

HOUSE BILL NO. 1461

Introduced by

Representatives Porter, DeKrey, Delzer, Devlin, Grande

Senator Lyson

1 A BILL for an Act to amend and reenact section 62.1-04-03 of the North Dakota Century Code,
2 relating to concealed weapons permits; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 62.1-04-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **62.1-04-03. (Effective through June 30, 2011) License to carry a firearm or dangerous**
7 **weapon concealed.**

8 1. The director of the bureau of criminal investigation shall issue a license to carry a
9 firearm or dangerous weapon concealed upon review of an application submitted to
10 the director by a resident or nonresident citizen of the United States if the following
11 criteria are met:

12 a. The applicant is at least twenty-one years of age for a class 1 license or at least
13 eighteen years of age for a class 2 license.

14 b. The applicant has a valid reason for carrying the firearm or dangerous weapon
15 concealed, including self-protection, protection of others, or work-related needs.

16 c. The applicant is not a person specified in section 62.1-02-01.

17 d. The applicant has the written approval for the issuance of a license from the
18 sheriff of the applicant's county of residence, and, if the city has one, the chief of
19 police or a designee of the city in which the applicant resides. The approval by
20 the sheriff may not be given until the applicant has successfully completed a
21 background investigation in that county and has successfully completed the
22 testing procedure conducted by a certified firearm or dangerous weapon
23 instructor. The person conducting the testing may assess a charge of up to fifty
24 dollars for conducting this testing. The attorney general may certify a firearm or

- 1 dangerous weapon instructor based upon criteria and guidelines prescribed by
2 the director of the bureau of criminal investigation.
- 3 e. The applicant satisfactorily completes the bureau of criminal investigation
4 application form and has successfully passed a background investigation or
5 criminal records check conducted by that agency. To pass a background
6 investigation, an applicant shall provide all documentation relating to any
7 court-ordered treatment or commitment for mental health or alcohol or substance
8 abuse or incidents of domestic violence. The applicant shall provide the director
9 of the bureau of criminal investigation written authorizations for disclosure of the
10 applicant's mental health and alcohol or substance abuse evaluation and
11 treatment records.
- 12 f. The applicant is not prohibited under federal law from owning, possessing, or
13 having a firearm under that person's control.
- 14 2. The attorney general shall offer class 1 and class 2 licenses to carry a firearm or
15 dangerous weapon concealed pursuant to the following requirements:
- 16 a. An applicant for a class 1 license shall successfully participate in a classroom
17 instruction that sets forth weapon safety rules and the deadly force law of North
18 Dakota, complete an open book test based upon a manual, demonstrate
19 familiarity with a firearm or dangerous weapon, and complete an actual shooting
20 or certified proficiency exercise. Evidence of familiarity with a firearm or
21 dangerous weapon to be concealed may be satisfied by one of the following:
- 22 (1) Certification of familiarity with a firearm or dangerous weapon by an
23 individual who has been certified by the attorney general, which may include
24 a law enforcement officer, military or civilian firearms instructor, hunter
25 safety instructor, or dangerous weapon instructor;
- 26 (2) Evidence of equivalent experience with a firearm or dangerous weapon
27 through participation in an organized shooting competition, law
28 enforcement, military service, or dangerous weapon course of training;
- 29 (3) Possession of a license from another state to carry a firearm or dangerous
30 weapon, concealed or otherwise, which is granted by that state upon
31 completion of a course described in paragraphs 1 and 2; or

- 1 (4) Evidence that the applicant, during military service, was found to be
2 qualified to operate a firearm or dangerous weapon.
- 3 b. An applicant for a class 2 license is required to successfully complete the open
4 book test offered for the class 1 license.
- 5 c. Licenses issued before August 1, 2009, regardless of the age of the
6 licenseholder, convert to a class 2 license upon renewal and no additional testing
7 is required. No additional testing is required to renew a class 2 concealed
8 weapons license. A class 1 license may be renewed upon successful completion
9 of the class 1 requirements within one year before submission of the application
10 for renewal. A license issued under this section before August 1, 2009, and a
11 class 2 license may be upgraded to a class 1 license upon successful completion
12 of the class 1 requirements and satisfaction of the age requirement.
- 13 3. The sheriff is required to process the application within thirty days after the completion
14 of the testing portion unless the application is for renewal of a license and in such case
15 the application must be processed within thirty days after its receipt by the sheriff, the
16 chief of police is required to process the application within ten working days of receipt
17 by the agency, and the bureau of criminal investigation is required to process the
18 application and make a determination within thirty days of receipt from the forwarding
19 agency.
- 20 4. The license fee for a concealed weapons license is forty-five dollars, which must be
21 credited to the attorney general's operating fund. The license fee must be paid before
22 the license is issued by the director of the bureau of criminal investigation.
- 23 5. The director of the bureau of criminal investigation shall prescribe the form of the
24 application and license, which must include the name, address, description, a
25 photograph, and the signature of the individual. The application form must require
26 sufficient information to properly conduct a background investigation and be
27 accompanied by two sets of classifiable fingerprints. The two sets of classifiable
28 fingerprints are not required for a renewal of a concealed weapons license. The
29 license is valid for three years. The license must be prepared in triplicate, and the
30 original must be delivered to the licensee, the duplicate must be sent by mail, within
31 seven days after issuance, to the sheriff of the county in which the applicant resides,

1 and the triplicate must be preserved for six years by the director. In those cases in
2 which the licensee resides in a city, an additional copy of the license must be made
3 and sent by mail, within seven days after issuance, to the chief of police of the city in
4 which the applicant resides. The individual shall notify the director of the bureau of
5 criminal investigation of any change of address or any other material fact which would
6 affect the restrictions on or the need for the license.

7 6. The director of the bureau of criminal investigation may deny an application or revoke
8 or cancel a license after it has been granted for any material misstatement by an
9 applicant in an application for the license or any violation of this title.

10 7. The applicant may appeal a denial or revocation of this license to the district court of
11 Burleigh County.

12 8. Information collected from an applicant under this section is confidential information.
13 However, the information may be disclosed:

- 14 a. To a governmental agency or court for a law enforcement purpose, including the
15 investigation, prosecution, or punishment of a violation of law.
16 b. To a court to aid in a decision concerning sentence, probation, or release pending
17 trial or appeal.
18 c. Pursuant to a court order or a judicial, legislative, or administrative agency
19 subpoena issued in this state.

20 9. The attorney general may adopt any rules necessary to carry out this title.

21 **(Effective after June 30, 2011) License to carry a firearm or dangerous weapon**

22 **concealed.**

23 1. The director of the bureau of criminal investigation shall issue a license to carry a
24 firearm or dangerous weapon concealed upon review of an application submitted to
25 the director by a resident or nonresident citizen of the United States if the following
26 criteria are met:

- 27 a. The applicant is at least twenty-one years of age for a class 1 license or at least
28 eighteen years of age for a class 2 license.
29 b. The applicant has a valid reason for carrying the firearm or dangerous weapon
30 concealed, including self-protection, protection of others, or work-related needs.

- 1 c. The applicant is not a person specified in section 62.1-02-01 and for a class 1
2 license the applicant:
- 3 (1) Has not been convicted of a felony;
4 (2) Has not been convicted of a crime of violence;
5 (3) Has not been convicted of an offense involving the use of alcohol;
6 (4) Has not been convicted of an offense involving the unlawful use of narcotics
7 or other controlled substances;
8 (5) Has not been convicted of an offense involving moral turpitude;
9 (6) Has not been convicted of an offense involving domestic violence;
10 (7) Has not been adjudicated by a state or federal court as mentally
11 incompetent, unless the adjudication has been withdrawn or reversed; and
12 (8) Is qualified to purchase and possess a firearm under federal law.
- 13 d. The applicant has the written approval for the issuance of a license from the
14 sheriff of the applicant's county of residence, and, if the city has one, the chief of
15 police or a designee of the city in which the applicant resides. The approval by
16 the sheriff may not be given until the applicant has successfully completed a
17 background investigation in that county and has successfully completed the
18 testing procedure conducted by a certified firearm or dangerous weapon
19 instructor. The person conducting the testing may assess a charge of up to fifty
20 dollars for conducting this testing. The attorney general may certify a firearm or
21 dangerous weapon instructor based upon criteria and guidelines prescribed by
22 the director of the bureau of criminal investigation.
- 23 e. The applicant satisfactorily completes the bureau of criminal investigation
24 application form and has successfully passed a background investigation or
25 criminal records check conducted by that agency. To pass a background
26 investigation, an applicant shall provide all documentation relating to any
27 court-ordered treatment or commitment for mental health or alcohol or substance
28 abuse or incidents of domestic violence. The applicant shall provide the director
29 of the bureau of criminal investigation written authorizations for disclosure of the
30 applicant's mental health and alcohol or substance abuse evaluation and
31 treatment records. The bureau may deny approval for a class 1 license if the

1 bureau has reasonable cause to believe that the applicant or permitholder has
2 been or is a danger to self or others as demonstrated by evidence, including past
3 pattern of behavior involving unlawful violence or threats of unlawful violence;
4 past participation in incidents involving unlawful violence or threats of unlawful
5 violence; or conviction of a weapons offense. In determining whether the
6 applicant or permitholder has been or is a danger to self or others, the bureau
7 may inspect expunged records of arrests and convictions of adults and juvenile
8 court records.

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

11 2. The attorney general shall offer class 1 and class 2 licenses to carry a firearm or
12 dangerous weapon concealed pursuant to the following requirements:

- 13 a. An applicant for a class 1 license shall successfully participate in a classroom
14 instruction that sets forth weapon safety rules and the deadly force law of North
15 Dakota, complete an open book test based upon a manual, demonstrate
16 familiarity with a firearm or dangerous weapon, and complete an actual shooting
17 or certified proficiency exercise. Evidence of familiarity with a firearm or
18 dangerous weapon to be concealed may be satisfied by one of the following:
- 19 (1) Certification of familiarity with a firearm or dangerous weapon by an
20 individual who has been certified by the attorney general, which may include
21 a law enforcement officer, military or civilian firearms instructor, hunter
22 safety instructor, or dangerous weapon instructor;
- 23 (2) Evidence of equivalent experience with a firearm or dangerous weapon
24 through participation in an organized shooting competition, law
25 enforcement, military service, or dangerous weapon course of training;
- 26 (3) Possession of a license from another state to carry a firearm or dangerous
27 weapon, concealed or otherwise, which is granted by that state upon
28 completion of a course described in paragraphs 1 and 2; or
- 29 (4) Evidence that the applicant, during military service, was found to be
30 qualified to operate a firearm or dangerous weapon.

- 1 b. An applicant for a class 2 license is required to successfully complete the open
2 book test offered for the class 1 license.
- 3 c. Licenses issued before August 1, 2009, regardless of the age of the
4 licenseholder, convert to a class 2 license upon renewal and no additional testing
5 is required. No additional testing is required to renew a class 2 concealed
6 weapons license. A class 1 license may be renewed upon successful completion
7 of the class 1 requirements within one year before submission of the application
8 for renewal. A license issued under this section before August 1, 2009, and a
9 class 2 license may be upgraded to a class 1 license upon successful completion
10 of the class 1 requirements and satisfaction of the age requirement.
- 11 3. The sheriff is required to process the application within thirty days after the completion
12 of the testing portion unless the application is for renewal of a license and in such case
13 the application must be processed within thirty days after its receipt by the sheriff, the
14 chief of police is required to process the application within ten working days of receipt
15 by the agency, and the bureau of criminal investigation is required to process the
16 application and make a determination within thirty days of receipt from the forwarding
17 agency.
- 18 4. The license fee for a concealed weapons license is forty-five dollars, which must be
19 credited to the attorney general's operating fund. The license fee must be paid before
20 the license is issued by the director of the bureau of criminal investigation.
- 21 5. The director of the bureau of criminal investigation shall prescribe the form of the
22 application and license, which must include the name, address, description, a
23 photograph, and the signature of the individual. The application form must require
24 sufficient information to properly conduct a background investigation and be
25 accompanied by two sets of classifiable fingerprints. The two sets of classifiable
26 fingerprints are not required for a renewal of a concealed weapons license. The
27 license is valid for five years. The license must be prepared in triplicate, and the
28 original must be delivered to the licensee, the duplicate must be sent by mail, within
29 seven days after issuance, to the sheriff of the county in which the applicant resides,
30 and the triplicate must be preserved for six years by the director. In those cases in
31 which the licensee resides in a city, an additional copy of the license must be made

1 and sent by mail, within seven days after issuance, to the chief of police of the city in
2 which the applicant resides. The individual shall notify the director of the bureau of
3 criminal investigation of any change of address or any other material fact which would
4 affect the restrictions on or the need for the license.

5 6. The director of the bureau of criminal investigation may deny an application or revoke
6 or cancel a license after it has been granted for any material misstatement by an
7 applicant in an application for the license or any violation of this title.

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

10 8. 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 9. The attorney general may adopt any rules necessary to carry out this title.

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