

HOUSE BILL NO. 1327

Introduced by

Representatives Porter, Karls, Louser, Maragos, Owens, Trottier

Senators Armstrong, Schaible

1 A BILL for an Act to create and enact subsection 3 to section 12-60-24 of the North Dakota
2 Century Code, relating to criminal history record checks; and to amend and reenact
3 subsection 6 of section 62.1-01-01 and sections 62.1-02-05, 62.1-02-10, 62.1-03-01,
4 62.1-03-05, and 62.1-04-03 of the North Dakota Century Code, relating to concealed weapons
5 laws.

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

7 **SECTION 1.** Subsection 3 to section 12-60-24 of the North Dakota Century Code is created
8 and enacted as follows:

9 3. a. The bureau of criminal investigation shall conduct a statewide and nationwide
10 criminal history record check for the purpose of determining eligibility for a
11 concealed weapons license for each applicant for an initial license or the renewal
12 of a concealed weapons license under chapter 62.1-04. The nationwide criminal
13 history record check must include an inquiry of the national instant criminal
14 background check system, and if the applicant is not a United States citizen, an
15 immigration alien query.
16 b. Each applicant for a concealed weapons license shall provide to the bureau of
17 criminal investigation written consent to conduct the criminal history record
18 check, to maintain, release, and disclose the information in accordance with state
19 and federal law, and to make a determination on the application; two sets of
20 fingerprints from a law enforcement agency or other individual authorized to take
21 fingerprints; and any other information required under chapter 62.1-04. The
22 person who takes fingerprints under this subsection may charge a reasonable fee
23 for fingerprinting.

- 1 c. The bureau of criminal investigation shall resubmit the fingerprints to the federal
2 bureau of investigation. Except as otherwise provided by law, federal bureau of
3 investigation criminal history record information is confidential.

4 **SECTION 2. AMENDMENT.** Subsection 6 of section 62.1-01-01 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 6. "Handgun" means any firearm that is not designed to be fired from the shoulder, which
7 has a barrel less than sixteen inches [40.64 centimeters] long, and which is capable of
8 firing, by the energy of an explosive in a fixed metallic cartridge, an exposed projectile
9 through a rifled bore. The term includes ~~the Thompson contender forty five caliber~~
10 ~~single shot center fire with a pistol grip or similar firearm~~ all firearms that are designed
11 to be readily modified between rifle and pistol forms, if in compliance with the National
12 Firearms Act [26 U.S.C. 5801-5872].

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

15 **62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering -**
16 **Penalty - Application.**

- 17 1. ~~A person~~ An individual who possesses a firearm or dangerous weapon, except a spray
18 or aerosol containing ortho-chlorobenzamalonitrile also known as CS or
19 alpha-chloroacetophenone also known as CN, at a public gathering is guilty of a
20 class B misdemeanor. For the purpose of this section, "public gathering" includes
21 athletic or sporting events, schools or school functions, churches or church functions,
22 political rallies or functions, musical concerts, and individuals in publicly owned parks
23 where hunting is not allowed by proclamation and publicly owned or operated
24 buildings. ~~The term "public gathering" does not apply to a state or federal park.~~
- 25 2. This section does not apply to law:
26 a. ~~A law enforcement officer~~ officer; members
27 b. ~~A member~~ of the armed forces of the United States or national guard, organized
28 reserves, state defense forces, or state guard organizations, when on duty;
29 competitors
30 c. ~~A competitor~~ participating in an organized sport shooting event ~~event~~; ~~gun and~~
31 d. ~~A gun or antique show~~ show; ~~participants~~

- 1 e. A participant using a blank cartridge firearmsfirearm at a sporting or theatrical
2 eventevent; any firearms
- 3 f. A firearm or dangerous weapon carried in a temporary residence or motor
4 vehicle; ~~students and instructors~~
- 5 g. A student and an instructor at a hunter safety classesclass; or private
6 h. Private security personnel while on duty. ~~In addition, a;~~
- 7 i. A state or federal park;
- 8 j. An instructor, a test administrator, an official, or a participant in educational,
9 training, cultural, or competitive events involving the authorized use of a
10 dangerous weapon if the event occurs with permission of the person or entity
11 with authority over the function or premises in question; and
- 12 k. A municipal court judge licensed to practice law in this state, a district court
13 judge, a staff member of the office of attorney general, and a retired North Dakota
14 law enforcement officer ~~are exempt from the prohibition and penalty in-~~
15 ~~subsection 4,~~ if the individual maintains the same level of firearms proficiency as
16 is required by the peace officer standards and training board for law enforcement
17 officers. A local law enforcement agency shall issue a certificate of compliance
18 under this section to an individual who is proficient.
- 19 3. This section does not prevent any political subdivision from enacting an ordinance
20 ~~which that~~ is less restrictive than this section relating to the possession of firearms or
21 dangerous weapons at a public gathering. ~~Such an~~An enacted ordinance supersedes
22 this section within the jurisdiction of the political subdivision.

23 **SECTION 4. AMENDMENT.** Section 62.1-02-10 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **62.1-02-10. Carrying loaded firearm in vehicle - Penalty - Exceptions.**

26 ~~No person~~An individual may not keep or carry a loaded firearm in or on any motor vehicle in
27 this state. ~~Any person~~An individual violating this section is guilty of a class B misdemeanor. This
28 prohibition does not apply to:

- 29 1. A member of the armed forces of the United States or national guard, organized
30 reserves, state defense forces, or state guard organizations while possessing the
31 firearm issued to the member by the organization and while on official duty.

- 1 2. A law enforcement officer, except while the officer is engaged in hunting or trapping
- 2 activities with a rifle or shotgun.
- 3 3. ~~Any person~~An individual possessing a valid North Dakota concealed weapons license
- 4 or a valid license issued by another state authorizing the ~~person~~individual to carry a
- 5 firearm or dangerous weapon concealed if that state permits a holder of a valid North
- 6 Dakota concealed weapons license to carry a firearm or dangerous weapon concealed
- 7 in that state without obtaining a similar license from that state, except while that
- 8 ~~person~~individual is in the field engaged in hunting or trapping activities.
- 9 4. ~~Any person~~An individual in the field engaged in lawful hunting or trapping of nongame
- 10 species or fur-bearing animals.
- 11 5. A security guard or private investigator properly licensed to carry firearms ~~by the~~
- 12 attorney general.
- 13 6. ~~Any person~~An individual possessing a valid special permit issued pursuant to section
- 14 20.1-02-05.

15 **SECTION 5. AMENDMENT.** Section 62.1-03-01 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **62.1-03-01. Carrying handgun - Restrictions - Exceptions.**

- 18 1. ~~A~~An unloaded handgun may be carried by a ~~person~~an individual not otherwise
- 19 prohibited from ~~possessing one by section 62.1-02-01 or any other state statute, in a~~
- 20 manner ~~not prohibited by section 62.1-02-10~~ if:
- 21 a. Between the hours of one hour before sunrise and one hour after sunset, the
- 22 handgun is ~~carried unloaded and either~~ in plain view or is secured.
- 23 b. Between the hours of one hour after sunset and one hour before sunrise, the
- 24 handgun is ~~carried unloaded and~~ secured.
- 25 2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:
- 26 a. ~~Any person~~An individual possessing a valid North Dakota concealed weapons
- 27 license from this state or a ~~valid license issued by another state authorizing the~~
- 28 person to carry a ~~dangerous weapon concealed if that state permits a holder of a~~
- 29 valid North Dakota concealed weapons license to carry a ~~dangerous weapon~~
- 30 concealed in that state without obtaining a similar license from that state who has
- 31 reciprocity under section 62.1-04-03.1.

- 1 b. ~~Any person~~An individual on that person's land, or in that ~~person's~~individual's
2 permanent or temporary residence, or fixed place of business.
- 3 c. ~~Any person~~An individual while lawfully engaged in target shooting.
- 4 d. ~~Any person~~An individual while in the field engaging in the lawful pursuit of hunting
5 or trapping. However, nothing in this exception authorizes the carrying of a
6 loaded handgun in a motor vehicle.
- 7 e. ~~Any person~~An individual permitted by law to possess a ~~handgun~~firearm while
8 carrying the handgun unloaded and in a secure wrapper from the place of
9 purchase to that person's home or place of business, or to a place of repair or
10 back from those locations.
- 11 f. Any North Dakota law enforcement officer.
- 12 g. Any law enforcement officer of any other state or political subdivision ~~thereof~~
13 another state if on official duty within this state.
- 14 h. Any armed security guard or investigator as authorized by ~~the attorney-~~
15 general law when on duty or going to or from duty.
- 16 i. Any member of the armed forces of the United States when on duty or going to or
17 from duty and when carrying the handgun issued to the member.
- 18 j. Any member of the national guard, organized reserves, state defense forces, or
19 state guard organizations, when on duty or going to or from duty and when
20 carrying the handgun issued to the member by the organization.
- 21 k. Any officer or employee of the United States duly authorized to carry a handgun.
- 22 l. ~~Any person~~An individual engaged in manufacturing, repairing, or dealing in
23 handguns or the agent or representative of ~~such~~that personindividual possessing,
24 using, or carrying a handgun in the usual or ordinary course of ~~such~~the business.
- 25 m. Any common carrier, but only when carrying the handgun as part of the cargo in
26 the usual cargo carrying portion of the vehicle.

27 **SECTION 6. AMENDMENT.** Section 62.1-03-05 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **62.1-03-05. Prohibited alterations in ~~handgun~~firearms.**

30 ~~No~~A person may not change, alter, remove, or obliterate any mark of identification on a
31 ~~handgun~~firearm, ~~such as~~including the name of the maker, model, or manufacturer's number or

1 knowingly possess a handgunfirearm on which ~~such~~these alterations have been made.
2 Possession of any handgunfirearm upon which any ~~such~~ identification mark has been changed,
3 altered, removed, or obliterated creates a rebuttable presumption that the possessor made the
4 alterations.

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

7 **62.1-04-03. License to carry a firearm or dangerous weapon concealed - Class 1**
8 **firearm license and class 2 firearm and dangerous weapon license.**

- 9 1. The director of the bureau of criminal investigation shall issue a license to carry a
10 firearm or dangerous weapon concealed upon review of an application submitted to
11 the director ~~by a resident or nonresident citizen of the United States~~ if the following
12 criteria are met:
- 13 a. The applicant is at least twenty-one years of age for a class 1 firearm license or
14 at least eighteen years of age for a class 2 firearm and dangerous weapon
15 license;
- 16 b. The applicant ~~has a valid reason for carrying the firearm or dangerous weapon~~
17 ~~concealed, including self-protection, protection of others, or work-related~~
18 ~~needs~~ can demonstrate that the applicant is a resident of this state by providing a
19 copy of a valid driver's license or state-issued identification card from this state
20 that establishes personal identification through photographic means and shows
21 the applicant's name associated with a valid residential street address in this
22 state or the applicant possess a valid driver's license from the applicant's state of
23 residence that establishes personal identification through photographic means
24 and shows the applicant's name associated with a valid residential street address
25 and a valid concealed weapons license from the applicant's state of residence,
26 which state has reciprocity with this state under section 62.1-04-03.1;
- 27 c. The applicant is not ~~a person~~ an individual specified in section 62.1-02-01 and for
28 a class 1 firearm license the applicant:
- 29 (1) Has not been convicted of a felony;
30 (2) Has not been convicted of a crime of violence;
31 (3) Has not been convicted of an offense involving the use of alcohol;

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

- 1 violence or threats of unlawful violence; past participation in incidents involving
2 unlawful violence or threats of unlawful violence; or conviction of a weapons
3 offense. In determining whether the applicant or ~~permitholder~~licenseholder has
4 been or is a danger to self or others, the bureau may inspect expunged records
5 of arrests and convictions of adults and juvenile court records; and
- 6 f. The applicant is not prohibited under federal law from owning, possessing, or
7 having a firearm under that ~~person's~~individual's control.
- 8 2. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous
9 weapon licenses to carry a firearm or dangerous weapon concealed ~~pursuant to~~under
10 the following requirements:
- 11 a. An applicant for a class 1 firearm license shall successfully participate in a
12 classroom instruction that sets forth weapon safety rules and the deadly force law
13 of North Dakota, complete an open book test based upon a manual, demonstrate
14 familiarity with a firearm ~~or dangerous weapon~~, and complete an actual shooting
15 or certified proficiency exercise. Evidence of familiarity with a firearm ~~or~~
16 ~~dangerous weapon~~ to be concealed may be satisfied by one of the following:
- 17 (1) Certification of familiarity with a firearm ~~or dangerous weapon~~ by an
18 individual who has been certified by the attorney general, which may include
19 a law enforcement officer, military or civilian firearms instructor, or hunter
20 safety instructor, ~~or dangerous weapon instructor~~;
- 21 (2) Evidence of equivalent experience with a firearm ~~or dangerous weapon~~
22 through participation in an organized shooting competition, law
23 enforcement, or military service, ~~or dangerous weapon course of training~~;
- 24 (3) Possession of a license from another state to carry a firearm ~~or dangerous~~
25 ~~weapon~~, concealed or otherwise, which is granted by that state upon
26 completion of a course described in paragraphs 1 and 2; or
- 27 (4) Evidence that the applicant, during military service, was found to be
28 qualified to operate a firearm ~~or dangerous weapon~~.
- 29 b. An applicant for a class 2 firearm and dangerous weapon license is required to
30 successfully complete the open book test offered for the class 1 firearm license.

- 1 c. ~~Licenses issued before August 1, 2009, regardless of the age of the~~
2 ~~licenseholder, convert to a class 2 license upon renewal and no~~
3 ~~additional~~Additional testing is not required. ~~No additional testing is required to~~
4 ~~renew a class 2 concealed weapons~~firearm and dangerous weapon license. A
5 class 1 firearm license may be renewed upon successful completion of the
6 class 1 firearm requirements within ~~one year~~thirty days before submission of the
7 application for renewal. ~~A license issued under this section before August 1,~~
8 ~~2009, and a class 2 license may be upgraded to a class 1 license upon~~
9 ~~successful completion of the class 1 requirements and satisfaction of the age~~
10 ~~requirement.~~
- 11 3. The director of the bureau of criminal investigation shall send by mail to a holder of a
12 license a notice of the procedures for renewal of the license issued under this section.
13 The director shall give the notice at least one hundred fifty days but not more than one
14 hundred eighty days before the expiration of the license.
- 15 4. ~~The sheriff is required to process the application within thirty days after the completion~~
16 ~~of the testing portion unless the application is for renewal of a license and in such case~~
17 ~~the application must be processed within thirty days after its receipt by the sheriff, the~~
18 ~~chief of police is required to process the application within ten working days of receipt~~
19 ~~by the agency, and the bureau of criminal investigation is required to process the~~
20 ~~application and make a determination within forty-five~~sixty days of receipt ~~from the~~
21 ~~forwarding agency of the properly completed application.~~
- 22 4.5. ~~The license fee for a concealed weapons license is forty-five dollars, which must be~~
23 ~~credited to the attorney general's operating fund. The license fee~~All fees must be paid
24 ~~before the license is issued~~application may be processed by the director of the bureau
25 of criminal investigation. The attorney general shall list the fees associated with the
26 license, including the costs of the fingerprint-based federal criminal history record
27 check, in the attorney general's administrative rules.
- 28 5.6. ~~The director of the bureau of criminal investigation shall prescribe the form of the~~
29 ~~application and license, which must include the name, address, description, a~~
30 ~~photograph, and the signature of the individual. The application form must require~~

1 sufficient information to properly conduct a ~~background investigation~~the criminal
2 history record check and be accompanied by ~~two~~:

3 a. A photocopy of a valid driver's license or identification card issued by this state
4 which establishes personal identification through photographic means and shows
5 the applicant's name associated with a valid residential street address in this
6 state or a valid state-issued driver's license from the applicant's state of
7 residence which establishes personal identification through photographic means
8 and shows the applicant's name associated with a valid residential street address
9 and a valid concealed weapons license from the applicant's state of residence,
10 which has reciprocity with this state under section 62.1-04-03.1; and

11 b. Two sets of classifiable fingerprints. The two sets of classifiable fingerprints are
12 not required for a renewal of a concealed weapons license. The license is valid
13 for five years. The original license must be prepared in triplicate, and the original
14 must be delivered to the licensee, the duplicate must be sent by mail, within
15 seven days after issuance, to the sheriff of the county in which the applicant
16 resides, and the triplicate and an electronic copy must be preserved for six years
17 by the director. In those cases in which the licensee resides in a city, an
18 additional copy of the license must be made and sent by mail, within seven days
19 after issuance, to the chief of police of the city in which the applicant
20 resides. Access to license information must be available to law enforcement
21 through electronic means for official law enforcement purposes. The
22 ~~individual~~ applicant or licenseholder shall notify the director of the bureau of
23 criminal investigation of any change of address or any other material fact which
24 would affect the restrictions on or the need for the license.

25 ~~6-7.~~ The director of the bureau of criminal investigation may deny an application or revoke
26 or cancel a license after it has been granted for any material misstatement by an
27 applicant in an application for the license or any violation of this title.

28 ~~7-8.~~ The applicant may appeal a denial or revocation of this license to the district court of
29 Burleigh County.

30 ~~8-9.~~ Information collected from an applicant under this section is confidential information.
31 However, the information may be disclosed:

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- 1 a. To a governmental agency or court for a law enforcement purpose, including the
- 2 investigation, prosecution, or punishment of a violation of law.
- 3 b. To a court to aid in a decision concerning sentence, probation, or release pending
- 4 trial or appeal.
- 5 c. Pursuant to a court order or a judicial, legislative, or administrative agency
- 6 subpoena issued in this state.
- 7 9-10. The attorney general may adopt any rules necessary to ~~carry out~~implement this title.