

2013 HOUSE JUDICIARY

HB 1224

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1224
January 22, 2013
Job 17520

Conference Committee

Kristie Hetzler

Explanation or reason for introduction of bill/resolution:

Carrying a firearm in a vehicle.

Minutes:

Testimony 1,2,3

Chairman Koppelman: Open.

Rep Kempenich: Testimony 2 and 3.

Rep Klemin: Individuals that are residents in the state are allowed to carry loaded firearm in a vehicle.

Rep Kempenich: Yes.

Chairman Koppelman: The HB 1224 would repeal the sections of code that would restrict carrying a loaded firearm in a vehicle, the restriction on carrying including hours, prohibition on carrying a concealed weapon without a permit. So is it the intent to get rid of the requirement to have to carry the permit at all times?

Rep Klemin: This only deals with carrying loaded firearm in a vehicle?

Rep Kempenich: Yes, the amendment, it would be plan B. I am offering two different options for the Committee.

Andrew Bornemann: Supports HB 1224, I am a concealed weapons carrier and I do carry regularly. I believe the repeal of these sections would get us closer to our Constitutional Rights. Current law does restrict our rights under the Second Amendment of the Constitution.

Aliesha Simons: Provided written testimony in support of HB 1224 (not present).

Chairman Koppelman: Closes.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1224
February 19, 2013
Job 19162

Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to carrying a firearm or dangerous weapon.

Minutes:

Attachment 1

Chairman Koppelman: This amendment gets rid of the bill that Rep Kempenich presented. It basically says that if you are in the field engaged in lawful hunting of big game or small game, you will not be a criminal if you forget to unload your gun.

Rep Larson moved the amendment.

Rep Boehning seconded.

Chairman: It's a hog house, so it would get rid of the rest of the bill.

Rep Kretschmar: It would still be a penalty to have a loaded gun in the car, but non-criminal, like speeding?

Chairman: That's correct.

Voice vote: Motion carried.

Rep Maragos motioned for Do Pass as Amended.

Rep Steiner seconded.

Roll Call Vote:

Yes: 11

No: 0

Absent: 3

Carried by **Rep Maragos**.

VR
2/19/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1224

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to hunting with a loaded firearm in a vehicle; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:

Carrying a loaded firearm in vehicle while hunting - Penalty.

An individual who is in the field engaged in the lawful hunting of big game or small game and who violates section 62.1-02-10 is not subject to a criminal penalty but is guilty of a class 2 noncriminal offense under chapter 20.1-01."

Renumber accordingly

Date: 2-19-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1224

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. Larson Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote - Carried

Date: 2-19-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1224

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. maragos Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls					
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. maragos

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

REPORT OF STANDING COMMITTEE

HB 1224: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1224 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to hunting with a loaded firearm in a vehicle; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:

Carrying a loaded firearm in vehicle while hunting - Penalty.

An individual who is in the field engaged in the lawful hunting of big game or small game and who violates section 62.1-02-10 is not subject to a criminal penalty but is guilty of a class 2 noncriminal offense under chapter 20.1-01."

Renumber accordingly

2013 SENATE NATURAL RESOURCES

HB 1224

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1224
March 15, 2013
20001

Conference Committee

Veronica Spauling

Explanation or reason for introduction of bill/resolution:

Relating to hunting with a loaded firearm in a vehicle; and to provide a penalty

Minutes:

No attachments

Roll call was taken and all committee members were present.

Chairman Lyson opened the hearing for HB 1224.

Representative Keith Kempenich, District 39, introduced the bill. The bill would reduce the penalty to a class two non-criminal offense, which would be a \$25.00 fine and a ticket for carrying a loaded firearm in a vehicle.

There was some discussion about what is meant by a loaded gun.

Robert Timian, Chief Game Warden with the ND Game and Fish Department, stated that there are definitions in the code in 62.1 (Ends at 5:53)

Senator Laffen read from the Century Code and it did not define what a loaded gun was but it did define unloaded. (Ends at 06:35)

Senator Lyson asked how Game and Fish would enforce this.

Mr. Timian said if the shell is in the chamber it is a violation.

Senator Murphy asked for clarification. This bill would lessen the penalty?

Mr. Timian agreed. Under current law it is a Class B misdemeanor; this would make it a non-criminal offense.

Foster Ray Hager, Cass County Wildlife, mentioned there are people who have a permit to shoot out the window. If you have that permit, you can have a loaded shotgun or rifle in your possession in the vehicle. He supports the bill.

Anyone else in favor: None

Opposition: None

Neutral: None

Senator Triplett asked if the genesis of this bill was concern over the possibility of federal rules regarding firearms.

Representative Kempenich gave a history of the genesis of the bill. (Ends at 12:29)

Chairman Lyson closed the hearing for HB 1224.

Senator Unruh: Do Pass motion

Senator Murphy: Second

Senator Triplett mentioned that she knew someone who had been killed due to a loaded weapon in a vehicle.

Chairman Lyson also knew someone who had died that way: Senator Laffen also knew someone who had died when a loaded gun slipped off the seat of a tractor.

Roll Call Vote: 7, 0, 0

Carrier: Senator Lyson

Date: 3-15-13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1224**

Senate Natural Resources 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 Unruh Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson	✓		Senator Triplett	✓	
Senator Burckhard	✓		Senator Murphy	✓	
Senator Hogue	✓				
Senator Laffen	✓				
Senator Unruh	✓				

Total (Yes) 7 No 0
 Absent 0
 Floor Assignment Lyson

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

REPORT OF STANDING COMMITTEE

HB 1224, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1224 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1224

Mr. Chairmen and Members of the Committee,

My name is Aliesha Simons from Dickinson, ND and I want to share my story and why we are in support of House bill 1224. I have taken out the names of everyone involved except my husband Luke and myself. This is a rewrite of the complaint we filled with the local police depart in regards of the actions of an officer.

We had just left church when we were pulled over for a headlight that was out. We were pulled over by officer 1. Luke was open carrying a pistol. It was on the dash of the van. Officer 1 came to the window and seen the pistol. He immediately asked if he had a permit and he demanded to see the gun. Luke told him his does not need a permit to open carry. The officer was being very insistent that he was breaking the law and again asked for the gun. Luke told him "No sir the gun will stay where it is. I was pulled over for a headlight and I will get you my registration and insurance." Luke then was getting the information from his visor. While Luke's hands were at the visor Officer 1 then reached into the vehicle, over top of Luke and grabbed for the pistol off of the dash. Luke quickly reached and pushed the gun across the dash, away from the officer. And Luke said "By God, don't ever touch my gun!" We never reached for or touched the gun after that. When Luke turned back to Officer 1 he was looking straight into the officer's gun. Luke rolled up the van window at that time. We both heard the officer calling for back up and he said that Luke had struck him and tried pulling a gun on him. Understand this is not a complaint against any officer other than Officer 1. Luke was repeatedly asking for the local sheriff, who is a friend of ours. He was asking for him by name. At this point Officer 1 was beyond reason. Another officer, Officer 2, arrived. We feel he did his job thoroughly. He had his gun drawn and was standing and holding just inches from the window pointing straight at Luke's head. He was yelling "Get out of the vehicle now or I will shoot you!" Luke told him "No, I will not get out I didn't do anything wrong. Sir, I was pulled over for a headlight." Officer 2 still was yelling "get out now or I will shoot!" Luke said "well, if you shoot me it will be in front of my wife and five children." Our five children ages 12, 11, 8, 6, and 4 were sitting in the back of the van. They were completely terrified. Our 11 year old daughter was sitting right behind Luke and very clearly seen and heard everything. They told us afterwards that they were praying the whole time. Luke kept talking to Officer 2 and after a short time Officer 2 began to realize what was going on. He lowered his gun and asked to see license and registration. He then said that Officer 1 is a new officer from Minnesota and that this sounds like a misunderstanding. At this time two senior officers arrived. One was on the passenger side shining his light in the window. Luke recognized him and said " Officer 3, Officer 3, I need you! Come over here!" Officer 3 said "Luke! What is going on?" He then ran around to the driver's side of the van and was saying "all officers stand down! Stand down!" Luke rolled down his window and Officer 3 reached in and grabbed Luke's shoulders in a kind of hug and said "Luke, everything is going to be ok! Nobody is going to get hurt." Another officer we know, Officer 4, came running over and said "Luke what is going on? Is everything ok?" Again this complaint is against nobody other than Officer 1. All other officers handled themselves very professionally. We feel that Luke's life was unnecessarily threatened and our constitutional right was violated. Our children were unnecessarily terrified and to watch this drama. This event happened on December 5, 2012.

Again this is a rewrite of the complaint we filed. Our friends who work in the police and sheriff's department encouraged us to fill a complaint. They have also always encouraged Luke to open carry and thanked him for doing so. We feel that the law needs to be changed making it easier for people to open and conceal carry a firearm. It is our constitutional freedom. This should never have happened. Our children should never have had to see this. We are not criminals and should not have been treated like one, just because we choose to carry a gun. We strongly believe that this bill will help restore our right to carry a gun.

Thank you for your time,

Luke and Aliesha Simons

1-9-12-2
1224

**CHAPTER 62.1-02
POSSESSION OF WEAPONS**

62.1-02-01. Persons who are not to possess firearms - Penalty.

1.
 - a. A person who has been convicted anywhere of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of ten years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
 - b. A person who has been convicted anywhere of a felony offense of this or another state or the federal government not provided for in subdivision a or who has been convicted of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government and the offense was committed while using or possessing a firearm, a dangerous weapon, or, as defined in subsections 7 and 8 of section 12.1-01-04, a destructive device or an explosive, is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of five years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
 - c. A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under section 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or as a mentally deficient person as defined in section 25-01-01, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years or who has successfully petitioned for relief under section 62.1-02-01.2.
 - d. A person under the age of eighteen years may not possess a handgun except that such a person, while under the direct supervision of an adult, may possess a handgun for the purposes of firearm safety training, target shooting, or hunting.
A person who violates subdivision a or b is guilty of a class C felony, and a person who violates subdivision c or d is guilty of a class A misdemeanor.
2. For the purposes of this section, "conviction" means a determination that the person committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty, or a plea of nolo contendere even though:
 - a. The court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02;
 - b. The court deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02;
 - c. The court placed the person on probation;
 - d. The person's conviction has been reduced in accordance with subsection 9 of section 12.1-32-02 or section 12.1-32-07.1;
 - e. Sentence dispositions, sentence reductions, or offense determinations equivalent to this section were imposed or granted by a court, board, agency, or law of another state or the federal government; or
 - f. The person committed an offense equivalent to an offense described in subdivision a or b of subsection 1 when that person was subject to juvenile adjudication or proceedings and a determination of a court under chapter 27-20 or of a court of another state or the federal government was made that the person committed the delinquent act or offense.

62.1-02-01.1. Restoration of right to possess firearm.

1. An individual who is prohibited from possessing a firearm due to a conviction of a felony under subdivision b of subsection 1 of section 62.1-02-01 may petition the district court in the district where the individual resides for restoration of the individual's firearm rights.
2. The district court may restore the right of an individual to possess a firearm if the court determines, by clear and convincing evidence, that all of the following circumstances exist:
 - a. The individual has paid all fines imposed for the violation resulting in the prohibition;
 - b. The individual has served all terms of imprisonment imposed for the violation resulting in the prohibition;
 - c. The individual has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition; and
 - d. The individual's record and reputation are such that the individual is not likely to act in a manner dangerous to the safety of others.

62.1-02-01.2. Mental disability and the possession of firearms.

1. A court shall make a finding as to whether the provisions of 18 U.S.C. 922(d)(4) and (g)(4) apply to the subject of a following proceeding in which the court:
 - a. Finds that a person, as a result of mental disease or defect, may not be held criminally responsible in any case pursuant to chapter 12.1-04 or 12.1-04.1;
 - b. Finds that a person is a "mentally deficient person", as defined in subsection 3 of section 25-01-01;
 - c. Orders involuntary hospitalization or commitment to a treatment facility or involuntary treatment pursuant to chapter 25-03.1;
 - d. Orders involuntary commitment or involuntary treatment under chapter 25-03.3;
 - e. Appoints a guardian ad litem under section 28-03-04;
 - f. Appoints a guardian under chapter 30.1-28; or
 - g. Appoints a conservator under chapter 30.1-29.
2. If the court finds that the provisions apply, the clerk of the court shall forward the individual's name and nonclinical identifying information to the bureau of criminal investigation, which shall forward the information to the federal bureau of investigation, or its successor agency, for inclusion in the national instant criminal background check system database. The court also shall notify the individual of the prohibitions of 18 U.S.C. 922(d)(4) and (g)(4), and, if relevant, of subdivision c of subsection 1 of section 62.1-02-01.
3. If a court of this state has found an individual under subsection 1 to be subject to the provisions of 18 U.S.C. 922(d)(4) and (g)(4), that individual may petition the court that issued the finding or the district court of the county where the individual resides to remove that individual's firearms-related disabilities, as provided in Public Law No. 110-180, 105(a). A copy of the petition for relief must be served on the director of the treatment facility that treated the individual pursuant to court order and the prosecuting attorney of the county in which the original finding, order, or appointment occurred. The director of the treatment facility that treated the individual pursuant to court order and the prosecuting attorney may appear, support, object to, and present evidence relevant to the relief sought by the petitioner. The court shall receive and consider evidence in a closed proceeding, including evidence offered by the petitioner, concerning:
 - a. The circumstances of the original order, appointment, or finding;
 - b. The petitioner's mental health and criminal history records, if any;
 - c. The petitioner's reputation; and
 - d. Changes in the petitioner's condition or circumstances relevant to the relief sought.
4. The court shall grant the petition for relief if the court finds by a preponderance of the evidence that the petitioner likely will not act in a manner dangerous to public safety

and that the granting of the relief would not be contrary to the public interest. A record must be kept of the proceedings. The record is confidential and may be disclosed only to a court in the event of an appeal. An individual may file a petition for relief under this section no more than once every two years.

5. When a magistrate or court issues an order granting a petition for relief under subsection 3, the clerk of the court immediately shall forward a copy of the order to the bureau of criminal investigation in the format and medium specified by the bureau after consultation with the state court administrator. The bureau immediately shall forward a copy to the federal bureau of investigation, or its successor agency, for updating of the national instant criminal background check system database.

62.1-02-02. Sale of handgun regulated - Penalty.

No person may transfer a handgun to any person who the transferor knows or has reasonable cause to believe is a person prohibited by section 62.1-02-01 from possessing a firearm. Any person who violates this section is guilty of a class A misdemeanor.

62.1-02-03. Possession or sale of short-barreled rifle or shotgun - Penalty - Application.

A person who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun is guilty of a class C felony. This section does not apply to a law enforcement officer who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun in the course of or in connection with the officer's official duties, to a member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations who possesses or uses a short-barreled rifle or short-barreled shotgun issued to the member by that organization and while on official duty, or to any person who complies with the National Firearms Act [26 U.S.C. 5801-5872].

62.1-02-04. Possession of firearm or dangerous weapon in liquor establishment or gaming site prohibited - Penalty - Exceptions.

Any person who enters or remains in that part of the establishment that is set aside for the retail sale in an establishment engaged in the retail sale of alcoholic beverages or used as a gaming site while in the possession of a firearm or dangerous weapon is guilty of a class A misdemeanor. This section does not apply to:

1. A law enforcement officer.
2. The proprietor.
3. The proprietor's employee.
4. A designee of the proprietor when the designee is displaying an unloaded firearm or dangerous weapon as a prize or sale item in a raffle or auction.
5. Private security personnel while on duty for the purpose of delivering or receiving moneys used at the liquor establishment or gaming site.

62.1-02-05. Possession of a firearm at a public gathering - Penalty - Application.

1. A person who possesses a firearm at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" includes athletic or sporting events, schools or school functions, churches or church functions, political rallies or functions, musical concerts, and individuals in publicly owned parks where hunting is not allowed by proclamation and publicly owned or operated buildings. The term "public gathering" does not apply to a state or federal park.
2. This section does not apply to law enforcement officers; members of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty; competitors participating in organized sport shooting events; gun and antique shows; participants using blank cartridge firearms at sporting or theatrical events; any firearms carried in a temporary residence or motor vehicle; students and instructors at hunter safety classes; or private security personnel while on duty. In addition, a municipal court judge licensed to practice law in this state,

a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer are exempt from the prohibition and penalty in subsection 1 if the individual maintains the same level of firearms proficiency as is required by the peace officer standards and training board for law enforcement officers. A local law enforcement agency shall issue a certificate of compliance under this section to an individual who is proficient.

3. This section does not prevent any political subdivision from enacting an ordinance which is less restrictive than this section relating to the possession of firearms at a public gathering. Such an ordinance supersedes this section within the jurisdiction of the political subdivision.

62.1-02-06. Discharge of firearm within city - Penalty - Application.

A person who discharges a firearm within a city is guilty of a class B misdemeanor. This section does not apply to the lawful discharge of firearms by law enforcement officers, by citizens in defense of person or property, or by participants in lawful activities in which discharge of firearms is a recognized part of the activity, including shooting galleries and ranges.

62.1-02-07. Use of firearm by certain minors prohibited - Penalty.

Any parent, guardian, or other person having charge or custody of any minor under fifteen years of age who permits that minor to carry or use in public any firearm of any description loaded with powder and projectile, except when the minor is under the direct supervision of the parent, guardian, or other person authorized by the parent or guardian, is guilty of a class B misdemeanor.

62.1-02-08. Illegal firearms, ammunition, or explosive materials business.

1. A person is guilty of an offense if the person supplies a firearm, ammunition, or explosive material to, or procures or receives a firearm, ammunition, or explosive material for, a person prohibited by this title from receiving it if the transferor knows or has reasonable cause to believe that such person is prohibited by section 62.1-02-01 from receiving or possessing it.
2. The offense is a class C felony if the actor:
 - a. Was not licensed or otherwise authorized by law to handle, transfer, or engage in transactions with respect to the firearm, destructive device, or explosive material; or
 - b. Engaged in the forbidden transaction under circumstances manifesting the actor's readiness to supply or procure on other occasions in disregard of lawful restrictions.

Otherwise the offense is a class A misdemeanor.

62.1-02-09. Possession of explosive and destructive device in government building - Penalty.

A person, except for a law enforcement officer while on official business, is guilty of a class C felony if the person possesses an explosive or destructive device in a government building without the written consent of the government agency or person responsible for the management of the building.

62.1-02-10. Carrying loaded firearm in vehicle - Penalty - Exceptions.

No person may keep or carry a loaded firearm in or on any motor vehicle in this state. Any person violating this section is guilty of a class B misdemeanor. This prohibition does not apply to:

1. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations while possessing the firearm issued to the member by the organization and while on official duty.
2. A law enforcement officer, except while the officer is engaged in hunting or trapping activities with a rifle or shotgun.

3. Any person possessing a valid North Dakota concealed weapons license or a valid license issued by another state authorizing the person to carry a dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a dangerous weapon concealed in that state without obtaining a similar license from that state, except while that person is in the field engaged in hunting or trapping activities.
4. Any person in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.
5. A security guard or private investigator licensed to carry firearms by the attorney general.
6. Any person possessing a valid special permit issued pursuant to section 20.1-02-05.

62.1-02-11. Possessing explosive prohibited - Exception - Penalty.

No person may have in custody, possession, or control any nitroglycerin, dynamite, or any other dangerous or violent explosive, unless the explosive is carried in the prosecution of or to effect a lawful and legitimate purpose. Any person violating this section is guilty of a class C felony.

62.1-02-12. Resident may purchase rifle or shotgun in contiguous state - Application - Definitions.

Repealed by S.L. 2005, ch. 598, § 2.

62.1-02-13. Possession of secured firearm - Prohibition by employer prohibited.

1. A public or private employer may not:
 - a. Prohibit any customer, employee, or invitee from possessing any legally owned firearm, if the firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and if the customer, employee, or invitee is lawfully in the area.
 - b. Make a verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or make an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle. In addition, a public or private employer may not take any action against a customer, employee, or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes. A search of a private motor vehicle in the parking lot of a public or private employer to ascertain the presence of a firearm within the vehicle may only be conducted by an on-duty law enforcement officer.
 - c. Condition employment upon the fact that an employee or prospective employee holds or does not hold a concealed weapons license or any agreement by an employee or a prospective employee that prohibits an employee from keeping a legal firearm locked inside or locked to a private motor vehicle in a parking lot, if the firearm is kept for lawful purposes.
 - d. Prohibit or attempt to prevent any customer, employee, or invitee from entering the parking lot or the employer's place of business because the customer's, employee's, or invitee's private motor vehicle contains a legal firearm being carried for lawful purposes, that is out of sight within the customer's, employee's, or invitee's private motor vehicle.
 - e. Terminate the employment of or otherwise discriminate against an employee, or expel a customer or invitee for exercising the constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes.
2. A public or private employer has no duty of care related to the actions prohibited under this section.

3. A public or private employer is not liable in a criminal or civil action based on actions or inactions taken in compliance with this section. The immunity provided in this subsection does not apply to civil actions based on actions or inactions of public or private employers that are unrelated to compliance with this section.
4. This section does not expand any existing duty, or create any additional duty, on the part of a public or private employer, property owner, or property owner's agent.
5. A person aggrieved under this section may bring a civil action for violation of rights protected under this section. In any successful action brought by a customer, employee, or invitee aggrieved under this section, the court shall award all reasonable personal costs and losses suffered by the aggrieved person as a result of the violation of rights under this section. In any action brought under this section, the court shall award all court costs and attorney's fees to the prevailing party.
6. The prohibitions in subsection 1 do not apply to:
 - a. Any public or nonpublic elementary school, middle school, high school, college, or university property.
 - b. Any correctional facility or institution.
 - c. Property owned or leased by a public or private employer or the landlord of a public or private employer upon which are conducted substantial activities involving national defense, aerospace, or homeland security.
 - d. Property owned or leased by a public or private employer or the landlord of a public or private employer upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law, or property owned or leased by an employer who has obtained a permit required under 18 U.S.C. 842 to engage in the business of importing, manufacturing, or dealing in explosive materials on the property.
 - e. A motor vehicle owned, leased, or rented by a public or private employer or the landlord of a public or private employer.
 - f. Any other property owned or leased by a public or private employer or the landlord of a public or private employer upon which possession of a firearm or other legal product by a customer, employee, or invitee is prohibited under any federal law, contract with a federal governmental entity, or other law of this state.
 - g. The state hospital.

CHAPTER 62.1-03 HANDGUNS

62.1-03-01. Carrying handgun - Restrictions - Exceptions.

1. A handgun may be carried by a person not prohibited from possessing one by section 62.1-02-01 or any other state statute, in a manner not prohibited by section 62.1-02-10 if:
 - a. Between the hours of one hour before sunrise and one hour after sunset, the handgun is carried unloaded and either in plain view or secured.
 - b. Between the hours of one hour after sunset and one hour before sunrise, the handgun is carried unloaded and secured.
2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:
 - a. Any person possessing a valid North Dakota concealed weapons license or a valid license issued by another state authorizing the person to carry a dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a dangerous weapon concealed in that state without obtaining a similar license from that state.
 - b. Any person on that person's land, or in that person's permanent or temporary residence, or fixed place of business.
 - c. Any person while lawfully engaged in target shooting.
 - d. Any person while in the field engaging in the lawful pursuit of hunting or trapping. However, nothing in this exception authorizes the carrying of a loaded handgun in a motor vehicle.
 - e. Any person permitted by law to possess a handgun while carrying the handgun unloaded and in a secure wrapper from the place of purchase to that person's home or place of business, or to a place of repair or back from those locations.
 - f. Any North Dakota law enforcement officer.
 - g. Any law enforcement officer of any other state or political subdivision thereof if on official duty within this state.
 - h. Any armed security guard or investigator as authorized by the attorney general when on duty or going to or from duty.
 - i. Any member of the armed forces of the United States when on duty or going to or from duty and when carrying the handgun issued to the member.
 - j. Any member of the national guard, organized reserves, state defense forces, or state guard organizations, when on duty or going to or from duty and when carrying the handgun issued to the member by the organization.
 - k. Any officer or employee of the United States duly authorized to carry a handgun.
 - l. Any person engaged in manufacturing, repairing, or dealing in handguns or the agent or representative of such person possessing, using, or carrying a handgun in the usual or ordinary course of such business.
 - m. Any common carrier, but only when carrying the handgun as part of the cargo in the usual cargo carrying portion of the vehicle.

62.1-03-02. Selling handgun to minors prohibited - Penalty.

Any person who sells, barter, hires, lends, or gives any handgun to any minor is guilty of a class A misdemeanor. This section does not prohibit a person from lending or giving a handgun to a minor if the minor will be using the handgun under the direct supervision of an adult and for the purpose of firearm safety training, target shooting, or hunting.

62.1-03-03. Copy of federal license submitted to law enforcement officials.

A retail dealer licensed to sell handguns by the federal government shall send a copy of the license, within seven days after receiving it, to the chief of police of the city and the sheriff of the county in which the dealer is licensed to sell handguns.

62.1-03-04. False information prohibited.

No person, in purchasing or otherwise securing delivery of a handgun or in applying for a license to carry the handgun concealed, may give false information or offer false evidence of the person's identity.

62.1-03-05. Prohibited alterations in handgun.

No person may change, alter, remove, or obliterate any mark of identification on a handgun, such as the name of the maker, model, or manufacturer's number or knowingly possess a handgun on which such alterations have been made. Possession of any handgun upon which any such identification mark has been changed, altered, removed, or obliterated creates a rebuttable presumption that the possessor made the alterations.

62.1-03-06. General penalty.

Any person who violates any provision of this chapter, for which another penalty is not specifically provided, is guilty of a class A misdemeanor.

CHAPTER 62.1-04 CONCEALED WEAPONS

62.1-04-01. Definition of concealed.

A firearm or dangerous weapon is concealed if it is carried in such a manner as to not be discernible by the ordinary observation of a passerby. There is no requirement that there be absolute invisibility of the firearm or dangerous weapon, merely that it not be ordinarily discernible. A firearm or dangerous weapon is considered concealed if it is not secured, and is worn under clothing or carried in a bundle that is held or carried by the individual, or transported in a vehicle under the individual's control or direction and available to the individual, including beneath the seat or in a glove compartment. A firearm or dangerous weapon is not considered concealed if it is:

1. Carried in a belt holster which is wholly or substantially visible or carried in a case designed for carrying a firearm or dangerous weapon and which is wholly or substantially visible;
2. Locked in a closed trunk or luggage compartment of a motor vehicle;
3. Carried in the field while lawfully engaged in hunting, trapping, or target shooting, whether visible or not; or
4. Carried by any person permitted by law to possess a handgun unloaded and in a secure wrapper from the place of purchase to that person's home or place of business, or to a place of repair, or back from those locations.
5. A bow and arrow, an unloaded rifle or shotgun, or an unloaded 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 commonly referred to as a BB gun, air rifle, or CO₂ gun, while carried in a motor vehicle.

62.1-04-02. Carrying concealed firearms or dangerous weapons prohibited.

No person, other than a law enforcement officer, may carry any firearm or dangerous weapon concealed unless the person is licensed to do so or exempted pursuant to this chapter. For purposes of this chapter, dangerous weapon does not mean a spray or aerosol containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone), or other irritating agent intended for use in the defense of a person.

62.1-04-03. License to carry a firearm or dangerous weapon concealed.

1. The director of the bureau of criminal investigation shall issue a license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the director by a resident or nonresident citizen of the United States if the following criteria are met:
 - a. The applicant is at least twenty-one years of age for a class 1 license or at least eighteen years of age for a class 2 license.
 - b. The applicant has a valid reason for carrying the firearm or dangerous weapon concealed, including self-protection, protection of others, or work-related needs.
 - c. The applicant is not a person specified in section 62.1-02-01 and for a class 1 license the applicant:
 - (1) Has not been convicted of a felony;
 - (2) Has not been convicted of a crime of violence;
 - (3) Has not been convicted of an offense involving the use of alcohol;
 - (4) Has not been convicted of an offense involving the unlawful use of narcotics or other controlled substances;
 - (5) Has not been convicted of an offense involving moral turpitude;
 - (6) Has not been convicted of an offense involving domestic violence;
 - (7) Has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
 - (8) Is qualified to purchase and possess a firearm under federal law.

- d. The applicant has the written approval for the issuance of a license from the sheriff of the applicant's county of residence, and, if the city has one, the chief of police or a designee of the city in which the applicant resides. The approval by the sheriff may not be given until the applicant has successfully completed a background investigation in that county and has successfully completed the testing procedure conducted by a certified firearm or dangerous weapon instructor. The person conducting the testing may assess a charge of up to fifty dollars for conducting this testing. The attorney general may certify a firearm or dangerous weapon instructor based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation.
 - e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed a background investigation or criminal records check conducted by that agency. To pass a background investigation, an applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidents of domestic violence. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records. The bureau may deny approval for a class 1 license if the bureau has reasonable cause to believe that the applicant or permitholder has been or is a danger to self or others as demonstrated by evidence, including past pattern of behavior involving unlawful violence or threats of unlawful violence; past participation in incidents involving unlawful violence or threats of unlawful violence; or conviction of a weapons offense. In determining whether the applicant or permitholder has been or is a danger to self or others, the bureau may inspect expunged records of arrests and convictions of adults and juvenile court records.
 - f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that person's control.
2. The attorney general shall offer class 1 and class 2 licenses to carry a firearm or dangerous weapon concealed pursuant to the following requirements:
- a. An applicant for a class 1 license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm or dangerous weapon, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm or dangerous weapon to be concealed may be satisfied by one of the following:
 - (1) Certification of familiarity with a firearm or dangerous weapon by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous weapon instructor;
 - (2) Evidence of equivalent experience with a firearm or dangerous weapon through participation in an organized shooting competition, law enforcement, military service, or dangerous weapon course of training;
 - (3) Possession of a license from another state to carry a firearm or dangerous weapon, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
 - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm or dangerous weapon.
 - b. An applicant for a class 2 license is required to successfully complete the open book test offered for the class 1 license.
 - c. Licenses issued before August 1, 2009, regardless of the age of the licenseholder, convert to a class 2 license upon renewal and no additional testing is required. No additional testing is required to renew a class 2 concealed weapons license. A class 1 license may be renewed upon successful completion of the class 1 requirements within one year before submission of the application

for renewal. A license issued under this section before August 1, 2009, and a class 2 license may be upgraded to a class 1 license upon successful completion of the class 1 requirements and satisfaction of the age requirement.

3. The sheriff is required to process the application within thirty days after the completion of the testing portion unless the application is for renewal of a license and in such case the application must be processed within thirty days after its receipt by the sheriff, the chief of police is required to process the application within ten working days of receipt by the agency, and the bureau of criminal investigation is required to process the application and make a determination within forty-five days of receipt from the forwarding agency.
4. The license fee for a concealed weapons license is forty-five dollars, which must be credited to the attorney general's operating fund. The license fee must be paid before the license is issued by the director of the bureau of criminal investigation.
5. The director of the bureau of criminal investigation shall prescribe the form of the application and license, which must include the name, address, description, a photograph, and the signature of the individual. The application form must require sufficient information to properly conduct a background investigation and be accompanied by two sets of classifiable fingerprints. The two sets of classifiable fingerprints are not required for a renewal of a concealed weapons license. The license is valid for five years. The license must be prepared in triplicate, and the original must be delivered to the licensee, the duplicate must be sent by mail, within seven days after issuance, to the sheriff of the county in which the applicant resides, and the triplicate must be preserved for six years by the director. In those cases in which the licensee resides in a city, an additional copy of the license must be made and sent by mail, within seven days after issuance, to the chief of police of the city in which the applicant resides. The individual shall notify the director of the bureau of criminal investigation of any change of address or any other material fact which would affect the restrictions on or the need for the license.
6. The director of the bureau of criminal investigation may deny an application or revoke or cancel a license after it has been granted for any material misstatement by an applicant in an application for the license or any violation of this title.
7. The applicant may appeal a denial or revocation of this license to the district court of Burleigh County.
8. Information collected from an applicant under this section is confidential information. However, the information may be disclosed:
 - a. To a governmental agency or court for a law enforcement purpose, including the investigation, prosecution, or punishment of a violation of law.
 - b. To a court to aid in a decision concerning sentence, probation, or release pending trial or appeal.
 - c. Pursuant to a court order or a judicial, legislative, or administrative agency subpoena issued in this state.
9. The attorney general may adopt any rules necessary to carry out this title.

62.1-04-03.1. Reciprocity.

A person who has a valid license issued by another state to carry a concealed firearm or dangerous weapon in that state and whose state grants to residents of this state the right to carry a concealed firearm or dangerous weapon without requiring a separate license to carry a concealed firearm or dangerous weapon issued by that state may carry, subject to the provisions of this state's law, a concealed firearm or dangerous weapon in this state, and the other state's license is valid in this state.

62.1-04-04. Producing license on demand.

Every person while carrying a concealed firearm or dangerous weapon, for which a license to carry concealed is required, shall have on one's person the license issued by this or another state and shall give it to any law enforcement officer for an inspection upon demand by the

officer. The failure of any person to give the license to the officer is prima facie evidence that the person is illegally carrying a firearm or dangerous weapon concealed.

62.1-04-05. Penalty.

Any person who violates this chapter is guilty of a class A misdemeanor.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1224

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 62.1-02-10 of the North Dakota Century Code, relating to carrying a firearm in a vehicle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 62.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-10. Carrying loaded firearm in vehicle - Penalty - Exceptions.

~~No person~~An individual may ~~not~~ keep or carry a loaded firearm in or on any motor vehicle in this state. ~~Any person~~An individual violating this section is guilty of a class B misdemeanor. This prohibition does not apply to:

1. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations while possessing the firearm issued to the member by the organization and while on official duty.
2. A law enforcement officer, except while the officer is engaged in hunting or trapping activities with a rifle or shotgun.
3. ~~Any person~~An individual possessing a valid North Dakota concealed weapons license or a valid license issued by another state authorizing the ~~person~~individual to carry a dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a dangerous weapon concealed in that state without obtaining a similar license from that state, except while that person is in the field engaged in hunting or trapping activities.
4. ~~Any person~~An individual in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.
5. A security guard or private investigator licensed to carry firearms by the attorney general.
6. ~~Any person~~An individual possessing a valid special permit issued ~~pursuant to~~under section 20.1-02-05.
7. An individual who is a resident of this state. An operator's license or a nondriver photo identification card showing an instate address for an individual is prima facie evidence of being a resident in this state."

Renumber accordingly

2-19-13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1224

Page 1, line 1, after "ABILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to hunting in a vehicle; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:

Carrying a loaded firearm in vehicle while hunting - Penalty.

An individual who is in the field engaged in the lawful hunting of big game or small game and who violates section 62.1-02-10 is not subject to a criminal penalty but is guilty of a class 2 noncriminal offense under chapter 20.1-01."

Renumber accordingly