

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~~subsections 1 and 6 of section 62.1-01-01 and sections 62.1-02-05, 62.1-02-10,
4 62.1-03-01, 62.1-03-05, and 62.1-04-03 of the North Dakota Century Code, relating to
5 concealed weapons 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 1 of section 62.1-01-01 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar,
7 stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more;
8 any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap,
9 bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow,
10 crossbow, or spear; ~~any stun gun~~; any weapon that will expel, or is readily capable of
11 expelling, a projectile by the action of a spring, compressed air, or compressed gas,
12 including any such weapon, loaded or unloaded, commonly referred to as a BB gun,
13 air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable
14 of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon"
15 does not include a spray or aerosol containing CS, also known as ortho-
16 chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other
17 irritating agent intended for use in the defense of an individual, nor does the term
18 include a device that uses direct contact to deliver voltage for the defense of an
19 individual.

20 **SECTION 3. AMENDMENT.** Subsection 6 of section 62.1-01-01 of the North Dakota
21 Century Code is amended and reenacted as follows:

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

29 **SECTION 4. AMENDMENT.** Section 62.1-02-05 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering -**

2 **Penalty - Application.**

- 3 1. ~~A person~~An individual who possesses a firearm or dangerous weapon, ~~except a spray-~~
4 ~~or aerosol containing ortho-chlorobenzamalonitrile also known as CS or~~
5 ~~alpha-chloroacetophenone also known as CN,~~ at a public gathering is guilty of a
6 class B misdemeanor. For the purpose of this section, "public gathering" includes
7 athletic or sporting events, schools or school functions, churches or church functions,
8 political rallies or functions, musical concerts, and individuals in publicly owned parks
9 where hunting is not allowed by proclamation and publicly owned or operated
10 buildings. ~~The term "public gathering" does not apply to a state or federal park.~~
- 11 2. This section does not apply to law:
- 12 a. ~~A law enforcement officer~~officer; members
- 13 b. ~~A member~~ of the armed forces of the United States or national guard, organized
14 reserves, state defense forces, or state guard organizations, when on duty;
15 ~~competitors~~
- 16 c. ~~A competitor~~ participating in ~~an~~ organized sport shooting ~~event~~event; ~~gun and~~
- 17 d. ~~A gun or antique show~~show; ~~participants~~
- 18 e. ~~A participant~~ using ~~a~~ blank cartridge ~~firearms~~firearm at ~~a~~ sporting or theatrical
19 ~~event~~event; ~~any firearms~~
- 20 f. ~~A firearm or dangerous weapon~~ carried in a temporary residence or motor
21 vehicle; ~~students and instructors~~
- 22 g. ~~A student and an instructor~~ at ~~a~~ hunter safety ~~classes~~class; ~~or private~~
- 23 h. ~~Private~~ security personnel while on duty. ~~In addition, a;~~
- 24 i. ~~A state or federal park;~~
- 25 j. ~~An instructor, a test administrator, an official, or a participant in educational,~~
26 ~~training, cultural, or competitive events involving the authorized use of a~~
27 ~~dangerous weapon if the event occurs with permission of the person or entity~~
28 ~~with authority over the function or premises in question; and~~
- 29 k. ~~A municipal court judge licensed to practice law in this state, a district court~~
30 ~~judge, a staff member of the office of attorney general, and a retired North Dakota~~
31 ~~law enforcement officer are exempt from the prohibition and penalty in-~~

1 subsection~~4~~, if the individual maintains the same level of firearms proficiency as
2 is required by the peace officer standards and training board for law enforcement
3 officers. A local law enforcement agency shall issue a certificate of compliance
4 under this section to an individual who is proficient.

5 3. This section does not prevent any political subdivision from enacting an ordinance
6 ~~which that~~ is less restrictive than this section relating to the possession of firearms or
7 dangerous weapons at a public gathering. ~~Such an~~An enacted ordinance supersedes
8 this section within the jurisdiction of the political subdivision.

9 **SECTION 5. AMENDMENT.** Section 62.1-02-10 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **62.1-02-10. Carrying loaded firearm in vehicle - Penalty - Exceptions.**

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

- 15 1. A member of the armed forces of the United States or national guard, organized
16 reserves, state defense forces, or state guard organizations while possessing the
17 firearm issued to the member by the organization and while on official duty.
- 18 2. A law enforcement officer, except while the officer is engaged in hunting or trapping
19 activities with a rifle or shotgun.
- 20 3. ~~Any person~~An individual possessing a valid North Dakota concealed weapons license
21 or a valid license issued by another state authorizing the ~~person~~individual to carry a
22 firearm or dangerous weapon concealed if that state permits a holder of a valid North
23 Dakota concealed weapons license to carry a firearm or dangerous weapon concealed
24 in that state without obtaining a similar license from that state, except while that
25 ~~person~~individual is in the field engaged in hunting or trapping activities.
- 26 4. ~~Any person~~An individual in the field engaged in lawful hunting or trapping of nongame
27 species or fur-bearing animals.
- 28 5. A security guard or private investigator properly licensed to carry firearms ~~by the~~
29 ~~attorney general~~.
- 30 6. ~~Any person~~An individual possessing a valid special permit issued pursuant to section
31 20.1-02-05.

1 **SECTION 6. AMENDMENT.** Section 62.1-03-01 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **62.1-03-01. Carrying handgun - Restrictions - Exceptions.**

- 4 1. ~~A~~An unloaded handgun may be carried by a ~~person~~an individual not otherwise
5 prohibited from ~~possessing one by section 62.1-02-01 or any other state statute, in a~~
6 ~~manner not prohibited by section 62.1-02-10 if:~~
- 7 a. Between the hours of one hour before sunrise and one hour after sunset, the
8 handgun is ~~carried unloaded and either in plain view or is~~ secured.
- 9 b. Between the hours of one hour after sunset and one hour before sunrise, the
10 handgun is ~~carried unloaded and~~ secured.
- 11 2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:
- 12 a. ~~Any person~~An individual possessing a valid North Dakota concealed weapons
13 license from this state or ~~a valid license issued by another state authorizing the~~
14 ~~person to carry a dangerous weapon concealed if that state permits a holder of a~~
15 ~~valid North Dakota concealed weapons license to carry a dangerous weapon~~
16 ~~concealed in that state without obtaining a similar license from that state~~who has
17 reciprocity under section 62.1-04-03.1.
- 18 b. ~~Any person~~An individual on that person's land, or in that ~~person's~~individual's
19 permanent or temporary residence, or fixed place of business.
- 20 c. ~~Any person~~An individual while lawfully engaged in target shooting.
- 21 d. ~~Any person~~An individual while in the field engaging in the lawful pursuit of hunting
22 or trapping. However, nothing in this exception authorizes the carrying of a
23 loaded handgun in a motor vehicle.
- 24 e. ~~Any person~~An individual permitted by law to possess a ~~handgun~~firearm while
25 carrying the handgun unloaded and in a secure wrapper from the place of
26 purchase to that person's home or place of business, or to a place of repair or
27 back from those locations.
- 28 f. Any North Dakota law enforcement officer.
- 29 g. Any law enforcement officer of any other state or political subdivision ~~thereof~~
30 another state if on official duty within this state.

- 1 h. Any armed security guard or investigator as authorized by ~~the attorney-~~
2 ~~generallaw~~ when on duty or going to or from duty.
- 3 i. Any member of the armed forces of the United States when on duty or going to or
4 from duty and when carrying the handgun issued to the member.
- 5 j. Any member of the national guard, organized reserves, state defense forces, or
6 state guard organizations, when on duty or going to or from duty and when
7 carrying the handgun issued to the member by the organization.
- 8 k. Any officer or employee of the United States duly authorized to carry a handgun.
- 9 l. ~~Any person~~An individual engaged in manufacturing, repairing, or dealing in
10 handguns or the agent or representative of ~~suchthat person~~suchthat person possessing,
11 using, or carrying a handgun in the usual or ordinary course of ~~suchthe~~the business.
- 12 m. Any common carrier, but only when carrying the handgun as part of the cargo in
13 the usual cargo carrying portion of the vehicle.

14 **SECTION 7. AMENDMENT.** Section 62.1-03-05 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **62.1-03-05. Prohibited alterations in ~~handgun~~firearms.**

17 ~~No~~A person may not change, alter, remove, or obliterate any mark of identification on a
18 ~~handgun~~firearm, ~~such as~~including the name of the maker, model, or manufacturer's number or
19 knowingly possess a ~~handgun~~firearm on which ~~such~~these alterations have been made.
20 Possession of any ~~handgun~~firearm upon which any ~~such~~ identification mark has been changed,
21 altered, removed, or obliterated creates a rebuttable presumption that the possessor made the
22 alterations.

23 **SECTION 8. AMENDMENT.** Section 62.1-04-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **62.1-04-03. License to carry a firearm or dangerous weapon concealed - Class 1**
26 **firearm license and class 2 firearm and dangerous weapon license.**

- 27 1. The director of the bureau of criminal investigation shall issue a license to carry a
28 firearm or dangerous weapon concealed upon review of an application submitted to
29 the director ~~by a resident or nonresident citizen of the United States~~ if the following
30 criteria are met:

- 1 a. The applicant is at least twenty-one years of age for a class 1 firearm license or
2 at least eighteen years of age for a class 2 firearm and dangerous weapon
3 license-;
- 4 b. ~~The applicant has a valid reason for carrying the firearm or dangerous weapon-~~
5 ~~concealed, including self-protection, protection of others, or work-related~~
6 ~~needs.~~ can demonstrate that the applicant is a resident of this state by providing a
7 copy of a valid driver's license or state-issued identification card from this state
8 that establishes personal identification through photographic means and shows
9 the applicant's name associated with a valid residential street address in this
10 state or the applicant possess a valid driver's license from the applicant's state of
11 residence that establishes personal identification through photographic means
12 and shows the applicant's name associated with a valid residential street address
13 and a valid concealed weapons license from the applicant's state of residence,
14 which state has reciprocity with this state under section 62.1-04-03.1;
- 15 c. The applicant is not a ~~person~~ an individual specified in section 62.1-02-01 and for
16 a class 1 firearm license the applicant:
- 17 (1) Has not been convicted of a felony;
- 18 (2) Has not been convicted of a crime of violence;
- 19 (3) Has not been convicted of an offense involving the use of alcohol within ten
20 years prior to the date of application;
- 21 (4) Has not been convicted of ~~an~~ a misdemeanor offense involving the unlawful
22 use of narcotics or other controlled substances within ten years prior to the
23 date of application;
- 24 (5) Has not been convicted of an offense involving moral turpitude;
- 25 (6) Has not been convicted of an offense involving domestic violence;
- 26 (7) Has not been adjudicated by a state or federal court as mentally
27 incompetent, unless the adjudication has been withdrawn or reversed; and
- 28 (8) Is qualified to purchase and possess a firearm under federal law-;
- 29 d. ~~The applicant has the written approval for the issuance of a license from the~~
30 ~~sheriff of the applicant's county of residence, and, if the city has one, the chief of~~
31 ~~police or a designee of the city in which the applicant resides. The approval by~~

1 the sheriff may not be given until the applicant has successfully completed a-
2 background investigation in that county and has successfully completed the
3 testing procedure conducted by a certified firearm or dangerous weapon-
4 instructor ~~test administrator~~. The person conducting the testing may assess a
5 charge of up to fifty dollars for conducting this testing. The attorney general may
6 certify a ~~firearm or dangerous weapon instructor~~ test administrator based upon
7 criteria and guidelines prescribed by the director of the bureau of criminal
8 investigation.;

9 e. The applicant satisfactorily completes the bureau of criminal investigation
10 application form and has successfully passed ~~a background investigation or the~~
11 criminal history records check conducted by ~~that agency~~ the bureau of criminal
12 investigation and the federal bureau of investigation. ~~To pass a background-~~
13 ~~investigation, an~~ The applicant shall provide all documentation relating to any
14 court-ordered treatment or commitment for mental health or alcohol or substance
15 abuse ~~or incidents of domestic violence~~. The applicant shall provide the director
16 of the bureau of criminal investigation written authorizations for disclosure of the
17 applicant's mental health and alcohol or substance abuse evaluation and
18 treatment records. The bureau may deny approval for a class 1 firearm license if
19 the bureau has reasonable cause to believe that the applicant or
20 ~~permitholder~~ licenseholder has been or is a danger to self or others as
21 demonstrated by evidence, including past pattern of behavior involving unlawful
22 violence or threats of unlawful violence; past participation in incidents involving
23 unlawful violence or threats of unlawful violence; or conviction of a weapons
24 offense. In determining whether the applicant or ~~permitholder~~ licenseholder has
25 been or is a danger to self or others, the bureau may inspect expunged records
26 of arrests and convictions of adults and juvenile court records.; and

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

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

- 1 a. An applicant for a class 1 firearm license shall successfully participate in a
2 classroom instruction that sets forth weapon safety rules and the deadly force law
3 of North Dakota, complete an open book test based upon a manual, demonstrate
4 familiarity with a firearm ~~or dangerous weapon~~, and complete an actual shooting
5 or certified proficiency exercise. Evidence of familiarity with a firearm ~~or~~
6 ~~dangerous weapon~~ to be concealed may be satisfied by one of the following:
- 7 (1) Certification of familiarity with a firearm ~~or dangerous weapon~~ by an
8 individual who has been certified by the attorney general, which may include
9 a law enforcement officer, military or civilian firearms instructor, or hunter
10 safety instructor, ~~or dangerous weapon instructor~~;
- 11 (2) Evidence of equivalent experience with a firearm ~~or dangerous weapon~~
12 through participation in an organized shooting competition, law
13 enforcement, or military service, ~~or dangerous weapon course of training~~;
- 14 (3) Possession of a license from another state to carry a firearm ~~or dangerous~~
15 ~~weapon~~, concealed or otherwise, which is granted by that state upon
16 completion of a course described in paragraphs 1 and 2; or
- 17 (4) Evidence that the applicant, during military service, was found to be
18 qualified to operate a firearm ~~or dangerous weapon~~.
- 19 b. An applicant for a class 2 firearm and dangerous weapon license is required to
20 successfully complete the open book test offered for the class 1 firearm license.
- 21 c. A North Dakota resident who has a valid class one firearm license also may carry
22 a class two dangerous weapon without any further testing required.
- 23 d. Licenses issued before August 1, 2009, regardless of the age of the
24 licenseholder, convert to a class 2 license upon renewal and no
25 additionalAdditional testing is not required. No additional testing is required to
26 renew a class 2 concealed weaponsfirearm and dangerous weapon license. A
27 class 1 firearm license may be renewed upon successful completion of the
28 class 1 firearm requirements within one yearthirty days before submission of the
29 application for renewal. A license issued under this section before August 1,
30 2009, and a class 2 license may be upgraded to a class 1 license upon

1 successful completion of the class 1 requirements and satisfaction of the age-
2 requirement.

3 3. The director of the bureau of criminal investigation shall send by mail to a holder of a
4 license a notice of the procedures for renewal of the license issued under this section.
5 The director shall give the notice at least one hundred fifty days but not more than one
6 hundred eighty days before the expiration of the license.

7 4. ~~The sheriff is required to process the application within thirty days after the completion~~
8 ~~of the testing portion unless the application is for renewal of a license and in such case~~
9 ~~the application must be processed within thirty days after its receipt by the sheriff, the~~
10 ~~chief of police is required to process the application within ten working days of receipt~~
11 ~~by the agency, and the bureau of criminal investigation is required to process the~~
12 ~~application and make a determination within forty-fivesixty days of receipt from the~~
13 ~~forwarding agency of the properly completed application.~~

14 4.5. ~~The license fee for a concealed weapons license is forty-five dollars, which must be~~
15 ~~credited to the attorney general's operating fund. The license fee~~All fees ~~must be paid~~
16 ~~before the license is issued~~application may be processed ~~by the director of the bureau~~
17 ~~of criminal investigation. The attorney general shall list the fees associated with the~~
18 ~~license, including the costs of the fingerprint-based federal criminal history record~~
19 ~~check, in the attorney general's administrative rules.~~

20 5.6. ~~The director of the bureau of criminal investigation shall prescribe the form of the~~
21 ~~application and license, which must include the name, address, description, a~~
22 ~~photograph, and the signature of the individual. The application form must require~~
23 ~~sufficient information to properly conduct a background investigation~~the criminal
24 ~~history record check and be accompanied by two:~~

25 a. A photocopy of a valid driver's license or identification card issued by this state
26 which establishes personal identification through photographic means and shows
27 the applicant's name associated with a valid residential street address in this
28 state or a valid state-issued driver's license from the applicant's state of
29 residence which establishes personal identification through photographic means
30 and shows the applicant's name associated with a valid residential street address

1 and a valid concealed weapons license from the applicant's state of residence,
2 which has reciprocity with this state under section 62.1-04-03.1; and

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

17 6-7. The director of the bureau of criminal investigation may deny an application or revoke
18 or cancel a license after it has been granted for any material misstatement by an
19 applicant in an application for the license or any violation of this title.

20 7-8. The applicant may appeal a denial or revocation of this license to the district court of
21 Burleigh County.

22 8-9. Information collected from an applicant under this section is confidential information.
23 However, the information may be disclosed:

- 24 a. To a governmental agency or court for a law enforcement purpose, including the
25 investigation, prosecution, or punishment of a violation of law.
- 26 b. To a court to aid in a decision concerning sentence, probation, or release pending
27 trial or appeal.
- 28 c. Pursuant to a court order or a judicial, legislative, or administrative agency
29 subpoena issued in this state.

30 9-10. The attorney general may adopt any rules necessary to ~~carry out~~ implement this title.