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Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1438

Introduced by

Representatives S. Kelsh, DeKrey, J. Nelson, Gruchalla, Onstad

Senator Lyson

A BILL for an Act to create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to an employer's prohibition on firearm possession.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:

Possession of secured firearm - Prohibition by employer prohibited.

1. A public or private employer may not:
   a. Prohibit any customer, employee, or invitee from possessing any legally owned firearm, if the firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and if the customer, employee, or invitee is lawfully in the area.
   b. Make a verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or make an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle. In addition, a public or private employer may not take any action against a customer, employee, or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes. A search of a private motor vehicle in the parking lot of a public or private employer to ascertain the presence of a firearm within the vehicle may only be conducted by an on-duty law enforcement officer.
   c. Condition employment upon the fact that an employee or prospective employee holds or does not hold a concealed weapons license or any agreement by an employee or a prospective employee that prohibits an employee from keeping a

legal firearm locked inside or locked to a private motor vehicle in a parking lot, if the firearm is kept for lawful purposes.

d. Prohibit or attempt to prevent any customer, employee, or invitee from entering the parking lot or the employer's place of business because the customer's, employee's, or invitee's private motor vehicle contains a legal firearm being carried for lawful purposes, that is out of sight within the customer's, employee's, or invitee's private motor vehicle.

e. Terminate the employment of or otherwise discriminate against an employee, or expel a customer or invitee for exercising the constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes.

2. A public or private employer has no duty of care related to the actions prohibited under this section.

3. A public or private employer is not liable in a civil action based on actions or inactions taken in compliance with this section. The immunity provided in this subsection does not apply to civil actions based on actions or inactions of public or private employers that are unrelated to compliance with this section.

4. This section does not expand any existing duty, or create any additional duty, on the part of a public or private employer, property owner, or property owner's agent.

5. A person aggrieved under this section may bring a civil action for violation of rights protected under this section. In any successful action brought by a customer, employee, or invitee aggrieved under this section, the court shall award all reasonable personal costs and losses suffered by the aggrieved person as a result of the violation of rights under this section. In any action brought under this section, the court shall award all court costs and attorney's fees to the prevailing party.

6. The prohibitions in subsection 1 do not apply to:

a. Any public or nonpublic elementary school, middle school, high school, college, or university property.

b. Any correctional facility or institution.

c. Property owned or leased by a public or private employer or the landlord of a public or private employer upon which are conducted substantial activities involving national defense, aerospace, or homeland security.

d. Property owned or leased by a public or private employer or the landlord of a public or private employer upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law, or property owned or leased by an employer who has obtained a permit required under 18 U.S.C. 842 to engage in the business of importing, manufacturing, or dealing in explosive materials on the property.

e. A motor vehicle owned, leased, or rented by a public or private employer or the landlord of a public or private employer.

f. Any other property owned or leased by a public or private employer or the landlord of a public or private employer upon which possession of a firearm or other legal product by a customer, employee, or invitee is prohibited under any federal law, contract with a federal governmental entity, or other law of this state.