

2011 HOUSE JUDICIARY

HB 1461

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1461  
February 9, 2011  
14288

☐ Conference Committee

Committee Clerk Signature



## Minutes:

Chairman DeKrey: We will open the hearing on HB 1461.

Rep. Todd Porter: Sponsor, support. Explained the bill (see attached 1). HB 1461 is a bill that we've had on numerous occasions. Last session, we created a class 1 and class 2 concealed weapons permit. In doing so, we wanted to ensure that with the class 1 license that as many people as possible could have reciprocity in other states. When we switched a few sessions back to getting rid of the firing proficiency test, we lost some reciprocity. So it was felt to get them back, we would create another class of license. That was done last session. I'm passing out a handout to show in columns 1, which states we have reciprocity where they honor both class 1 and class 2. If you look in the second column, they honor only our class 1 licensees. So a state like Arizona, if you have a class 2 concealed weapons permit in ND, then you do not have reciprocity in the state of AZ. If you had a class 1 permit, you would be entitled to carry. We currently have 34 states that recognize our class 1, which is really good. I think when we left last session, prior to the changes we had 23 states that recognized our concealed weapons permit. By making those changes, we really did what we intended to do, to get individuals more reciprocity across the country. On page 5 of the bill, you will see the crux of the bill lives on page 5 and 6. One thing that didn't happen and I don't know if I spent too much time trying to do it, or what, but between the AG's office and me, we spent quite a bit of time lobbying MN to honor our new class 1. Every time we argued with them, they would agree to one piece of our new class 1, then they would come back and say, but we don't like this, and it would start all over again. It was mindboggling how it worked. Our last conversation with them was in November and they said, yes we like everything, but we don't like your mental health language and that's where the other bill that you are continuing on came in also, that helps with some of those reciprocity issues for MN. When it all came down and was all said and done, as I was meeting with the AG's office, our comments were back and forth, we sure have spent a lot of time on this and we've got a lot of good things done with this class 1 license, but our main goal from last session, was to get MN, and we didn't do it yet. So what can we do to get it. So we came up with this language and this language that's on pages 5 and 6 is the identical, word-for-word verbatim language in the UT statute. UT has reciprocity

with MN. We think we're already doing all this, but MN also says that it has to be in your Century Code, it can't be administrative, it can't be on your application, it can't just be lying out there, and you have to have it in your century code. So I asked LC to put the UT statute, verbatim, into our class 1. If you look at the top of page 5, if you have ever been convicted of a felony, you would not qualify for a class 1 concealed weapons permit. Now you would qualify after the seven years for a class 2 permit under current law. That's the way it is currently. So some of these are in administrative code, some of these are on the application that would or wouldn't qualify you, but as it stands, they would mimic UT and they would give us the argument that you are accepting UT, why don't you accept ND on our class 1. This bill changes the language on our class 1 only to match UT to try and gain reciprocity with MN. This hasn't been around very long, so there was a little bit of a concern on going back and just double checking the background records of those who are holding a class 1 license currently. It's only been around for a little less than a year. They would have to go back and double check those. They didn't think it would be a very big deal to make sure that under the new class 1 that no one would fall out. If they did, they would be issued a class 2 permit, and they wouldn't be able to have the class 1. One other issue that I wanted to discuss while I was here, was an amendment that was passed to be looked at by the committee. Currently under federal law, in order to buy a weapon, you have to go through a waiting period, unless you have a concealed weapons permit which gives you a KNOX number that they can write down on the application, that you've passed all of the background checks to purchase that weapon and you can buy a weapon immediately. One thing that doesn't happen in the state, is licensed police officers with their license as a police officer they don't get a KNOX number, even though they've gone through all the background checks, etc. that's required, they aren't issued that KNOX number to purchase weapons. So a police officer walks in and wants to buy a 9 mm pistol. They have to go through a 3 day waiting period. This amendment would allow a peace officer, who is currently licensed in the state of ND can be issued a class 1 license, without going through the classroom portion, the proficiency portion of the requirements, just by filling out the application and submitting the fee. So they would be issued a permit after they have filled out the application and paid the fee. They won't have to do the classroom portion because, of course, as you all know, through their Post Board Requirements, they already have the proficiencies and can already carry in places where even a person with a concealed weapons permit cannot. I offer that as an amendment as you consider the bill.

Rep. Delmore: On the amendment, what's to prevent someone who is a peace officer, who also has very recently involved in something with domestic violence, a breakdown, how would that be caught if he quickly wanted to get another weapon.

Rep. Porter: Nothing, and there wouldn't be anything that would stop them from going through any of those processes, even with the three day waiting period because of the time you just put on it. There isn't anything in current law or after this amendment that would stop that from happening.

Rep. Delmore: On page 6, in determining whether the applicant or permit holder has been, or is a danger to himself, they can inspect expunged records of arrests and convictions. How are they going to do that if they've been expunged.

Rep. Porter: The AG's office would probably be able to answer that. Again, this bill's language is identical to the UT statute that has allowed reciprocity with MN. As far as how that mechanism is going to work, you would need to ask the experts in that field.

Rep. Delmore: Do we need HB 1269 to make this work.

Rep. Porter: HB 1269 addresses a very specific component which is a nationwide look at how mental health records are handled and how individuals are brought back into the system after they have been deemed basically cleared of their mental health issue. I think that they carry two separate components of what we're trying to do. The issue of it enhancing this bill. I think it enhances what MN would like to see, that there is a process that we are looking at them, and that there is a way to make sure that individuals who still have a mental health issue are not in our system. So I think that they tie up very well together in going forward.

Rep. Kretschmar: Under the list on page 5, under #3, would a DUI knock the guy out of that.

Rep. Porter: If they have been convicted of a DUI, it would be my understanding that they would not be eligible for that class 1 permit. That would put them into the category then that they could, under current law, get a class 2 permit and then they would have about 23 states of reciprocity.

Rep. Kretschmar: Do you know approximately how many class 1 and class 2 permits are issued now in ND.

Rep. Porter: I do not know that number offhand (that question was later answered by Ch. DeKrey, class 1 was 761 permits and class 2 was around 14,000 permits have been issued). It has only been around for about a year.

Rep. Koppelman: On page 5, item 8 is qualified to purchase and possess a firearm under federal law. What qualifies one to do that.

Rep. Porter: I don't think there is a certain qualification; I think there is a certain disqualification. There's a list that says if you have done any of these things, you are disqualified. I don't think there's anything that says you're qualified. It's one of those lists if you can check a box off going down the list, then you're no longer qualified to do that. That's part of the whole process with the KNOX number that you get on your concealed weapons permit to be able to do instant purchasing of firearms, etc. that you don't have to wait for the background check and phone call to check your list against the FBI's database.

Rep. Koppelman: The amendment you handed out, I recall the last time we looked at this, a couple of the questions that came up, were peace officers and another one had to do with military personnel. I see the amendment doesn't address that. I'm wondering if item 8 does. Does being in the military a qualification to purchase and possess a firearm under federal law, probably not; but is military something that could or should be added, as well as peace officers.

Rep. Porter: I don't know if it would possible or not. I think though, because the peace officers have gone through the requirements through the Post Board certification that they have proficiency and firing requirements that are easily identifiable through the AG's office, so that made it an easy amendment. I don't know that by adding the military if we would potentially kick out states that have joined us. If you look on the list where the green is going through some of those states, that have said because we do the proficiency and MH information, they will give us full reciprocity in our class 1. That would be my only concern that we would have to really double-check that prior to saying that just because you are in the military, that you would be eligible. You can be in an engineering company and running a road grader; have gone through the proficiency at basic training, and have never gone through it again. Remember, inside of our class 1 license, to get those reciprocities, we require an individual every five years to go back and take the test and do the proficiency, so that it is not a forever grandfathering in and the law enforcement side, under the Post Board, they have an annual certification with their firearms that they have to go through; so that fit nicely. Without going out and checking to see what every person in every branch of the military goes through as far as recurrent training for firearms, it would be difficult to just add it.

Rep. Koppelman: So if there were a qualifier that said language to that effect that talked about proficiency training, etc. that it probably would be.

Rep. Porter: I think that I would be really careful with that, just not knowing how the military does their ongoing qualifications for everyone.

Rep. Koppelman: It was a question last time for both of those groups of people.

Rep. Porter: If it would be for the military police side I'm sure that they have a different weapons qualification than the person that's assigned out at the aviation wing as an aircraft mechanic. So just a blanket statement would be difficult to do without getting real specific.

Rep. Koppelman: I'm sure that there are peace officers that sit at a desk and shuffle paper too, but if you're saying that by being a peace officer have this proficiency training on a regular basis, maybe some kind of a qualifier for that also.

Rep. Porter: That's correct. To be a licensed police officer, under chapter 12-63, you have to do that on an annual basis, that's where the qualifier is.

Rep. Koppelman: What is the magic that UT has; they recognize both of our class 1 and class 2 according to your chart and other states that recognize them when we tried to model our law after theirs. Apparently there are still a few that still don't recognize us, MN being the poster child, what are they doing other than this language you're presenting that we aren't.

Rep. Porter: I don't know. Maybe MN just doesn't like us. They seem to have a hang-up and both the AG's office and myself have kind of reached the end of our rope on asking them to recognize this class 1. Basically, this is our last attempt to say you recognize UT why don't you recognize us. The one risk that does happen here is for UT, because if MN comes back and says we really don't want you, ND, because you are a border state, but we'll keep reciprocity with UT. Then they're recognizing their law but not our law, and it's not very fair, there's a risk to MN for us to take them to court and tell them you need to recognize our law if you're recognizing their law, because they are identical laws, and then the other thing that can happen is that they can look at UT and say we really don't want ND, so we're dropping you. The risk is UT's, not ours.

Rep. Onstad: On page 5, on the terms. A crime of violence, moral turpitude, and even the use of alcohol. Are those definitions the same as ours in the state? So like maybe there are ten things that are listed for crimes of violation and they only have six of those items. Is that a concern?

Rep. Porter: Of course, they can have different terms, they can have different definitions; again this is word for word right out of their statute; all it would really do, if someone has been under #3, like Rep. Kretschmar brought up, if someone has been convicted of a DUI, then they would not be eligible to have a class 1 permit. Then they would be dropped back to a class 2, and they would have 23 states of reciprocity, one of which would not be MN. The risk is that by having a conviction under this column, you're not qualified as a class 1, but you may be qualified as a class 2.

Rep. Onstad: Just to follow up, let's assume that ND doesn't allow open container in a vehicle. It's not a DUI offense, but it is open container and let's say UT does, does that create a conflict.

Rep. Delmore: Is the peace officer part in the UT and the MN law, in this amendment that you gave us.

Rep. Porter: No, it is not.

Rep. Delmore: Do you see an advantage to us putting it in if it is something we are trying to come into compliance with the other two states. Is it a good amendment to adopt or not.

Rep. Porter: I don't think that it would be anything that would kick it out, because the requirements in UT also talk about the shooting proficiency and those items. The question could up, if a peace officer is convicted of a DUI, whether or not they would still be able to have their class 1. The other thing that you can certainly look at is that even on a class 2 permit, the KNOX number is valid. I have a class 2 permit, and I have a KNOX number that I can instantly buy firearms. So it certainly wouldn't hurt to change that class 1 to a class 2 so that we don't have to worry about that risk or concern.

Rep. Maragos: Maybe this is better for a peace officer but is there any reason why a peace officer isn't automatically given a KNOX number under this. Shouldn't they all have KNOX numbers anyway?

Rep. Porter: I was kind of surprised that they had a waiting period. Apparently, the only mechanism that's out there that issues the numbers is our concealed weapons license. My understanding was that there wasn't a mechanism that once you're a licensed peace officer, on your identification card, that they couldn't put a KNOX number on it. I don't know why they don't do that.

Chairman DeKrey: Thank you. Further testimony in support of HB 1461.

Rick Anderson, Concealed Firearms Instructor for both the state of ND and the state of UT. I've been a UT instructor since 2005, and I started our academy right here in Bismarck. Some ideas have come to me during the testimony this morning. If we make our statutes and training requirements identical to the state of UT, how could anybody be refused? A little bit about UT's magic that we discussed earlier, they definitely have some magic. They've simplified their program; they've given the instructor certain options to be able to make some determinations on how to hold their course that see best fit. Also the places that one can and cannot carry in UT are expanded well beyond the ND locations where firearms are restricted, where you can and cannot carry. That may be one of the major restrictions that we may be running into with MN. I don't know for sure because I haven't been involved in those negotiations. If we make our training program identical, and I can provide that program very simply to BCI to administer. If we make our laws identical, as far as what's required to get the permit and our laws where we can and cannot carry in ND identical I think that would give us the best chance. UT does not require a live fire shooting exercise. I can state that as a professional instructor, I guarantee the fact that someone can put bullets on a paper in a non-stressful situation, does not guarantee or even give them any training whatsoever in responding to an actual threat circumstance. Scenario based training is very important, very realistic scenarios based training is exceptionally important in a program. To give you an idea of what things can be implemented in ND, if you so choose. For instance, in our program we don't do live fire. We have very limited access to live fire facilities; some of the live fire facilities are very restricted to their club members only, doing classes to raise money for the club and that's it. We use a firearm's training simulator. My simulator is also Post approved here in ND for law enforcement

training. We have actually the first ever, training program that is scenario based outside of the concealed carry program, for concealed carry licensees and peace officers to train together. If we did away with the shooting portion of the ND program, made our training portion identical to the UT program, including the use of an approved firearms training simulator and requirement of scenario-based training, I think we would stand a great chance, along with making our other list of where you can and cannot carry your firearm restrictions to be identical to Utah's. There is a very strong call for that here in ND. I wasn't able to get a bill drafted up in time. Whatever we can do to improve to get reciprocity with MN and many other states, then I'm at your disposal.

Rep. Koppelman: If we were to adopt the idea you just shared about the training and simulators, how many people in the state would be equipped or qualified at this point to offer that kind of training.

Rick Anderson: It would not be a matter of how many people would be equipped or qualified, I'm the only one right now that's equipped. Those items are available for instructors to purchase.

Rep. Koppelman: Is that an expensive enterprise.

Rick Anderson: A few thousand dollars. If you're going to be a professional instructor, it's like any business. You need to put a little money into your business, if you're going to do it professionally. If people are doing it for a hobby, that's a whole different ballgame. I think from what I see, the interest in this room is looking for getting professional instruction out there; more so than a hobbyist that has been shooting all his life teaching people. The training needs to be when you are in stress filled situation and how to handle yourself.

Rep. Koppelman: Your comment regarding the issue of where you are allowed to carry. I was surprised to hear that might be a consideration for states considering reciprocity. I haven't heard that from the AG's office or another legislator. I'm wondering, unless they've changed their law recently. I believe MN has a much broader law in terms of where you can carry a firearm than we do. In fact, I think a few years ago they passed legislation saying, unless a public place said you can't carry a gun here, you could carry. If anything, we are more restrictive than they are in current law so I'm not sure why that would persuade them.

Rick Anderson: I don't know if it does play into the situation at all. My suggestion on including it would be to give us the best possible chance going forward for their citizens coming here with this reciprocity agreement as well. I would say to go with the least restrictive places where one can and cannot carry, at the very least. There is legislation in some states right now, to allow concealed carry licensees, to carry in the same locations that peace officers do. I think it's great. The safest place for a legal gun owner's firearm is on their person, under their control; not sitting in a car somewhere because they can't take it in a building.



Rep. Koppelman: Reciprocity doesn't give one the right to supersede the law of the state that they're in. It gives them the right to carry in that state, but of the 34 states now that we have reciprocity with, if I have a ND concealed weapons permit and I go to a state that has a more restrictive prohibition on where I can carry that gun, just because I'm from ND doesn't give me the right to carry that gun somewhere else where their residents can't. Isn't that true.

Rick Anderson: A person has to abide by the laws of the state that they are in. I threw that out there, not knowing if it is going to make a difference but to try to give us the best possible package to put together.

Rep. Koppelman: Is that relevant because if a state says we'll have reciprocity with ND based on their concealed carry law, they know that when I come to their state, I'm going to have to obey their law anyway. So who cares what we do in our state for the folks that have licenses here or in the other states where we have reciprocity because we're still subject to that state's law when we go there.

Rick Anderson: Correct. Based on discussions I've had with UT BCI over the last 5 or 6 years, it might or might not have relevance. There isn't an easy way to determine that; but it's not a bad provision to throw in as a package. If we make our training program requirements identical and also another thing that UT has allowed on a certain level is that if I teach the UT class in NV and NV has their own class, the only way to make both states happy is you can teach the same curriculum; however the law section for UT and the law section to NV only need to be separate elements with a short break in between sections. With me, they get a CD with the laws of the appropriate states on there, and they take them home with them. If we consider the use of a simulator, we could also expand training for, not just myself, but other instructors who want to be professional about it and make an investment in their business to expand out to rural areas and other areas that a range facility is not available to them. I believe there are a lot of people that would get the ND class 1 right now, but that are unable. The additional point in the law is the \$50 is appropriate for the ND class 2 test. However, in order to conduct an 8-10 hour class currently the way it is set up for the ND class 1, for an instructor to be able to say this is an okay business decision to conduct this class with advertising, business costs, etc. he needs to have 40 people in that class for a day. If the NRA knew that the instructor had 40 people in a live fire class, it would yank his credentials. It's completely unsafe. You need to take those things into consideration if you would, also for the ND class 1 program and let the fair market decide what a fair price is for that, but the class 2 program cost of \$50 is a fair fee for that.

Rep. Maragos: When somebody completes your class, do you assign the KNOX number.

Rick Anderson: No, I do not. There are multiple phases that they go through, the classroom training, then the application phase, then getting issued the permit. The

training portion is just that. Then they take the application that I put a stamp on, then I give it to them and they send it in to UT with their fee of \$65.25, UT receives it, within 60 days of the date of receipt UT completes the background check and sends their permit in the mail. It is a very simple procedure.

Rep. Delmore: This bill doesn't do anything to make our training identical for a class 1 does it.

Rick Anderson: There are training requirements in the bill. If we changed those training requirements to be identical to the UT training requirements, and also allow by legislative permission (in other words write it into the Code) that the UT and ND class could be taught together as long as separate modules were taught in regard to the state's laws. That would actually increase the number of people who could be eligible to get the class 1 permit.

Rep. Delmore: You said a couple of things that I found interesting. One, I think it's harder to become as proficient as we'd like someone to be for our class 1. Is it to our advantage to broaden that so much that maybe some people shouldn't have a class 1 because they're not as proficient as we'd like them to be when they come out of their training.

Rick Anderson: I have a solution. Implement requirements for continuing education in scenario based training. We do have that available, and other instructors can get that type of training to offer as well.

Rep. Delmore: Are there federal monies that we can tap into to help make this happen in ND.

Rick Anderson: I would like to research and get back with you.

Rep. Delmore: I would assume that if we were to expand it in that way, we would obviously need more qualified and certified trainers like you, correct.

Rick Anderson: The experience level is what makes a trainer in a lot of ways. There are a lot of instructors who are great enthusiasts for the industry; not a lot of them are qualified trainers. Continuing education for instructors is a great asset as well. I attend numerous hours of continuing education on an annual basis.

Rep. Delmore: Do we need to have people then that are qualified, certified instructors through a Board or whatever, so that they are doing the right training we want people who have a class 1 permit to have.

Rick Anderson: I know that BCI certifies the instructors through a training program for the class 1 and they have done an outstanding job in the two years previous to now in developing the program, building it up and developing an instructor base, and putting together and implementing a training program. I would say that some

continuing education beyond the basic instructor certification, could be required for the instructors and that could be a tremendous asset. Advanced training for the licensees for a class 1, maybe not a class 2, but if class 1 had to do CEU hours involving scenario based training, not just shooting a gun, it's decision-making, judgmental use of force decisions that are critical under fire. When you are at your highest level of threat and stress; how do you react. A person is going to react the way they've been trained and trained often to react.

Rep. Onstad: Could you cite a couple of examples between ND and UT where we can carry and they can't and vice versa.

Rick Anderson: Churches are one of the more popular places to carry. We cannot carry in churches and schools. UT has a law saying that they cannot restrict carry in school. The only churches that carry is restricted have to be posted on the BCI website in UT. The Latter Day Saints houses of worship is restricted, all the other churches have not restricted that. Those two areas, churches and schools, are the areas all around our country that we're hearing about them every day where it's a target rich environment for the criminal. They go into our schools, Virginia Tech, Columbine, etc. and churches. If you're not allowed to carry there, you can't defend yourself, your congregation, etc. With training a concealed carry licensee can act appropriately, just as appropriately as a peace officer with the proper training in responding to a threat like that under those conditions, in those locations. Those are two of the main locations.

Rep. Onstad You're picking on some areas there, so to say, uniformly that we should just adopt UT's rules, I think it would be pretty extensive that we would have to look at what they allow and don't allow. To just say that we should accept it, is one thing. I guess obviously that must be a major concern in MN of whether we are stricter or broader, there must areas where we allow it and they don't, and vice versa too. It seems to be a bigger topic than what you are stating.

Rick Anderson: It is a big topic, but if we did move to accept it, we would actually be saving time in future legislation. There is a very large call for pastors who want their congregations to be able to carry. Church are forming their security teams, they are training their own people right here in ND, but they can't do anything. They are very limited and if someone was to work into a church and want to wreak havoc, they have a target rich environment, concealed carry licensees and non-licensees alike, where people can't defend themselves appropriately.

Rep. Onstad I sit on my own church council and have been there for many years and to say that churches are looking to form their own security forces, that's never been brought up.

Rick Anderson: I would say the list is growing rapidly. I've been contacted by several pastors and actually training two church security teams that are armed in the state of ND.

Chairman DeKrey: Thank you. Further testimony in support of HB 1461. Testimony in opposition. We will close the hearing.

Chairman DeKrey: Let's take a look at HB 1461.

Rep. Delmore: I move a Do Pass on HB 1461.

Rep. Hogan: Second the motion.

Chairman DeKrey: Furth discussion on HB 1461.

Rep. Koppelman: Do we have any kind of reciprocal recognition of the training they get. In other words it wouldn't just be a blanket approval like this appears to be, but if they've taken certain marksmanship training that they have to take, do the peace officers qualify for this. In other words, it wouldn't be a blanket approval like this appears to be , but if they've taken certain marksmanship training that they have to take, does that qualify them for this. In regard to the military users, there are a lot of pistols in the military, but percentage wise, very few people are trained on pistols in the military, they are all rifles and long guns.

Rep. Koppelman: That was why, I also asked the question about a peace officer, and I don't know, but Rep. Porter's answer of them have this training and are renewed on a regular basis. I'm not sure if that's true of the people that are sitting at a desk and dispatching; are they considered peace officers.

Chairman DeKrey: From my military experience, there's an awful lot of people that are supposed to qualify with their personal weapon every year.

Rep. Delmore: I think a lot of the training for it depends on what police force you're talking about. That's why I think cart blanc to say hey, there may be safeguards in place. We can put it on next time. I think if we want to get the MN reciprocity we should keep it to the language that will get us the MN reciprocity.

Rep. Koppelman: I agree with Rep. Delmore, if they want to look at this in the Senate side, and if there is a way that the test could be reciprocal vs. this blanket inclusion of a certain class of people, it might be a better approach.

Chairman DeKrey: I think it will give Rep. Porter a chance to look into it before it gets in the Senate and maybe line up some support for it. There was not one peace officer here that said they needed it.

Rep. Hogan: I have question on line 10 on page 5, because this law came from someplace else, I'm not sure that it's relevant to our legal definitions. But has not been adjudicated by a state or federal court as mentally incompetent, that's generally not a term we use in our courts is it.

Rep. Klemin: I think probably incapacitated instead of incompetence.

Rep. Hogan: That made me uncomfortable because that's not a term we usually use.

Chairman DeKrey: I don't know if we dare change it. The Senate can look at that. The clerk will call the roll.

**14 YES 0 NO 0 ABSENT**

**DO PASS**

**CARRIER: Rep. Koppelman**

Date: 2/9/11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1461

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Delmore Seconded By Rep. Hogan

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Koppelman

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

**REPORT OF STANDING COMMITTEE**

**HB 1461: Judiciary Committee (Rep. DeKrey, Chairman)** recommends **DO PASS**  
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1461 was placed on the  
Eleventh order on the calendar.

2011 SENATE JUDICIARY

HB 1461



# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1461  
3/21/11  
Job #15783

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to concealed weapons permits

Minutes:

## Senator Nething – Chairman

**Representative Todd Porter** – District 34 - Introduces the bill and explains what was worked on in the interim to get the concealed carry permits to the point of maximum reciprocity. He explains that a Class 1 license requires a shooting test, a written test and a class room portion, a Class 2 requires an open book test. He states the reciprocity for a class 2 is 23 states and individuals holding that license wanted more reciprocity so they came up with a class 1. He says that has increased our reciprocity to 34 states. He said the problem is that it doesn't include Minnesota. This bill comes in with the exact verbiage of the Utah license. The Utah license has reciprocity with Minnesota. Minnesota should recognize ND since they recognize the Utah license.

**Senator Nething** – Asks what the problem has been.

**Porter** – Responds not one particular problem with Minnesota. Utah is the next best license in the country to have.

**Senator Nething** – Asks why we need to change our law.

**Porter** – Replies bottom line is Minnesota won't allow us reciprocity.

**Senator Nething** – Asks if there is a lot of people needing this.

**Porter** – Says some of the large population centers along the border of Minnesota go to the lakes every weekend and they don't have the right to have a concealed weapon when they go into Minnesota.

**Senator Nething** – Asks why people carry concealed weapons.

**Porter** – Each individual has that right whether it is for personal protection or whatever it is.

It is a constitutional right.

**Senator Olafson** – Asks why a person would want a Class 1 versus a Class 2.

**Porter** – Says the main difference between the two is the number of states that you can have reciprocity. He goes on to explain what you need to have with each class license.

**Senator Lyson** – Adds that this is also for the snowbirds. They have had problems going to other states with a side-arm in their vehicle.

**Senator Nething** – States what we are trying to is bring more uniformity to our current law.

**Porter** – Says we are trying to mirror the state of Utah into our law so we can garner more reciprocal states.

**Senator Sitte** – Asks about not being able to carry a weapon with any alcohol offense.

**Porter** – States they are very strict. He explains someone getting picked up for a DUI will lose their Class 1 license but they will be eligible for a Class 2.

**Opposition – 0**

**Neutral – 0**

**Close the hearing**

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1461  
3/22/11  
Job #15833

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to concealed weapons permits

Minutes:

**Senator Nething – Chairman**

Committee work

**Senator Nelson** moves a do pass  
**Senator Olafson** seconded

Roll call vote – 6 yes, 0 no  
Motion passes

**Senator Nelson** will carry

Date: 3/22/11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1461

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nelson Seconded By Senator Olafson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson -- V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 10 No 0

Absent \_\_\_\_\_

Floor Assignment Senator Nelson

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

**REPORT OF STANDING COMMITTEE**

**HB 1461: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1461 was placed on the  
Fourteenth order on the calendar.

2011 TESTIMONY

HB 1461

## CW Reciprocity – January 26, 2011

STATE	1&2	1 only	No	NOTES
Alabama	■			Condition: Restrictions on the types of weapons (handguns only)
Alaska	■			
Arizona		■		
Arkansas		■		
California			■	4-19-10: Not possible
Colorado	■			Condition: 21 years & resident licenses only
Connecticut			■	4-16-10: Not possible
Delaware	■			
Florida	■			Condition: 21 years & resident licenses only
Georgia	■			March 2010 – Class 1 only; June 14, 2010, full reciprocity – confirmed with GA
Hawaii			■	Not possible
Idaho	■			
Illinois			■	Not possible
Indiana	■			
Iowa	■			01-25-11
Kansas		■		5-14-10. Added because of proficiency
Kentucky	■			
Louisiana	■			4-14-10 confirmed; Legisl. amending laws, may change next year.
Maine		■		05-13-10. Added because of proficiency. Condition: firearms only, residents only. Lt. Bowler, DPS- David.E.Bowler@maine.gov
Maryland			■	Not possible
Massachusetts			■	4-19-10: Not possible
Michigan	■			Condition: 21 & resident licenses only
Minnesota			■	(Paul & Jerry are working on this – April 2010)
Mississippi				4-21-10: review pending, DPS 601-987-1332. Jim Younger (21-MH-residents). 5-06-10 reminder call; 5-7-10, still pending. 1-24-11 reminder – sent copy of Maine agreement per his request (Class 1 only, firearms only)
Missouri	■			
Montana	■			
Nebraska	■			Condition: 21.
Nevada				5-03-10: emailed Chiefs & Sheriffs; follow up sent 5-13-10; July. Denied. no reason. 1-24-11 spoke directly to director Frank Adams – asked for explanation of denial - because ND law too broad. Reminded him of Class 1/Class 2 differences. 2nd reminder – they recognize other states with similar language. Will further review.
New Hampshire				04-26-10: yes, but deciding between 1&2 or 1 only; 05-06-10 reminder sent. 1-24-11 Permits and Licensing Unit: (603) 223-3873 Sgt. Steven Cooper – the individual handling the request retired without making a decision; I re-sent the info - they will review.
New Jersey			■	4-13-10: Not possible
New Mexico		■		4-13-10. Added because of proficiency & MH
New York			■	Not possible
North Carolina	■			4-16-10 added - Condition: 21
Ohio		■		5-13-10 Added because of proficiency & MH
Oklahoma	■			Condition: handguns only
Oregon			■	Not possible
Pennsylvania	■			
Rhode Island			■	4-16-10: Not possible
South Carolina		■		5-07-10, added because of proficiency and MH
South Dakota	■			
Tennessee	■			
Texas	■			
Utah	■			
Vermont	■			No permits required
Virginia		■		

Washington		■	02-3-11 yes, based on MH and proficiency (AAG Susan Pierini)
West Virginia		■	
Wisconsin		■	Not possible.
Wyoming		■	1-14-10: Added because of proficiency & MH

■: No reciprocity previously but no law prohibiting it in that state. Reconsideration requested after 8-1-2009. Yellow: Follow up required.

January 2011:

- In 2010, twelve states had laws prohibiting reciprocity with other states.
  - Iowa's laws changed, effective January 1, 2011, to permit reciprocity under certain conditions. A request for full reciprocity was made to and accepted by Iowa on January 25, 2011.

As a result of the 2009 legislative change - adding a Class 1 license which requires proficiency training (even upon renewal), only to age 21 and older, and requiring release of mental health treatment records, ND:

- **ADDED 9 10 states for reciprocity for Class 1 only**, one of which (Georgia) later agreed to make it full reciprocity;
- **2 states** switched from full reciprocity to Class 1 reciprocity only, one of which confirmed that because that state's laws had changed, it would have **dropped** reciprocity completely if we had not had Class 1 available.
- As of ~~January 26, 2011~~ February 3, 2011, **ND has either full reciprocity or reciprocity for Class 1 license holders with 33 34 states.**
- ~~Four~~ Three states are still reviewing and considering our request for reciprocity, and have indicated that reciprocity would be only for Class 1 license holders:
  - Mississippi;
  - Nevada (unlikely that a decision will be made before July 2011)
  - New Hampshire
  - ~~Washington~~ - UPDATE: February 3, 2011 - WA agreed to Class 1 reciprocity



DeKrey

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## PROPOSED AMENDMENT TO HOUSE BILL NO. 1461

Page 8, after line 7, insert "7. A peace officer who has a current peace officer license under chapter 12-63 may apply under this section for a class 1 license to carry a firearm or dangerous weapon concealed. A peace officer who applies for a license under this section is not subject to the classroom and testing requirements, firearms familiarity, shooting and proficiency requirements, and fingerprint and background investigation requirements of this section. A peace officer shall meet all other application and license fee requirements in this section and shall include verification of the applicant's peace officer's license and the peace officer's most recent sidearm qualification with the application."

Page 8, line 8, overstrike "7." and insert immediately thereafter "8."

Page 8, line 10, overstrike "8." and insert immediately thereafter "9."

Page 8, line 18, overstrike "9." and insert immediately thereafter "10."