

INTRODUCTION

By Representative Mary Schneider

HB 1326--Armed Felons Self-Defense Exception

Energy and Natural Resources Committee, Representative Todd Porter, Chairman

January 23, 2025

Chairman Porter and distinguished members of the Energy and Natural Resources Committee. HB 1326 presents a simple and straightforward commonsense exception to North Dakota's self-defense law.

This bill would keep convicted felons who used an impermissible firearm in a subsequent crime from escaping conviction by claiming "justified use of force" or self-defense as they can, and have, under our current law.

This is a "bad guys" bill. I call it my drug-dealer shootout bill, because that's one of the situations in which we would find this. Two parties to a drug deal, or two quarrelling dealers, both armed, draw on each other, shoot, and if there is one left standing, that person can claim he or she shot (and likely killed or critically injured) the other in self-defense or a justified use of force. A jury can apply our current law and find that person not guilty. That is even though the felon is prohibited from having or owning a firearm. If the one claiming self-defense used a firearm prohibited by the terms and conditions of the individual's probation or parole for a previous felony, is that the outcome we want?

Our law now provides that the gun used can be seized, and there is extensive detail in how it can be sold or disposed of. Probation or parole may be deemed violated and the felon could be back in jail, or in jail, if that penalty is pursued. But wouldn't it be better if we prosecuted that individual for the actual crime committed, such as murder, attempted murder, or similar lesser crimes? Do we really want that killer back in our community after a self-defense acquittal?

This issue arose in walking distance of my home. It appeared to be a drug deal gone wrong with two armed perpetrators or might have been another dispute with one unarmed good guy. The one left standing claimed justification or self-defense, and he was a convicted felon armed with a loaded firearm he was prohibited from possessing by the terms of his parole.