

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1389

2009 HOUSE STANDING COMMITTEE MINUTES

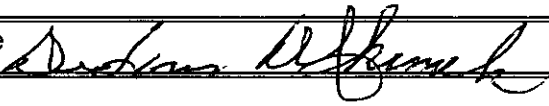
Bill No. HB 1389

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9336

Committee Clerk Signature 

Minutes:

Chairman Wrangham: Opened the hearing on HB 1389.

Rep. Karls: (see testimony #1). Handed out testimony #2 from Thomas Nicolai since the weather did not permit him to get here.

Darin Goels: NRA: I am a lobbyist for the National Rifle Association. On behalf of our ND membership I would like you to give favorable adoption of HB 1389. Rep. Karls the change in this that was the National Park Service change that we had last year. They had an extensive public comment hearing in which the rules were adopted effective in January and that is when we realized that there are a hand full of states including ND that did not have pituitary rights in the state or public parks. Parks are very limited areas to the state where you cannot carry. When you look at the parks you think they are all the same. In 2006 statics were available from the National Park Service reported 11 homicides and murders. 35 rapes or attempted rapes and 61 (can't hear) in the National Parks. If you are coming at this from the criminal prospective parks might be an attractive place to commit a crime because a lot of times they are not your city parks, there are out in rural areas where police response time could be very low. Rep. Karls as touched on another danger and that is the wildlife dangers. South Dakota actually did address this issue in their state parks in 2007. Some folks in the Black Hills came

upon cougars and they are becoming a problem. It is very important that most people are allowed to do this are permitted. This doesn't mean I could take my gun and stroll through a park. I have to pass the background check and fingerprinting; all the things that ND requires you to do in order to be permissible. The people who have a concealed weapons permit are all over, in Wal-Mart or everywhere for self defense purposes. If you really look at how this law applies today, if you are walking with your husband your wife or your dog and you don't have a card, but as soon as you cross the sidewalk into the park under current existing statues you would be breaking the law. Now what makes that person any less responsible by simply crossing the imaginary line into a park? I would submit to you absolutely nothing. I see no reason why we should not have a favorable adoption of this bill.

Rep. Klemin: Do you keep track of what states are doing this so if I wanted to find out what is happening in Colorado with a concealed weapon I can find out what is allowed?

Darin Goels: You are right; there are only two states that don't have a concealed weapons carrier permitting; those states are Wisconsin and Illinois. So there are 300 National Parks. All those states are allowable in terms of National Parks. As far as state parks this is sort of a new area; there were only 10 states in the early 80s that had carrier until we had 20-30 years. So the state parks; it would require research and that is the unfortunate thing for gun owners. We do urge people in brochures where people can go from state to state and find out what the firearm restrictions are. But it does take research when you are traveling from state to state so we urge people to know the laws.

Rep. Klemin: North Dakota does not allow weapons in the state parks, but as I understand, you cannot take them into the National Parks either?

Darin Goels: I actually had that questions answered by our legal backfield. The original draft in the Department of Interior rule; in the states you had to have state park rules in order for the

National Park rules to apply; however, the adopted version of that I was hoping our legal back was stronger than that and it simply said that if you allow people to carry in that state then the national parks are fine. So in Wisconsin and Illinois I am not even sure they have National Parks. Those would be the only two states since they do not have a concealed carrier permit at all.

Rep. Koppelman: Just reading the wording of the bill then looks like this defines the term public gathering. If for example there were an event in a public park that meets the statute even as amended, that would still apply under current law?

Darin Goels: That is correct.

Rep. Koppelman: this would be if you are just strolling through the park it wouldn't apply?

Darin Goels: I am from Watertown, SD and I would submit that it is like ND city parks. Half of the time we can't go to the park because of the weather and the other half of the year there is maybe a couple of kids playing at the basketball hoops; who buy the way would not be subject to this since they are under 18 anyway and this is only for permit holders.

Rep. Conrad: does public gatherings maybe there would be guns where we have children. Now if there are children running around and doing things that might be something could happen. Would this be for all play grounds?

Chairman Wrangham: This doesn't change the things he mentioned.

Rep. Conrad: It would be all of our public and city parks?

Darin Goels: You have to be careful. The schools are different because guns are not permitted on K-12 schools. So that would not apply except to all public parks. I would like to emphasize that there are kids in Wal-Mart; the grocery stores, that person exercising their right on the street just because they cross the sidewalk, the State of ND allows you to carry where there are children in other places.

Kristopher Karls: (see testimony #3).

Rep. Conrad: How come we aren't going to allow political rallies? Why don't we allow them in parks?

Kristopher Karls: this bill is not about political rallies. The fact is there are according to current investigations in ND in excess of 10,000 concealed weapons permits issued only the state of ND that have permits issued only by the state of ND. In addition to that I have a state of Utah concealed weapons permit as do many others know. From that information that puts the number of concealed weapons permits between 13,000-14,000 people in the state of ND. We do occasionally hear about people being injured with firearms in a field or house. What you don't see publically is the news story in media of permit holders acting negligently with their firearms. To suggest that I cannot act responsibly in Wal-Mart, or at the supermarket or in a café, but once I step foot into a state park where there are few emergency services available, that now I am irresponsible. Suddenly I can't handle the responsibility.

Rep. Corey Mock: In paragraph 3 of the section of law that states that this section is not preventing political subdivisions from enacting their ordinances. Isn't it already possible for local officials to allow firearms in parks?

Kristopher Karls: In Section 3 of the ND statue code. I think that is procedural. It may be possible? I should consult my legal counsel to find out specifically, but by removing the collation of guns in parks to stop criminalizing people who have gone through the process to obtain a concealed permit. It may be possible, but rather than go from political subdivision to political subdivision and local and political subdivisions just to remove and unnecessary restriction, we thought this would be easier.

Rep. Corey Mock: I come from Grand Forks where I have university parks and that would apply. Every year it is commonly known that university students gather at parks in the

springtime. It is an unofficial even so it is not a school function and then we could potentially have some legally arms college students intoxicated in the park at one time. I don't know if it is appropriate for that to be allowed?

Kristopher Karls: The state law already prohibits individuals in possession of firearms to be intoxicated. A law already prohibits concealed weapons to consume alcohol.

Rep. Zaiser: In regard to Rep. Mock's questions, I think it would be clearer to the individual if it was posted on that park in Grand Forks no firearms allowed.

Kristopher Karls: Yes intoxicated people are doing irresponsible things, but you are also suggesting that people who have been issued concealed weapons permits; they are not willing to go to that party and get intoxicated and act irresponsibly. There are certain requirements that go with the issuing of the permit.

Rep. Kilichowski: would the city or the counties have the option, if this law passes, no we don't want them in our parks and pass a local ordinance to stop it?

Kristopher Karls: to my knowledge no. No it would not allow the political subdivisions to enact more restrictive regulations.

Chairman Wrangham: If we want further clarification on that we can check with Legislative Council.

Brad Manz: (see testimony #4).

Rep. Hatlestad: I you aware of any shootings for rapes in city parks in the state of ND?

Brad Manz: I am not aware of that.

Rep. Zaiser: would you be in support of this bill if it were amended to just include State Parks and National Parks?

Brad Manz: No.

Rep. Koppelman: In testing people for concealed weapons permits do you find that the people who qualify for those permits are generally responsible gun owners versus the general public?

Brad Manz: I think they are just a regular average person.

Opposition:

John Staley: Grand Forks Park District: Relative to the festival; which is a onetime event at the university park in Grand Forks. Discussed the problems with the event. We worked very hard with our Police Department to figure out how to control this thing. Now it is a festival and is sponsored by local restraints and is something that is more of a rock concert and has control.

Rep. Koppelman: does the city of Grand Forks or the park district have ordinances against public drunkenness or disorderly conduct? Have you talked to the police chief about the bill?

John Staley: the park board passed ordinances and then our attorneys advised the city adopt the ordinances. So our ordinances are approved by our whole city council.

Rep. Hatlestad: The University Park is not university territory?

John Staley: It is owned by the park district.

Neutral testimony: None

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1389

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9419

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1389.

Do Pass Motion Made by Rep. Koppelman: Seconded by Rep. Headland:

Rep. Kilichowski: I would like to amend section 3 out of there and let the political subdivisions have their choice whether they want guns in their parks. This section does not permit any political subdivision from enacting an ordinance which is less restrictive.

Rep. Klemin: I think the reason really is state parks. I think if we take out all the overstrike language and we take out the overstrike on lines 10 & 11 and then we insert individuals in publically owned parks other than city parks.

Chairman Wrangham: I think we had testimony about all park; not just city? People that are licensed to carry can be all around a park.

Rep. Klemin: My suggestion is to limitation on this.

Rep. Corey Mock: I agree with Rep. Klemin. When I look at section 3 that provides local ability to allow firearms in local parks and at that point it is up to the discretion of the local subdivision. This would be primarily state and National Parks within ND and allows the state law to superseding what national and federal law was changed the beginning of this year. I am

comfortable with the state park and leave the local parks up to the decision of the local subdivision.

Rep. Conrad: Are we changing the laws or changing the rules?

Rep. Koppelman: If I understood the testimony correctly you can other than these specific restrictions, you can carry a gun if you have a concealed weapons permit anywhere else; unless there is a city ordinance or something. If that is true I can walk down the sidewalk, if I had a concealed weapons permit, next to the park, but I couldn't step foot in the park. Or I could walk to the grocery store across the street from the park but as reference you made Rep. Klemin I could go to the hotel across the street, walk through the lobby; go anywhere I wanted and I could walk on the parking ramp, but I couldn't go onto it because of is a park? So if I had concealed weapons permit I would need to know what every municipality in the state did with respect to certain things. That is the point of the confusion, I think.

Rep. Zaiser: The concealed weapons permit; that can stop you from going to the park because there are people.

Rep. Klemin: I think we should leave state parks up to the state and local parks up to the political subdivisions.

Rep. Conrad: We have two parks and both have amphitheaters and pavilions so if they have a musical concert there that would be they couldn't have concealed weapons, but if the music isn't on they could.

Rep. Koppelman: If the bill would pass as it is before us the answer is yes. If there is a musical concert there that would be a public gathering so you couldn't carry a gun. If you are taking an evening stroll through the park at 11:00PM and you want to make sure you have your concealed weapon for safety yes you could have one. Under current law you could not.

Rep. Conrad: If you are in Wal-Mart you can; why not here? Why not take the whole thing off.

Rep. Koppelman: As I read this statute it talks about events that are public events; but what we are saying we are just carving out a very narrow area where today I could walk into the police station with a concealed weapon if I had a permit. I think the reason the bill is before us is the park is an open area. It is not like a public area it is not like a school; it is not like a public gathering like a musical concert unless one is being televised in which case that would be taken care of I don't see a problem with it.

Rep. Nancy Johnson: I am going to resist a do pass motion because of the state parks.

Vote: 4 Yes 9 No Failed.

Rep. Klemin: I move to amend HB 1289 so that it does not apply to state parks. Maybe the code reviser would like to do something different? Possession of firearms would be permissible in a state park and in respect to local parks it would be up to the local authorities to determine if they wanted to or not.

Rep. Jerry Kelsh: The state does not allow this right now.

Chairman Wrangham: We could include state and federal parks. The intention is to include the Theodore Roosevelt Park, right?

Rep. Klemin: we have no jurisdiction over federal parks.

Chairman Wrangham: With your permission should we put in federal parks?

Rep. Klemin: OK

Motion Made By Rep. Klemin to amend. Seconded by Rep. Corey Mock:


Voice vote carried.

Do Pass As Amended Motion Made by Rep. Jerry Kelsh: Seconded by Rep. Koppelman:

Vote: 13 yes 0 No 0 Absent Carrier: Rep. Klemin



Hearing closed.



2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1387

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Koppelman Seconded By Rep. C Headland

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Rep. Kari Conrad		✓
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh		✓
Rep. Patrick Hatlestad		✓	Rep. Robert Kilichowski		✓
Rep. Nancy Johnson		✓	Rep. Corey Mock		✓
Rep. Lawrence Klemin		✓	Rep. Steve Zaiser		✓
Rep. Kim Koppelman	✓				
Rep. William Kretschmar		✓			
Rep. Vonnie Pietsch	✓				

Total (Yes) 4 No 9

Absent 0

Carrier: _____

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

Failed

February 12, 2009

VR
2/12/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1389

Page 1, line 10, remove the overstrike over "~~individuals in publicly owned~~"

Page 1, line 11, remove the overstrike over "~~parks where hunting is not allowed by
proclamation and~~"

Page 1, line 12, after the period insert "The term "public gathering" does not apply to a state or
federal park."

Renumber accordingly

Date: 2-12
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1389

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Klemin Seconded By Rep. Mock

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) _____ No _____

Absent _____

Carrier: _____

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

*Voice
Vote
Carried
2/12*

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1389

House Political Subdivisions Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. J. Kelsh Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Rep. Corey Mock	✓	
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	✓	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 13 No 0

Absent 0

Carrier: Rep. Klemin

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

REPORT OF STANDING COMMITTEE

HB 1389: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1389 was placed on the Sixth order on the calendar.

Page 1, line 10, remove the overstrike over "~~individuals in publicly owned~~"

Page 1, line 11, remove the overstrike over "~~parks where hunting is not allowed by proclamation and~~"

Page 1, line 12, after the period insert "The term "public gathering" does not apply to a state or federal park."

Renumber accordingly

2009 SENATE POLITICAL SUBDIVISIONS

HB 1389

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1389

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 03/12/2009

Recorder Job Number: 10777

Committee Clerk Signature

Minutes:

Chairman Andrist Opened the hearing on HB 1389

Representative Karen Karls District #35. Spoke in support. See attachment #1.

Senator Lee What types of parks are covered in this law?

Karls This deals with state and national parks.

Senator Olafson I think that is covered in sec 3.

Senator Anderson What sorts of guns will this cover under conceal and carry? A hunting gun in its case?

Karls Hunting guns are considered open carry, this deals with smaller guns covered under conceal and carry laws that require a special permit to carry.

Darin Goens National Rifle Association. Spoke in support of 1389. This bill came about after the federal government that permitted guns in all national parks. ND does not have any laws relating to guns in state parks. Spoke about crime in state parks, gave statistics from 2006.

Made the point that parks are remote and far from law enforcement and hospitals. Also spoke about concerns relating to wild animals in parks and the possibility of using a gun for protection. He pointed out that legislation prohibiting guns in parks came out before current

laws relating to conceal and carry were adopted. He said that the parks were not a drastic departure from any other place that people are allowed to carry concealed weapons.

Chairman Andrist Would there be any reason for a person to carry a weapon in a park other than self defense?

Goens Not necessarily, are you talking about criminals or wild animals?

Chairman Andrist I want to know why you would want a firearm in a park.

Goens Well certainly for self protection.

Chairman Andrist Ok, but are there any other reasons?

Goens I'm not sure how many states allow hunting in their state parks so going to and from you would be engaged in hunting or sport shooting or the self protection reason.

Chairman Andrist Would a state park authority have the power to decide if a particular park should be gun free or does this bill bind them by allowing it in all state parks?

Goens Section 3 is interesting and I would tend to believe it includes all state parks but I would think if a special gathering were happening they might make an exception.

Senator Olafson Do you have any statistics about conceal and carry weapons and the people who carry them?

Goens Those statistics are hard to find on both sides as a person could lose a license for something such as a bad check. There is a statistic that there are about 2 million self defense cases where a gun is either used to scare a perpetrator away or is fired. You just do not hear about conceal and carry people breaking the law. Licenses have been revoked but often for reasons such as not paying child support. Conceal and carry gun owners have proved themselves over the past 20 years.

Chairman Andrist Do you know how many other states have adopted this provision?

Goens I have that info in my e-mail account.

Senator Bakke Upon entering the park do they have to register the fact that they have a concealed weapon on their person?

Goens No, this would work and operate under the same laws as conceal and carry.

Senator Bakke What about non-residents? Are there any restrictions on non-residents?

Goens It depends on where the license is from. Some states have a reciprocity agreement with us. We make sure people know that they are responsible for knowing the laws in other state they wish to carry in.

Senator Dotzenrod Spoke about an accidental discharge incident. Do you have any concerns about accidents? It would seem that as you expand the use of firearms there will be increased numbers of accidents. On page 2, why does the language say "less restrictive" instead of more restrictive?

Goens That section may not apply to what we are talking about here. In relation to accidents, everything has inherent risks. Accidents are hard to track as they are often not reported.

Chairman Andrist ND has a strong tradition of local control; I would have to change the language from less to more.

Goens I have no objection to that as it would not affect the state parks.

Karen Karls Provided the additional information that 48 states have passed legislation adopting conceal and carry laws.

Chairman Andrist Would you like to address my question about page 2 section 3?

Karls We had questions about that on the house side which were dealt with in the amended version. Section 3 as I understand it is common in many existing codes. I am not a code reviser so I am not really sure.

Chairman Andrist Senator Olafson just pointed out that it is already in existing law and not related to the changes in this bill.

There was no opposition testimony given

Doug Prchal Director of NDPRD. Provided information on 1389. Spoke on several issues to provide clarification after reading the transcript from the house hearing. He pointed out that park rangers are licensed peace officers so parks are not remote areas without police presence. He also pointed out that parks are not dangerous places and does not appreciate advertising park violence. With regard to section 3, he states that it is already in code. He also stated that the laws in ND are fairly liberal and he does not feel that this bill will affect his ability to make decisions and monitor firearm presence in his parks by syncing the state policy with the national policy.

Chairman Andrist In regards to section 3, how would a city make a law less restrictive?

Prychal My understanding is that you need to read the whole section and it is a bit of a reverse thought process or double negative. By adding "more", you might affect the jurisdiction of a local political subdivision.

Discussion about restrictions in relationship to section 3, also discussed if there was any opposition to the presence of guns in some state parks.

Jerry Hjelmstad ND League of Cities. Provided information on 1389. Drew the committee's attention to section 62.1-01-03 of the NDCC as it relates to section 3. See attachment #2.

Chairman Andrist So you think that statute would preclude us from giving cities authority to set their own rules?

Hjelmstad Not necessarily but it is a concern.

Senator Lee Was that section put into effect before or after conceal and carry legislation was passed?

Hjelmstad I am not sure on that.

Chairman Andrist Closed the hearing on HB 1389.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1389

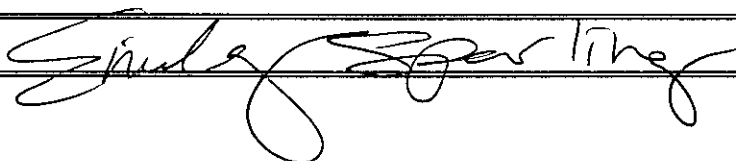
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 03/13/2009

Recorder Job Number: 10879

Committee Clerk Signature



Minutes:

Chairman Andrist Opened the discussion on HB 1389. I think we should give cities and counties the power to oversee their areas, otherwise I am ok as it relates to state parks.

Senator Bakke Is this just dealing with federal parks?

Chairman Andrist It is state and federal but the language in subsection three would preclude cities and counties from having a more restrictive law.

Senator Olafson I am of a differing opinion on putting in an amendment to allow subdivisions to have more restrictive provisions relating to this issue. We have in place a good process for screening those that should be allowed a concealed weapons permit. The statistics and history are that these people do not create problems as a result of having that permit. I don't think that we should allow political subdivisions to usurp the authority of the process and the state in this particular matter.

Senator Lee I have no opposition to conceal and carry or hunting but I do have a problem with people in local parks. I am afraid that a responsible person could end up at a softball tournament with a great big cooler of beer and I am much more concerned about what could happen at a *local* park than state or federal parks. I see municipal parks as different than state

or local parks. When you have a group together with the potential for poor decision making influenced by unusual substances, I am concerned about that.

Discussion about which version of the bill the committee is looking at engrossed vs. introduced

Senator Olafson If you were to put in a political subdivision amendment, if a county put in place a restriction on someone carrying a concealed weapon in a public park—would that then mean that would apply to a state park in that district?

Chairman Andrist I don't think so but maybe we should use the language city or county owned parks because a city/county does not own a state park.

Senator Olafson That is my concern, whether or not county restrictions will affect state parks.

Senator Bakke The way this bill reads it included language about public gatherings which cities have control over but not state and federal parks.

Senator Dotzenrod Commented on conceal and carry and the definition of public gathering

Chairman Andrist This bill already covers city parks.

Discussion about the "less" language included in the bill, requested the intern to explain the powers of the political subdivisions and exceptions in Section 1 & 3.

Senator Lee I am comfortable with the engrossed bill. I move **Do Pass**

Senator Olafson Second

Senator Bakke I cannot fathom having a need to carry a gun but I do not oppose the bill.

Senator Olafson Gave example of needing a concealed gun in his county.

The Clerk called the role on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0.**

Senator Olafson will carry the bill.

Date: 03/13/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1389

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Do not pass Amend

Motion Made By J Lee Seconded By J Olafson

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	/		Senator Arden C. Anderson	/	
Vice Chairman Curtis Olafson	/		Senator JoNell A. Bakke	/	
Senator Judy Lee	/		Senator Jim Dotzenrod	/	

Total (Yes) 6 No 0

Absent _____

Floor Assignment J. Olafson

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

REPORT OF STANDING COMMITTEE (410)
March 13, 2009 2:02 p.m.

Module No: SR-49-4881
Carrier: Olafson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1389, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1389 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1389

Rep. Karen Karls, District 35, Bismarck

Testimony on HB 1389

February 12, 2009

Mr. Chairman and members of the committee:

In early December, 2008 the U.S. Department of the Interior (DOI), through the National Park Service and U.S. Fish and Wildlife Service, announced the final amended version of a change on rules for carrying firearms in national parks and wildlife refuges. The new rule (which went into effect on January 9, 2009) restores the right of law-abiding gun owners to transport and carry concealed firearms for lawful purposes on most DOI lands, according to the laws of the states in which these public lands are located. HB 1389 will align ND law with this new rule and will allow an individual with a conceal/carry permit the ability to have a firearm in a ND park.

North Dakota has a long history of responsible gun ownership. Conceal & carry permit holders are among the most law-abiding people in society. We exclude firearms from places of public gathering—bars, sporting events, political functions—for obvious reasons, but why parks? Many of our parks are in remote areas without wardens or police protection nearby. You could be hiking in western North Dakota and encounter a mountain lion.

There are others waiting to testify on this bill with further information.

Thank you for your time and I will try to answer any questions you may have.

Karls, Karen

From: Thomas Nicolai [nickotym@hotmail.com]
Sent: Wednesday, February 11, 2009 10:00 PM
To: Karls, Karen
Subject: Testimony on HB 1389

#2

Mister Chairman and members of the committee:

My name is Thomas Nicolai of Cooperstown, ND. I ask you to give HB 1389 a DO PASS recommendation.

This bill will bring our state in line with what is allowed in National Parks, Monuments and Wildlife Refuges. After an extensive review process that took longer than usual due to all the comments, the DOI published the following rule in December of 2008 and it took effect on January 9, 2009. Since this rule was already in effect and not pending it is not affected by White House Chief of Staff Rahm Emmanuel's memo from January 20, 2009 putting all pending regulatory actions on hold.

The DOI saw that it was prudent to allow law-abiding citizens to carry concealed weapons in National Parks, Monuments and Wildlife Refuges to protect themselves from animal or human predators. I ask that you consider that it is prudent to allow ND citizens to carry concealed weapons in our state and local parks as well.

DOI Final rule on weapons in National Parks, Monuments and Wildlife Refuges:

Title 36 Chpt. 1 Part 2 § 2.4 Weapons traps and nets.

(h) Notwithstanding any other provision in this Chapter, a person may possess, carry, and transport concealed, loaded, and operable firearms within a national park area

in accordance with the laws of the state in which the national park area, or that portion thereof, is located, except as otherwise prohibited by applicable federal law.

Chapter 50 Chapter 1 Part 27 § 27.42 Firearms.

(e) Notwithstanding any other provision in this Chapter, persons may possess, carry, and transport concealed, loaded, and operable firearms within a national wildlife

refuge in accordance with the laws of the state in which the wildlife refuge, or that portion thereof, is located, except as otherwise prohibited by applicable federal law.

Thank you for your time,

Thomas Nicolai, DC

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HB 1389

Mr. or Madam Chairman and members of the committee and public, my name is Brad Manz from Bismarck and I support this bill for the following reasons:

- There have been numerous horrific attacks in parks across the country by both animals and criminals. One of the better known animal attacks, for example, involved Iris M. Kenna, 56, who was killed by a mountain lion while hiking in California's Cuyamaca Rancho State Park on December 10, 1994. Julie Williams & Lollie Winans were murdered in May of 1996 in Shenandoah National Park just off the Appalachian Trail.
- Often these incidents occur in isolated areas many miles from any law enforcement agents and without access to firearms the victims are essentially defenseless. This bill would remedy that situation and allow people to protect themselves.
- Some people are concerned that this legislation would lead to an increase in unlawful shooting incidents, etc. but these fears are, I believe, unfounded. During almost seven years as a test administrator for concealed weapon permits I have tested several hundred people from a variety of professions. They are law-abiding and responsible citizens which is why they took the initiative to obtain their permits. I would have no qualms about any of them carrying concealed weapons in parks.

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Rep. Karen Karls, District 35, Bismarck

Testimony on HB 1389

March 12, 2009

Chairman Andrist and members of the committee:

For the record, my name is Rep. Karen Karls and I represent District 35 here in Bismarck.

In early December, 2008 the U.S. Department of the Interior (DOI), through the National Park Service and U.S. Fish and Wildlife Service, announced the final amended version of a change on rules for carrying firearms in national parks and wildlife refuges. The new rule (which went into effect on January 9, 2009) restores the right of law-abiding gun owners to transport and carry concealed firearms for lawful purposes on most DOI lands, according to the laws of the states in which these public lands are located. HB 1389 will align ND law with this new rule and will allow an individual with a conceal/carry permit the ability to have a firearm in a ND state or national park. The House Political Subs committee amended the bill to leave to local authorities the ability to determine conceal/carry laws in local or city parks.

North Dakota has a long history of responsible gun ownership. Conceal & carry permit holders are among the most law-abiding people in society. We exclude firearms from places of public gathering—bars, sporting events, political functions—for obvious reasons, but why parks? Many of our parks are in remote areas without wardens or police protection nearby. You could be hiking in western North Dakota and encounter a mountain lion.

Thank you for your time and I will try to answer any questions you may have.

**Kristopher Karls, West Fargo, North Dakota
Testimony on HB 1389
March 12, 2009**

*Same
given to
House.*

Mr. Chairman and members of the committee:

I've come here today to ask for your support of HB 1389. According to statistics one out of every two households in North Dakota has a firearm, but gun ownership is more than just a statistic, in our state it's a way of life. With little exception, sportsmen and other gun enthusiasts in North Dakota are respectful of the responsibilities that come with possessing a firearm. As a Hunter's Education instructor I can attest that every year thousands of North Dakotans are conscientiously introduced to firearms. This is accomplished by way of state-provided Hunter's Safety courses, other gun education courses, and time spent with other responsible gun owners. It is a long standing tradition that our citizens use firearms for sport and personal protection.

As North Dakota Century Code currently stands, individuals are made criminals for possessing firearms in public parks, regardless of their reason. However, as stated in the first amendment of the North Dakota Constitution:

"All individuals are by nature equally free and independent and have certain inalienable rights, among which are...to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed."

I ask for your support because the prohibition of firearms in public parks infringes upon the freedom of individuals to bear arms for lawful purposes. HB 1389 seeks consent for the possession, but not unlawful use, of guns in parks.

Overwhelmingly, gun owners in North Dakota are responsible with their firearms. Despite much *speculation*, there is little or no *evidence* to suggest that otherwise law-abiding citizens would inexplicably become reckless or foolhardy with their firearms once they enter a public park.

I respectfully ask the committee for a 'Do Pass' recommendation on HB 1389.

**TITLE 62.1
WEAPONS**

**CHAPTER 62.1-01
DEFINITIONS - GENERAL PROVISIONS**

62.1-01-01. General definitions. As used in this title, unless the context otherwise requires:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any stun gun; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO₂ gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.
2. "Direct supervision of an adult" means that an adult is present in such close proximity so as to be capable of observing and directing the actions of the individual supervised.
3. "Firearm" or "weapon" means any device which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such device, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.
4. "Gaming site" means any room or premises licensed by the attorney general or by a city or county governing body to conduct legal gaming operations.
5. "Government building" means a building which is owned, possessed, or used by or leased to the state of North Dakota, or any of its political subdivisions.
6. "Handgun" means any firearm that is not designed to be fired from the shoulder, which has a barrel less than sixteen inches [40.64 centimeters] long, and which is capable of firing, by the energy of an explosive in a fixed metallic cartridge, an exposed projectile through a rifled bore. The term includes the Thompson contender forty-five caliber single-shot center-fire with a pistol grip or similar firearm, if in compliance with the National Firearms Act [26 U.S.C. 5801-5872].
7. "Law enforcement officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
8. "Machine gun, submachine gun, or fully automatic rifle" means a firearm, mechanism, or instrument not requiring that the trigger be pressed for each shot, and having a reservoir, belt, or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism, or instrument and fired therefrom at a rate of five or more shots to the second.
9. "Plain view" means the handgun is placed in such a location or carried in such a position as to be easily discernible by the ordinary observation of a passerby. In a motor vehicle, this includes being placed on the seat, dashboard, or in a gunrack as long as the handgun is not covered or is in any other way concealed from view.

10. "Rifle" means any firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger.
11. "Secured" means the firearm is closed into the trunk or nonpassenger part of the vehicle; placed into a closed and secure carrying device; rendered inoperative by the use of a trigger, hammer, cylinder, slide, or barrel-locking device that renders the firearm incapable of firing until the device is unlocked and removed; or so disassembled or disabled as to be rendered incapable of firing.
12. "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches [40.64 centimeters] in length and any firearm made from a rifle, whether by alteration, modification, or otherwise, if the firearm, as modified, has an overall length of less than twenty-six inches [66.04 centimeters].
13. "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches [45.72 centimeters] in length and any firearm made from a shotgun, whether by alteration, modification, or otherwise, if the firearm, as modified, has an overall length of less than twenty-six inches [66.04 centimeters].
14. "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired with one hand below or behind and one hand in front of the breach, which uses the energy of the explosive in a fixed shotgun shell to fire through a smooth or a rifled bore either a number of ball shot or a single projectile for each single pull of the trigger.
15. "Silencer" means any device for or attached to any firearm which will silence or deaden the sound or natural report of the firearm when it is discharged.
16. "Unloaded" means the chamber of the firearm does not contain a loaded shell. If the firearm is a revolver, then none of the chambers in the cylinder may contain a loaded shell. Handguns with a removable magazine or clip must have the magazine or clip removed from the firearm if the magazine or clip contains any loaded shells.

62.1-01-02. Forfeiture of dangerous weapon or firearm by person arrested and convicted of crime. Any firearm or dangerous weapon used or possessed while in the commission of a felony or a misdemeanor involving violence or intimidation must be seized and, upon conviction and by motion, forfeited to the jurisdiction in which the arrest was made or the jurisdiction in which the charge arose. Except as provided in chapter 29-01 for stolen property, the forfeited firearm or dangerous weapon may be, pursuant to court order, sold at public auction, sold or traded to other law enforcement agencies or authorized firearm dealers, retained for use, or destroyed.

62.1-01-03. Limitation on authority of political subdivision regarding firearms. No political subdivision, including home rule cities or counties, may enact any ordinance relating to the purchase, sale, ownership, transfer of ownership, registration, or licensure of firearms and ammunition which is more restrictive than state law. All such existing ordinances are void.