carry ~~any~~a firearm or
13 dangerous weapon concealed unless the individual is licensed to do so or exempted
14 under this chapter.

15 2. An individual who is not otherwise precluded from possessing a class 2 firearm and
16 dangerous weapon license under this chapter and who has possessed for at least one
17 year a valid driver's license or nondriver identification card issued by the department of
18 transportation may carry a firearm concealed under this chapter.

19 **SECTION 3. AMENDMENT.** Section 62.1-04-04 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **62.1-04-04. Producing license on demand.**

22 1. Every ~~person~~individual while carrying a concealed firearm or dangerous weapon, for
23 which a license to carry concealed is required, shall have on one's person the license
24 issued by this or another state and shall give it to any law enforcement officer for an
25 inspection upon demand by the officer. The failure of any ~~person~~individual to give the
26 license to the officer is prima facie evidence ~~that~~ the ~~person~~individual is illegally
27 carrying a firearm or dangerous weapon concealed.

28 2. Every individual carrying a concealed firearm under the authority granted in
29 subsection 2 of section 62.1-04-02 shall inform a law enforcement officer of the
30 individual's possession of a concealed weapon upon the initiation of a traffic stop or
31 any other in-person contact initiated by a law enforcement officer.

1 3. Every individual carrying a concealed firearm under the authority granted in
2 subsection 2 of section 62.1-04-02 must have on one's person a valid driver's license
3 or nondriver identification card issued by the department of transportation or a digital
4 image of one's valid driver's license or nondriver identification card on a mobile device
5 and shall provide the license or card to any law enforcement officer for inspection
6 upon demand by the officer.