

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2315**

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlund

1 A BILL for an Act to amend and reenact sections 12.1-22-03, 20.1-01-18, 20.1-01-20, and
2 20.1-03-42 of the North Dakota Century Code, relating to criminal trespass and hunting on
3 private land; to provide a statement of legislative intent; and to provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **12.1-22-03. Criminal trespass –~~Noncriminal offense on posted property.~~**

8 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
9 or privileged to do so, the individual enters or remains in a dwelling or in highly
10 secured premises.

11 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~the individual is
12 not licensed or privileged to do so, the individual:

13 a. ~~Enters enters~~ or remains in or on any building, occupied structure, ~~or~~ storage
14 structure, ~~or~~ separately secured or occupied portion thereof; ~~or~~

15 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~
16 building or structure, or any other place the individual is not licensed or privileged
17 to be, except as provided in subsection 3 and sections 20.1-01-18, 20.1-01-19,
18 and 20.1-03-42.

19 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~
20 ~~not licensed or privileged to do so, the individual enters or remains in any place~~
21 ~~as to which notice against trespass is given by actual communication to the actor~~
22 ~~by the individual in charge of the premises or other authorized individual or by~~
23 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~

- 1 name of the person posting the premises must appear on each sign in legible
2 characters.
- 3 b. ~~Even if the conduct of the owner, tenant, or individual authorized by the owner~~
4 ~~varies from the provisions of subdivision a, an individual may be found guilty of~~
5 ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~
6 ~~substantially complied with subdivision a and notice against trespass is clear~~
7 ~~from the circumstances.~~
- 8 e. ~~An individual who violates subdivision a is guilty of a class A misdemeanor for the~~
9 ~~second or subsequent offense within a two-year period.~~
- 10 4. a. An individual, knowing the individual is not licensed or privileged to do so, may
11 not enter or remain in a place as to which notice against trespass is given by
12 posting in a manner reasonably likely to come to the attention of intruderson
13 property that is privately owned and open to the public after being requested to
14 leave the property by a duly authorized individual. A violation of this subdivision is
15 a noncriminal offense.
- 16 b. A peace officer shall cite an individual who violates subdivision a or commits a
17 noncriminal offense under section 20.1-01-18 with a fine of two hundred fifty
18 dollars for each violation.
- 19 c. The peace officer citing the individual shall:
20 (1) Take the name and address of the individual; and
21 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 22 d. The peace officer may not take the individual into custody or require the
23 individual to proceed with the peace officer to any other location for the purpose
24 of posting bond. The officer shall provide the individual with an envelope for use
25 in mailing the bond.
- 26 e. An individual cited may appear before the designated official and pay the
27 statutory fine for the violation at or before the time scheduled for hearing.
- 28 f. If the individual has posted bond, the individual may forfeit bond by not appearing
29 at the designated time.
- 30 g. If the individual posts bond by mail, the bond must be submitted within fourteen
31 days of the date of the citation and the individual cited shall indicate on the

1 envelope or citation whether a hearing is requested. If the individual does not
2 request a hearing within fourteen days of the date of the citation, the bond is
3 deemed forfeited and the individual is deemed to have admitted to the violation
4 and to have waived the right to a hearing on the issue of commission of the
5 violation. If the individual requests a hearing, the court for the county in which the
6 citation is issued shall issue a summons to the individual requesting the hearing
7 notifying the individual of the date of the hearing before the designated official.

8 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
9 at the individual's request, the individual may make a statement in explanation of
10 the individual's action. The official may at that time waive or suspend the statutory
11 fine or bond.

12 i. A citing peace officer may not receive the statutory fine or bond.

13 j. The bond required to secure appearance before the judge must be identical to
14 the statutory fine established in subdivision b.

15 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~
16 ~~property of another after being requested to leave the property by a duly authorized~~
17 ~~individual. An individual who violates this subsection is guilty of a class A~~
18 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

19 ~~6.4.~~ This section does not apply to a:

20 ~~a. A peace officer in the course of discharging the peace officer's official duties; or~~

21 ~~b. An individual who enters land to access buried and aboveground infrastructure~~
22 ~~for operations, inspection, repair, or maintenance purposes, if the individual has a~~
23 ~~right to operate, inspect, repair, or maintain the infrastructure.~~

24 **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **20.1-01-18. Hunting on posted land and trapping on private land without permission**
27 **unlawful - Penalty.**

28 ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally
29 ~~posted~~ land belonging to another without first obtaining the permission of the person legally
30 entitled to grant the ~~same~~permission, unless the land is legally posted or the individual is
31 requested to leave by a duly authorized person. ~~No person~~ A person may not enter upon

1 privately owned land for the purpose of trapping protected fur-bearing animals without first
2 gaining the written permission of the owner or operator of that land. A person who violates this
3 section is guilty of a ~~class B misdemeanor~~ noncriminal offense subject to the fines and
4 procedures under subsection 3 of section 12.1-22-03 for the first offense and a class A
5 misdemeanor for a subsequent offense within a two-year period .

6 **SECTION 3. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm**
9 **prima facie evidence of intent to hunt game.**

10 Proof that a ~~person having~~an individual had a firearm, or other weapon declared legal by
11 governor's proclamation, ~~in the person's possession~~and a valid license to hunt game in the
12 relevant area when the individual or a group including the individual entered upon the ~~legally-~~
13 ~~posted~~private premises of another without permission of the owner or tenant is prima facie
14 evidence the ~~person~~individual or the group including the individual entered to hunt or pursue
15 game.

16 **SECTION 4. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **20.1-03-42. Guiding on prohibited lands.**

19 1. A person may not act as a hunting guide or hunting outfitter on land the person knows
20 is owned by the state unless the appropriate state agency permits or authorizes the
21 guiding or outfitting, on private land enrolled by the department for purposes of
22 hunting, on land in which the department pays in lieu of taxes, or on federal lands
23 without being authorized or permitted as required by the appropriate federal agency,
24 ~~or~~.

25 2. A person may not act as a hunting guide or outfitter on private lands ~~posted against~~
26 hunting or trespassing without first informing and obtaining permission from the
27 landowner to conduct guiding or outfitting on the land. If the landowner did not grant
28 the permission in writing, there is a presumption that the permission did not exist.

29 **SECTION 5. EDUCATION AND MARKETING.** The game and fish department and the
30 tourism division of the department of commerce shall provide public education and marketing
31 regarding the changes to land access in this Act.