

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1086

2005 HOUSE JUDICIARY

HB 1086

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1086

House Judiciary Committee

Conference Committee

Hearing Date 1/10/05

Tape Number

1

Side A

xx

Side B

Meter #

24.4-43.4

Committee Clerk Signature



Minutes: 14 members present.

**Chairman DeKrey:** We will open the hearing on HB 1086.

**Francine Johnson, Executive Director for the ND Private Investigation & Security Board:**

(see written testimony).

**Chairman DeKrey:** Is there any requirement that they have any training whatsoever with that firearm before they can be a private security guard.

**Francine Johnson:** Yes sir, our board regulates and licenses, not only security providers, but all armed guards. They are under the same requirements, in order to carry a weapon, they have to pass a weapons exam and also be range certified. We have adopted the same standards as peace officers of ND.

**Representative Zaiser:** You talked about adopting the same regulations as the police officer. Now that requirements, in terms of mental health issues, and all those kinds of things. Are they

the same as well. I am concerned that security guards are less rigorous than police officers. My concern is what are the requirements.

**Francine Johnson:** The private investigation and security board, we have an application process for anyone that is an employee of a security agency. A criminal background search is conducted on that employee, FBI and BCI search to make sure that they are criminal record free. On the application we also have a portion in there dealing with if there are any mental health illness issues that we should be concerned with. It probably isn't as rigorous a process as a law enforcement officer, but we believe that the standards that we have in place ensure, to the best of our ability, that you are getting a quality applicant.

**Representative Zaiser:** Do you think this presents a danger, do you think there is any danger in having a gun in that situation, where sometimes tempers are high and people are gambling and drinking.

**Francine Johnson:** For the most part, when this situation has arisen, it is close to closing time and the security officer, armored car personnel, is going in to pick up funds when there is very few people in the facility. I guess, in terms of a danger factor, those security officers are certified and have been trained for those particular situations. We felt that it was more hazardous for them to take a weapon off and leave it unattended while going in to garner those funds. I guess I should point out as well, with the gaming sites, they are a separate entity usually from that liquor establishment, so they are looking to protect their employees and the liquor establishment is protecting theirs. The reason for the hired contracted service, was so that their employees wouldn't have that type of risk or exposure. Someone who is trained to have that, would be conducting the service.

**Chairman DeKrey:** So the way it is presently, any citizen that qualifies and can pass the test for a concealed weapons permit, could be in the establishment with a gun on them concealed, but the security officer that is going to pick up the cash has to leave his weapon in the armored truck, go in and get the cash and go back out to the truck without a weapon. Is that the way it is.

**Francine Johnson:** I don't believe the concealed weapon would allow them into the liquor establishment to do that. As you can see with the exemptions on that second page of HB 1086, law enforcement officers is exempt, the proprietor and his employees or designee, or when there is a sale or a raffle of the item. But going in there with a concealed weapon, they are going to be charged with the same violation as a security officer presently under the statute.

**Chairman DeKrey:** Further testimony in support of HB 1086.

**Bill Shalhoob, represent the ND Hospitality Association:** We are not in opposition to this bill; however, we do have a concern. We understand the concern raised with the money, but our members are required by law to hire private security for every public dance. I think this now allows a weapon from the private security thing at every public dance in North Dakota. This would include wedding dances, dances at local clubs, all charitable things, and I think that might be a separate issue from a guard for is entering a premise after hours to collect money or a guard to allow them to come in the morning to collect the money from the lock boxes, things like that. We do have a concern about allowing weapons in areas where we are required to have this kind of service, and yet there is alcohol being consumed by people who are less well-trained. While we are not opposed to the concept as put forward, it would allow that also, and it is a concern to some of our members.

**Chairman DeKrey:** So we could probably amend this thing.

**Bill Shalhoob:** I would think so, if there is a place to do that. We don't want that at wedding dances.

**Representative Klemm:** But as I understand it, if a private security person came in to a gaming site, for the purpose of picking up the funds and taking them out to the armored car, you don't have a problem with them being armed for that.

**Bill Shalhoob:** We certainly do not.

**Representative Klemm:** If this bill was a little more specific, in that particular context, would that solve your problem.

**Bill Shalhoob:** Yes it would. I think the rest is a matter of public policy. I think the proprietor has the right to say that I am hiring you for this, however, you cannot bring a gun here or weapon to this function or on my property. I certainly think I would have that right as a proprietor. It is fairly clear right now that you can't, it's very easy here.

**Representative Delmore:** If someone has a concealed weapon permit, could they not be in that establishment, carrying a gun already.

**Bill Shalhoob:** I have no idea.

**Jerry Kemmet, BCI:** You can't carry a gun into a public gathering. So if they had something like that, it would be illegal.

**Representative Charging:** In small towns, the local police are the security. They are already carrying.

**Bill Shalhoob:** I think this goes to the issue of the training level of the police vs. Private security.

**Chairman DeKrey:** Further opposition.

**Edward Erickson, Assistant Attorney General:** I work with the Private Investigation and Security Board. I would like to clear up some questions about what the law presently states and what it does not state. Right now, in large gaming establishments, as you see in the text of the bill, the proprietor and the proprietor's employees, bouncers, can carry weapons with no necessary training unless it is required under a concealed weapons permit. So when you are adding private security personnel while on duty, having trained people with background checks coming in and carrying the weapons, while the proprietor or employees do not come in within the concealed weapons issue, if they are right out in the open, then it is okay under present law. I'd also like to point out the very next statute in the Century Code, 62.1-02-05, possession of a firearm at a public gathering. This prohibits possessing a firearm at a public gathering, and then also includes a list of people who are exempt from that prohibition. Such as law enforcement officers, and that one in subsection 2 specifically also includes the exclusion for private security personnel while on duty. So if we are talking about a wedding dance, or some other event that comes under the public gathering section, the law already permits security officers to carry a weapon at that time. So we are really making a very small change to what is the current law, and we think it is perhaps an unintended omission at the time 62.1-02-04 was passed.

**Chairman DeKrey:** We will just form a subcommittee, Rep. Klemin will take charge of that and fix it, Rep. Galvin and Rep. Meyer to serve on that. Any further testimony either way.

**Darcy Fossum:** I am the owner of Alpha 6, Armored Car Security. The thing that we are looking at for this is the security of our personnel. One thing in the hospitality industry, if you go into a hotel, motel, if you are looking at unarmed vs. armed guard when you are there, there is a big price difference, so that is something that is discussed with the person when you are going to

do the work anyhow. For the majority of the time, we use no armed individuals for wedding dances, because it is just not needed. So that is something that is talked about beforehand. The big thing for me is the security of my officers at this point. If you have to disarm yourself from the armored car, go into the establishment, there is that time gap that are you in there now unarmed and unable to protect yourself. We're saying that the concealed weapons, you can't carry that in there, but the bad guys don't listen to that and that's what we're concerned about. We usually pick up prior to the business opening, so it is probably the owner and gaming people, or at the end of the evening where a majority of the people are gone, so there's not a problem with the public there.

**Representative Klemin:** We're not only talking about picking up money, also about delivering change and things like that. So they are picking up and also delivering. So they would have those funds with them from the point they step out of that armored car while they are going in.

**Darcy Fossum:** That is a very possibility, yes.

**Representative Meyer:** Would you have any objections to amending it where we could, so that it exempted the wedding dances in small towns, etc.

**Darcy Fossum:** I don't know if that is law already. I'm not sure on that.

**Chairman DeKrey:** The subcommittee can take a look at that.

**Mike Stensrud, General Manager for Bismarck/Mandan Security:** We run a security officer company in the state of ND, along with armored truck and patrol. The only officers that we have that are currently licensed to carry side arms by the state of ND, is for federal contracts which fall under federal law, our armored truck officers, and our patrol officers. As Francine Johnson stated, they do fall under the requirements, the training, the education to carry a sidearm as



prescribed by the ND Peace Officer's Association. We follow the same guidelines as far as written tests, shooting tests, background checks by the Crime Bureau or the FBI, prior employment, that type of thing. We're definitely in favor of this bill because right now are armored trucks do quite a bit of work for companies that are in retail liquor business. Leaving the weapon in the vehicle and going inside, would they cancel our insurance. In other words, if our personnel were hit outside the truck or outside the business, without a sidearm, Lloyds of London would not cover us. Therefore, economically if this bill wasn't passed or allowed us to carry sidearms, we would definitely lose business, because we may as well just send an employee to the bank and be free of that situation. As far as wedding dances, for example, the hotel contacts us, they are going to ask for a security officer, or 2 or 3, we are not going to send armed officers because number 1 they are not going to pay for armed officers, and number 2 there are not that many armed officers that are qualified in the state vs unarmed officers and number 3 the proprietor of the club or organization has the right to say I want armed or unarmed. They always pick the unarmed. It is not feasible and we wouldn't send one if they requested it, just because of liability purposes. So I am in support of this bill.

**Chairman DeKrey:** Any further testimony on HB 1086. We will close the hearing on HB 1086.

(Reopened in the same session on side B)

**Chairman DeKrey:** We have a subcommittee.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1086

House Judiciary Committee

Conference Committee

Hearing Date 1/11/05

Tape Number	Side A	Side B	Meter #
2	xx		31-34.8

Committee Clerk Signature



Minutes: 14 members present.

**Chairman DeKrey:** What are the committee's wishes on HB 1086.

**Representative Klemin:** (presented an amendment). This will clarify the circumstances under which the private security personnel, while on duty, may carry a firearm in a liquor establishment or gaming site, for the purpose of delivering or receiving monies.

**Representative Klemin:** I move the amendment on HB 1086.

**Representative Meyer:** Seconded.

**Chairman DeKrey:** Voice vote, carried.

**Representative Delmore:** I move a Do Pass as amended on HB 1086.

**Representative Maragos:** Seconded.

**14 YES 0 NO 0 ABSENT DO PASS AS AMENDED CARRIER: Rep. Klemin**

58088.0101  
Title.0200

Adopted by the Judiciary Committee  
January 11, 2005

YR  
1/11/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1086 JUD 1-12-05

Page 1, line 17, after "duty" insert "for the purpose of delivering or receiving moneys used at the liquor establishment or gaming site"

Renumber accordingly

Date: 4/11/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1086

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass as Amended*

Motion Made By *Rep. Delmore* Seconded By *Rep. Marago S*

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	✓				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) *14* No *0*

Absent *0*

Floor Assignment *Rep. Klemin*

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
January 12, 2005 3:16 p.m.

Module No: HR-07-0369  
Carrier: Klemin  
Insert LC: 58088.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**HB 1086: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1086 was placed on the Sixth order on the calendar.

Page 1, line 17, after "duty" insert "for the purpose of delivering or receiving moneys used at the liquor establishment or gaming site"

Renumber accordingly

2005 SENATE JUDICIARY

HB 1086

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1086

Senate Judiciary Committee

Conference Committee

Hearing Date February 14 , 2005

Tape Number	Side A	Side B	Meter #
1	X		700 - 1200

Committee Clerk Signature *Maria L Solberg*

Minutes: Relating to private security officer's possession of a firearm in a retail liquor establishment or gaming site.

**Senator John Syverson**, Chairman called the Judiciary committee to order. All Senators were present except for Sen. Traynor The hearing opened with the following testimony:

**Testimony In Support of the Bill:**

**Francine Johnson**, Executive Director ND Private Investigation & Security Board (meter 700) Gave testimony. Att. #1 This bill may have been an oversight when charitable gaming came into law. The officer is more at risk while carrying the money then with out.

**Testimony in Opposition of the Bill:**

none

**Senator John Syverson**, Vice Chairman closed the Hearing

**Sen. Trenbeath** made the motion to Do Pass Emergency Clause and **Senator Triplett** seconded the motion. All were in favor, motion passes.

Page 2

Senate Judiciary Committee 1086

Hearing Date February 14, 2005

**Sen. Trenbeath** made the motion to Do Pass as Amended **Sen. Nelson** seconded the motion.

All were in Favor and motion passes.

Carrier: **Senator Syverson**

**Senator John Syverson**, Vice Chairman closed the Hearing



Date: 2/21/05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1086

Senate Judiciary

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass Emergency Clause*

Motion Made By Senator *Trenbeath* Seconded By Senator *Nelson*

Senators	Yes	No	Senators	Yes	No
Sen. Traynor		X	Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 58 No 0

Absent 1

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: *8-14/05*  
Roll Call Vote #: *2*

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1086**

Senate **Judiciary**

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass As Amended*

Motion Made By Senator

Seconded By Senator

Senators	Yes	No	Senators	Yes	No
Sen. Traynor		<i>X</i>	Sen. Nelson	<i>✓</i>	
Senator Syverson	<i>✓</i>		Senator Triplett	<i>✓</i>	
Senator Hacker	<i>✓</i>				
Sen. Trenbeath	<i>✓</i>				

Total (Yes) *5* No *0*

Absent *1*

Floor Assignment *Sen. Syverson*

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1086, as engrossed: Judiciary Committee (Sen. Trenbeath, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1086 was placed on the Sixth order on the calendar.**

Page 1, line 3, after "site" insert "; and to declare an emergency"

Page 1, after line 18, insert:

**"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."**

Renumber accordingly

2005 TESTIMONY

HB 1086



701-222-3063

North Dakota

## PRIVATE INVESTIGATION & SECURITY BOARD

513 East Bismarck Expressway, Suite 5  
Bismarck, North Dakota 58504

*Same given  
to Senate  
2-14-05.*

1-10-05

HB 1086

A Bill for an Act to amend and reenact section 62.1-02-04 of the North Dakota Century Code, relating to a private security officer's possession of a firearm in a retail liquor establishment or gaming site.

I am Francine Johnson, Executive Director for the North Dakota Private Investigation & Security Board. The Private Investigation & Security Board regulates the security and private investigative industry.

The Board is in support of this bill due to the fact that under current law, armed security officers and armed armored car personnel are prohibited from entering a liquor establishment even though they are operating within the course of their duties. The Board supports amending this section to allow security personnel to enter these establishments legally with their sidearm.

This glitch in the law came to the attention of the Board when a security contractor was hired by a charitable gaming site to pick up monies from the site. They contracted to have an armed guard not only protect the funds garnered that day but also to insure the protection of their own employees. Under current law, the security guard would have to remove his weapon and leave it in his vehicle in order to conduct the security service. This we believe creates an even more hazardous situation.

To alleviate this particular situation, the Board supports this amendment to allow the armed security officer to enter the establishment as long as he is conducting a security service and within the course of his duties.