

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

Page 1, line 1, remove "to create and enact chapter 20.1-18 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to a database identifying whether private land is open to hunters;"

Page 1, line 3, after the first comma insert "20.1-01-17,"

Page 1, line 5, remove "legislative management"

Page 1, line 5, after "study" insert "of access to land"

Page 1, line 5, replace "and to provide a penalty" with "to repeal sections 20.1-01-17 and 20.1-01-20; to provide for a report to the legislative management and interim legislative committees; to provide a penalty; to provide a contingent effective date; to provide a contingent expiration date; and to declare an emergency"

Page 1, line 19, after "in" insert "subsection 3 and"

Page 1, line 19, after the third underscored comma insert "and"

Page 1, line 19, remove ". and" and

Page 1, line 20, remove "20.1-18-03"

Page 1, line 21, overstrike "a. An individual is guilty of a class B misdemeanor if, knowing that that individual is"

Page 1, overstrike lines 22 through 24

Page 2, overstrike lines 1 through 10

Page 2, line 11, overstrike "4."

Page 2, line 11, remove the overstrike over "a: ~~An individual~~"

Page 2, line 11, remove the overstrike over "~~may~~"

Page 2, line 12, remove the overstrike over "~~not~~"

Page 2, line 12, remove the overstrike over "~~remain~~"

Page 2, line 13, after "intruders" insert "on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual"

Page 2, line 13, remove the overstrike over "~~.A~~"

Page 2, remove the overstrike over line 14

Page 2, line 15, remove the overstrike over "b: ~~A peace officer shall cite an individual who violates subdivision a~~" and insert immediately thereafter "or commits a noncriminal offense under section 20.1-01-18"

Page 2, line 15, remove the overstrike over "~~with a fine of~~"

Page 2, remove the overstrike over lines 16 through 31

Page 3, remove the overstrike over lines 1 through 12

Page 3, line 13, overstrike "An individual is guilty of a class B misdemeanor if that individual remains upon the"

Page 3, overstrike lines 14 through 16

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "duties" insert: "; or

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

Page 3, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
  - a. ~~Enters~~enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; ~~or~~
  - b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a building or structure, or any other place the individual is not licensed or privileged to be, except as provided in subsection 3.~~
3. ~~a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.~~
  - a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.~~
  - b. ~~Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.~~

- ~~e. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~
- 4.
  - a. ~~An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruderson property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual.~~ A violation of this subdivision is a noncriminal offense.
  - b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.
  - c. The peace officer citing the individual shall:
    - (1) Take the name and address of the individual; and
    - (2) Notify the individual of the right to request a hearing if posting bond by mail.
  - d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
  - e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
  - f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
  - g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
  - h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
  - i. A citing peace officer may not receive the statutory fine or bond.
  - j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
- 5. ~~An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by~~

~~a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~

~~6-4.~~ This section does not apply to a:

- a. A peace officer in the course of discharging the peace officer's official duties; or
- b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure.

**SECTION 3. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land. Land may be posted by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land or by designating the land as closed to hunters in a database or other electronic application available to the public which is operated and maintained by the state for purposes of electronic posting. ~~The land is physically posted.~~ the name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances."

Page 3, line 21, remove the overstrike over "~~on posted land~~"

Page 3, line 25, after the underscored comma insert "unless the land is legally posted or the individual is requested to leave by a duly authorized person"

Page 3, line 25, after "person" insert "A person"

Page 3, line 25, remove the overstrike over "~~may~~" and insert immediately thereafter "not"

Page 3, line 25, remove the overstrike over "~~enter upon privately owned land for the~~"

Page 3, remove the overstrike over line 26

Page 3, line 27, remove the overstrike over "~~the owner or operator of that land. A person who violates this section is guilty of a~~"

Page 3, line 28, after the first "misdemeanor" insert "noncriminal offense subject to the fines and procedures under subsection 3 of section 12.1-22-03"

Page 3, line 28, remove the overstrike over "~~for the first offense and a class A misdemeanor for a subsequent offense within a~~"

Page 3, line 29, remove the overstrike over "~~two-year period~~"

Page 3, line 29, remove "unless the land is designated as closed to hunters or open to hunters with"

Page 3, remove line 30

Page 3, line 31, remove "20.1-01-17"

Page 3, line 31, remove the overstrike over the overstruck period

Page 3, after line 31, insert:

**"SECTION 5. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

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

No person may hunt or pursue game, or enter for those purposes, upon ~~legally posted~~privately owned land belonging to another without first obtaining the permission of the person legally entitled to grant the same. No person may enter upon privately owned land for the purpose of trapping protected fur-bearing animals without first gaining the written permission of the owner or operator of that land. A person who violates this section is guilty of a ~~class B misdemeanor for the first offense and a class A misdemeanor for a subsequent offense within a two-year period.~~

Page 4, line 12, after "individual" insert "or a group including the individual"

Page 4, line 12, overstrike "legally posted"

Page 4, line 13, after "individual" insert "or the group including the individual"

Page 4, line 24, remove "that are"

Page 4, line 25, overstrike "against hunting or trespassing"

Page 4, line 25, remove "under section 20.1-01-17 or private lands that are"

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02."

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 30

Page 6, replace lines 1 through 23 with:

**"SECTION 9. REPEAL.** Sections 20.1-01-17 and 20.1-01-20 of the North Dakota Century Code are repealed."

Page 6, line 24, remove "**LEGISLATIVE MANAGEMENT**"

Page 6, line 24, remove "**FOR**"

Page 6, line 25, replace "**HUNTING AND TRAPPING**" with "**- REPORT TO LEGISLATIVE MANAGEMENT AND INTERIM LEGISLATIVE COMMITTEES**"

Page 6, line 25, after the boldfaced period insert:

"1."

Page 6, line 25, replace "legislative management" with "land access committee"

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, remove "for hunting, trapping,"

Page 6, line 26, after "issues" insert "and shall provide recommendations regarding electronic posting of land. The study must include consideration of the numbers of calls to law enforcement regarding trespassers and hunting violations, the number of citations and convictions for trespass and hunting violations, the locations where trespass and hunting violations occur the most and least in the state, how sportsmen are impacted by legislation regarding access to land in the state, and whether and how state laws regarding land access affect tribal lands"

Page 6, line 27, replace "The legislative management" with "Before August 1, 2020, the land access committee"

Page 6, line 28, remove "sixty-seventh legislative"

Page 6, line 29, replace "assembly." with "legislative management, interim energy and natural resources committee, and interim agriculture committee."

2. a. The voting members of the committee, who must be appointed by the legislative management are:
  - (1) Two members representing landowners;
  - (2) Two members representing sportsmen;
  - (3) Four members of the legislative assembly, one of whom must be selected by the committee as chairman of the committee, including:
    - (a) One member of the majority party in the house of representatives;
    - (b) One member of the minority party in the house of representatives;
    - (c) One member of the majority party in the senate; and
    - (d) One member of the minority party in the senate; and
  - (4) A representative of the North Dakota association of counties.
- b. The nonvoting members of the committee are:
  - (1) The agriculture commissioner or the commissioner's designee;

- (2) The director of the game and fish department or the director's designee;
  - (3) The chief information officer or the officer's designee; and
  - (4) A game warden.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

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

**SECTION 12. CONTINGENT EFFECTIVE DATE.** If the legislative management does not receive agreed upon recommendations regarding electronic posting of land from the land access committee in section 9 of this Act before August 1, 2020, sections 2, 5, 6, 8, and 9 become effective on August 1, 2020.

**SECTION 13. CONTINGENT EXPIRATION DATE.** If the legislative management does not receive agreed upon recommendations regarding electronic posting of land from the land access committee in section 9 of this Act before August 1, 2020, sections 1, 3, 4, and 7 are effective until July 31, 2020, and after that date are ineffective.

**SECTION 14. EMERGENCY.** Sections 1, 3, 4, 7, 10, and 11 of this Act are declared to be an emergency measure."

Renumber accordingly