

HOUSE BILL NO. 1219

Introduced by

Representatives Porter, Delmore, Karls

Senators Carlisle, Hogue, Murphy

1 A BILL for an Act to amend and reenact subsection 1 of section 62.1-02-01, subsection 1 of
2 section 62.1-02-01.1, subsection 2 of section 62.1-03-01, subsections 7 and 8 of section
3 62.1-04-03, and section 62.1-05-01 of the North Dakota Century Code, relating to weapons.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 62.1-02-01 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. a. A person who has been convicted anywhere of a felony offense involving
8 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
9 equivalent felony offense of another state or the federal government is prohibited
10 from owning a firearm or having one in possession or under control ~~from~~. If the
11 conviction occurred in this state, the prohibition is effective beginning on the date
12 of conviction and ~~continuing~~continues for a period of ten years after the date of
13 conviction or the date of release from incarceration, parole, or probation,
14 whichever is latest.

15 b. A person who has been convicted anywhere of a felony offense of this or another
16 state or the federal government not provided for in subdivision a or who has been
17 convicted of a class A misdemeanor offense involving violence or intimidation in
18 violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another
19 state or the federal government and the offense was committed while using or
20 possessing a firearm, a dangerous weapon, or, as defined in subsections 7 and 8
21 of section 12.1-01-04, a destructive device or an explosive, is prohibited from
22 owning a firearm or having one in possession or under control ~~from~~. If the
23 conviction occurred in this state, the prohibition is effective beginning on the date
24 of conviction and ~~continuing~~continues for a period of five years after the date of

1 conviction or the date of release from incarceration, parole, or probation,
2 whichever is latest.

3 c. A person who is or has ever been diagnosed and confined or committed to a
4 hospital or other institution in this state or elsewhere by a court of competent
5 jurisdiction, other than a person who has had the petition that provided the basis
6 for the diagnosis, confinement, or commitment dismissed under section
7 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another
8 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or
9 as a mentally deficient person as defined in section 25-01-01, is prohibited from
10 purchasing a firearm or having one in possession or under control. This limitation
11 does not apply to a person who has not suffered from the disability for the
12 previous three years or who has successfully petitioned for relief under section
13 62.1-02-01.2.

14 d. A person under the age of eighteen years may not possess a handgun except
15 that such a person, while under the direct supervision of an adult, may possess a
16 handgun for the purposes of firearm safety training, target shooting, or hunting.

17 A person who violates subdivision a or b is guilty of a class C felony, and a person who
18 violates subdivision c or d is guilty of a class A misdemeanor.

19 **SECTION 2. AMENDMENT.** Subsection 1 of section 62.1-02-01.1 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 1. An individual who is prohibited from possessing a firearm due to a conviction of a
22 felony under subdivision b of subsection 1 of section 62.1-02-01 may petition the
23 district court for restoration of the individual's firearm rights. ~~If the felony offense was~~
24 ~~committed in this state, the~~The petition must be filed with the district court in the
25 county where the offense occurred. ~~If the offense was a felony of another state or the~~
26 ~~federal government, the petition must be filed with the district court in the county~~
27 ~~where the petitioner resides.~~ A copy of the petition must be served on the state's
28 attorney's office in the county where the petition is filed in accordance with Rule 5 of
29 the North Dakota Rules of Civil Procedure. The state's attorney's office shall have
30 twenty days to file a written response to the petition with the district court.

1 **SECTION 3. AMENDMENT.** Subsection 2 of section 62.1-03-01 of the North Dakota
2 Century Code is amended and reenacted as follows:

- 3 2. The restrictions provided in ~~subdivisions a and b~~ of subsection 1 do not apply to:
- 4 a. An individual possessing a valid concealed weapons license from this state or
5 who has reciprocity under section 62.1-04-03.1.
 - 6 b. An individual on that person's land, or in that individual's permanent or temporary
7 residence, or fixed place of business.
 - 8 c. An individual while lawfully engaged in target shooting.
 - 9 d. An individual while in the field engaging in the lawful pursuit of hunting or
10 trapping. However, nothing in this exception authorizes the carrying of a loaded
11 handgun in a motor vehicle.
 - 12 e. An individual permitted by law to possess a firearm while carrying the handgun
13 unloaded and in a secure wrapper from the place of purchase to that person's
14 home or place of business, or to a place of repair or back from those locations.
 - 15 f. Any North Dakota law enforcement officer.
 - 16 g. Any law enforcement officer of any other state or political subdivision of another
17 state if on official duty within this state.
 - 18 h. Any armed security guard or investigator as authorized by law when on duty or
19 going to or from duty.
 - 20 i. Any member of the armed forces of the United States when on duty or going to or
21 from duty and when carrying the handgun issued to the member.
 - 22 j. Any member of the national guard, organized reserves, state defense forces, or
23 state guard organizations, when on duty or going to or from duty and when
24 carrying the handgun issued to the member by the organization.
 - 25 k. Any officer or employee of the United States duly authorized to carry a handgun.
 - 26 l. An individual engaged in manufacturing, repairing, or dealing in handguns or the
27 agent or representative of that individual possessing, using, or carrying a
28 handgun in the usual or ordinary course of the business.
 - 29 m. Any common carrier, but only when carrying the handgun as part of the cargo in
30 the usual cargo carrying portion of the vehicle.

1 **SECTION 4. AMENDMENT.** Subsections 7 and 8 of section 62.1-04-03 of the North Dakota
2 Century Code are amended and reenacted as follows:

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

8 8. The applicant may appeal a denial or revocation of this license to the district court of
9 Burleigh County within one hundred eighty days from the date of the denial or
10 revocation notification.

11 **SECTION 5. AMENDMENT.** Section 62.1-05-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and**
14 **bombs - Penalty - Forfeiture.**

15 ~~No person~~A person may not purchase, sell, have, or possess a machine gun, fully
16 automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or
17 any other federally licensed firearm or dangerous weapon unless that person has complied with
18 the National Firearms Act [26 U.S.C. 5801-5872].

19 ~~Any federal licensee who purchases, sells, has, or possesses those items for the licensee's~~
20 ~~protection or for sale must forward a copy of the licensee's federal license along with the~~
21 ~~required weapons transfer form to the licensee's local county sheriff and to the chief of the~~
22 ~~bureau of criminal investigation within five days of the receipt of those forms.~~

23 A person who violates this section is guilty of a class C felony. Upon arrest of that person,
24 the firearm or dangerous weapon must be seized. Upon conviction of the person and motion to
25 the court in which the conviction occurred, the firearm or dangerous weapon must be forfeited
26 to the jurisdiction in which the arrest was made. The firearm or dangerous weapon may be sold
27 at public auction, retained for use, or destroyed pursuant to the court's order. If a qualified local
28 program as defined under section 12.1-32-02.2 has paid a reward for information that resulted
29 in forfeiture of the item and the item has been sold, the jurisdiction shall, after payment of
30 expenses for forfeiture and sale, repay the qualified local program for the reward that it has
31 paid.