

**2015 HOUSE ENERGY AND NATURAL RESOURCES**

**HB 1241**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Pioneer Room, State Capitol

HB 1241  
1/22/2015  
22422

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



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

Relating to firearms in vehicles; and to provide a penalty.

### Minutes:

Attachments #1 #2 #3 #4 #5 #6 #7 #8 #9

### Support of:

**Rep Streyle:** Written testimony 1, 2, 3 (in reference to Bill)

**Chairman Porter:** Did you have language that you were working with individuals in regards to section 4? You had mentioned you had had some discussions in that it probably should be amended have you been working on that at all?

**Rep Streyle:** I don't have specific language. I'm assuming the department of human services and many others are probably going to testify against it based on this, because of the imamate threat suicide, more desire to know the information on those at risk. I am immune to amending it to fit. There are four or five different sections that define health care services. I don't know if a person needs to reference one of them so you know what it means, because it's fairly broad and open to interpretation the way it's written now but the intent is if I walk into a doctor and I'm not under any court order they don't have any business knowing what I have at home as far as a firearm. That's philosophical belief and I think we deserve that protection.

**Chairman Porter:** I have had numerous constituents call me after they have been to the doctor and express that same thing. I think we need to find a language that works for both in regards to that. Whether they have to pre amp the state meant and say you don't have to answer this if you don't want to but I'm required to ask it or figure out some better language. Just to have it as a blanket statement I have had many complaints in regards to that.

**Rep Muscha:** In section 5 when it talks about motor vehicle: motor homes, campers has that been discussed or is that considered included?

**Rep: Streyle:** There is no reason those should be an extension of your home as well. Obviously a camper is going to be pulled behind a vehicle or in a motor home it's very similar to a vehicle so I would interpret this change to include those

**Paul Hammers:** Written testimony #4

**Chairman Porter:** On the component in section 2 in talking about the license liquor establishments, in Minnesota and other states that have that as an allowance they also have the ability of the owner of the business to put a sign up that says no weapons allowed. Do you have any objection as to having that as a provision inside of there where the business owner has the right to restrict?

**Hammers:** I have spoken to that on various occasions, but there is a community here in North Dakota that has a very confusing set up. One door is labeled that you can't enter this "big" establishment yet other doors are not labeled. I almost think that that is a civil rights violation, because if they refuse to let me walk through the mall because I was gay or Hispanic or African American that would be a civil rights violation. So if they are a business open to the public do we not hold them to all the equality laws that we have for minorities and other people? I would say if you were a business open to the public that must not discriminate for other reasons how could you discriminate against someone who carries a legally possessed concealed weapons permit and legally possessed fire arm if you are indeed open to the public? If you can discriminate against someone for exercising their constitutional right or a God given, gene given thing such as skin pigmentation or sexual orientation how could you discriminate against somebody when it states right there in article 1 of our constitution? I would say I would not be in favor of such a thing because I feel that it is a civil rights violation. I will also say that many of these regulations that I'm here speaking in favor of do not apply directly to me, because I am currently a municipal court judge and if you look through the laws I have exemptions from many of these areas already but I think these are things that need to be clarified. These are things that come up frequently in the classes that I teach.

**Steven Tackas:** HB 1241 as a whole I don't necessarily have a problem with I agree with, but there is one section unparticular that I would like to discuss with everybody today and. It's currently section 6 of the bill, which deals with the national firearms act, automatic machine guns, rifle silencers, bombs, and penalty and forfeiter section. I have a day job with the federal government where I must maintain a security clearance. But I also have a home based business where I am a federal firearms licensee and I also sell NFA items, machine guns, suppressors, short barreled rifle shot guns. My issue with this section of the bill is three parts. The first part the I have a concern with is that there are some ambiguity and whose required under the current century code to file paperwork with both BCI and our local sheriff. Is not necessarily clear and that leads into some problems down the road. The second part is that the time frame currently to get the required paperwork into Chief Adrian to BCI as well as your local sheriff is only five days. Well the problem with that is that the paper work that is requested to be sent into BCI and the county sheriff is a document produce by the bureau of Alcohol, Tabaco and Firearms and Explosives. It's spelt out not that you have five days from when receipt of the document is produced to get it into the sheriff and the chief agent. There's times where that document will take 30, 40, 60 days from the time that the ATF signs off and approves it to the time that it finally gets to the dealer whose selling that particular item. So if that's then the interpretation on how that is going to be applied, the dealer is already out of compliance based on the fact that they haven't gotten the paper work within the time frame that the century code requires. The

third part is a penalty pays for the particular problem. The penalty states that if you don't get it in with in those five days you are guilty of a felony and you have to surrender your firearms, the items upon arrest of that person a firearm dangerous weapon must be seized. There again you're turning individuals into felons for a paperwork violation that was built into the century code which guarantees that compliance is impossible so for me as my fulltime job working for the government if I'm arrested on a felony charge I lose my ability to hold a security clearance and I lose my employment. Secondly if I'm convicted of a felony from a paperwork violation I lose my ability to vote, I lose my ability to hunt, to carry a firearm for a protection of myself and my family. There are a lot of negative repercussions strictly because of a paperwork violation. So I would like to see this particular section of the bill passed on its own but I do support the bill as a whole but specifically section 6 dealing with national firearms act items.

**Opposition:**

**Dr Andy McLean:** Written testimony #5

**Chairman Porter:** Is there a way to word this to make it something that works for all?

**Dr. McLean:** That is difficult and some other states that have looked at this have looked at the language of necessary. If you look at preventative health care and particular screening for pediatrics in those cases I think it's very appropriate to ask about safety issues in general that might include firearms. The important thing is to do it not in a judgmental manner but just knowing from a population stand point there are particular risks in homes and the reasonable question is to ask. For adults it's a change in landscape and part of the evaluation is if you discover something from a differential diagnosis it leads you in a particular line of thinking then I think you have to have the ability to ask those questions. Is there an absolute way of doing it no, but I would encourage people to look at it from a population health stand point, prevention stand point. What areas does it make sense and I can think of pediatrics in particular it makes sense to ask about house hold firearms.

**Chairman Porter:** I agree that in the bundled question talking about household safety and whether or not they have child locks for the caustic chemicals under the sink I don't have an issue but that certainly isn't were the complaint that I hear comes from its from going to see my doctor and being asked and invasive question that I felt was out of line and it didn't follow in the category after they asked have you been feeling ok, have you been thinking about hurting yourself, it didn't come anywhere it was all the sudden out of the blue. It was a line of questions on why it wasn't relative as to why the patient wasn't seeking out the profession.

**Dr. McLean:** We know where the affordable care act and meaningful use, there a group of qualifying questions or risk factors that we ask about, and among those are other sorts of questions about safety and some particular clinics can chose which question they are going to zero in on. So that they can check a box and say we are looking at these preventative measures. So it maybe some clinics decided that they are going to ask about guns and other clinics may not necessarily do that. That's just my guess as to why some might be doing it and not all.

**Rep. Keiser:** General questions about your household, are they HIPAA protected?

**Dr. McLean:** If it goes into the document.

**Rep. Keiser:** If it goes into the document a physician treating healthcare provider's brain and it becomes part of the record. SO if you ask me if I have child protection locks on my doors would that actually be HIPAA protected.

**Dr. McLean:** In my mind that would be HIPAA protected because its part of personal health information. You are asking it in the context of a visit for which you are billing you're getting payment and all of that is all of the healthcare visit so in my mind all of that would be HIPAA protected.

**Rep. Keiser:** Assuming its HIPAA protected under what conditions could you share such information?

**Dr. McLean:** If a professional is ascertaining that there's a risk of self or others they have duty to warn and protect in general so they would be obligated to alert someone to try and intercede. It depends on their clinical impression at the time.

**Rudie Martinson:** Executive director of the North Dakota Hospitality Association.  
Testimony #6

**Courtney Koebele:** Executive director the North Dakota Executive Association Written  
Testimony #7

**Sgt. Gail Wischmann:** I am here in behalf of the Cass County Sheriffs. I do not have testimony however we do oppose house bill 1241 as it is currently written.

**Rep. Keiser:** There's no part of this you find acceptable?

**Sgt. Wischmann:** In looking at it there are a number of things we have issues with.

**Rep. Keiser:** If we could request a little more detailed objection?

**Sgt. Wischmann:** We have an issue with the weapons in responsible bars. The safety issues and the unfortunate use of weapons and how they have been unnecessarily used. Being able to recognize someone who is there to defend themselves or others or someone who is there for a crime would be one of the examples.

**Chairman Porter:** It would be in order to have the sheriff submit some written testimony outlining his issues.

**Dr. Joan Connell:** Pediatrician and president of the North Dakota Chapter of the American Pediatrics. Written testimony #8

**Rep. Froseth:** This issue about asking the patient about their possession of firearms. It was in Dr. McLeans testimony that they might be accused of malpractice if they don't ask the

question. What if you have a patient that absolutely refuses to give you any information? What do you do in the circumstance?

**Dr. Connell:** I would say patients refuse to respond to the questions in the home and also document so I provided discussion about safe storage, reason to be careful of the firearm and depressed family member etc. For clarification on these forms that we are talking about everybody has a different form and that creates a lot of problems in a different areas but my form that I use for my well check is from the American Academy of Pediatrics it's a bright futures form and the thing that gets recorded is gun safety check. No place do I ask do you or do you not have guns, how many do you have, those things don't come up. I ask the question: Do you have guns yes or no? Yes we talk about storage, No we do that role playing.

**Rep. Nathe:** If you ask those question and they say it's none of your business I'm not answering it do you just move on?

**Dr. Connell:** I would say did something I say offend you? Can you imagine in your business if someone said I'm not going to answer that question would you just say ah ok?

**Rep. Nathe:** In my business we do ask a lot of family members questions and if they chose not to answer we do just move on. If I was a patient and you approached me I would say its none of your business. Is it then the doctors procedure to say ok we're done with that and move on to the next thing

**Dr Connell:** Doctors procedure, business person's procedure, polite person in conversations procedure would be to say ok well I'm sorry if I offended you the reason I was asking was because, deliver educational material and move on. If it weren't handled that way, why don't we say if your physician treats you like crap and is asking you inappropriate questions report them.

**Dr. McLean:** What we typically do if a person says none of your business, if there is nothing in there in my assessment of their demeanor, their background, their history, then there isn't any reason for me to go further and I respect their ability to say none of your business. If in their history they have a history of owning a firearm, going after a neighbor, being suicidal and they are looking agitated or seriously depressed then I have to say well actually I do need to know a little bit more for me to do a good assessment and if I can't do a good assessment then we might be stuck here. So we look specifically at the history of a particular assessment but if there is no reason to push it I back off.

**Vice Chairman Damschen:** What if the patient says no I don't have a firearm but he does?

**Dr. McLean:** In medicine we look at the issues of what we know and what we should have known. If I have a high index of suspicion then I would have an obligation to check further maybe with family, but then that infringes on rights and I really need to know what I'm doing otherwise I'm not a mind reader and I'm sure there might have been times when I've asked and someone told me no they don't have whatever, I can't tell. But at least I asked and unless I have a real high index of suspicion I really can't go further.

**Vice Chairman Damschen:** so if you suspected that would you ever say im concerned about your safety or the safety of your family? And if you do have a firearm you probably shouldn't be around it.

**Dr. McLean:** I have had the conversation numerous times. One of the things that happens is, particularly in the fall when people go hunting with their families and it's a wonderful bonding experience for many people, but there are sometimes where it is actually very dangerous and so I'll have a conversation with the patient and if I have to have a conversation with the family to make a good determination without that I can't let the person just go. Then well have a conversation with the family and there have been times where we all decided you know just not this year. It's really dependent on the circumstance.

**Marty Walfen:** I represent Sanford Health. We too stand in opposition to section 4 of this bill. We will submit written testimony at later date along with contact information.

**Dr Gabrielle:** I'm not only a psychiatrist, but also a former family doctor. I practiced for nine years. Former psychiatry professor and I also have a master's in public health. So I am coming here as a person who looks at the individual and looks at systems of care as well. I want to say I am also a future infracted because I'm planning to not respect section 4. The reasons being all those that my colleges have presented in front of you with the numbers and statistic that I also have but also throughout my experiences I cannot think of one where I would not have asked. As a family doctor I lost my first patient in my first month attending private practice. This was a young man who came and I had just 20 minutes to ask him about fatigue that was his chief complaint. Within two weeks he shot himself, this was in New Haven, CT. Afterwards I worked six years in psychiatry emergency room and I saw numerous cases and assessed numerous people for risk. I hope that when you go to doctors we are not there to judge you but to serve you and assist risk. I do have them in my template for evaluation. It's not only a very obvious situation where you assist risk for suicide. Those sorts of diseases as you know take a long time to declare themselves. I'm talking about bipolar disorder, schizophrenia, and dementia. I admitted numerous elderly who had vascular dementia and my patients you usually read about in papers, the elderly man half naked who's pulling the gun at the neighbors. These are true stories that I have had in the last year and a half that I've been with Sanford and numerous others in New Haven. So for all these reasons I will tell you that I will be in opposition with section 4 as it right now. You asked about possible reformulations so that will be fair to both sides of this dispute and I was just thinking that is there a certain medical worker in those situations who asses risk. If I'm coming to my doctor with and ear ache I don't see why they would ask me about firearms and my doctors are reasonable. They are there to serve me not to judge me. So in cases where risk needs to be assist I want my doctor to ask me about that.

**Chairman Porter:** Inside of epic is the template the same for every healthcare professional or is yours specific for psychiatry and there's a different one for general practice, a different one for pediatrics and different one for general surgery or is it all one template?

**Dr. Gabrielle:** No they are really customized. National guidelines dictate us as to what we can put in our templates and these are enterprise wide and you will hear a house bill on epic as well and what drove those templates is national guidelines.

**Christopher Dodson:** North Dakota Catholic Conference and we oppose section 4 on behalf of our Catholic Health Care Facilities for all the reasons mentioned before, but also section 3 as it relates to churches. Currently an individual may not bring a firearm or a dangerous weapon to a public gathering which includes churches and church functions unless the individual has a valid class 1 concealed license and has the approval of the church. This law that we have now strikes a proper balance. It was very much discussed last session but it was put into the code but it's only been there for two years and it strikes a balance between previous law which didn't allow guns in churches at all. The right of the church is to say no. This way an individual can bring a weapon or firearm into the church but they need permission of the church body under the current code and for the last two years that seems to be working and we did not oppose that change in the law, but if you recall there were churches on both sides of the issue and churches in the middle. So I think this current law strikes a good balance. HB 1241 as written would remove the balance and allow anyone to bring a firearm or dangerous weapon into the church even if it is not approved by the church body and even if it would be in conflict of the churches religious tenants. Some may look at the proposed change as giving more rights to the individuals at churches but we also have to realize it gives less protection to the churches. The purpose of the public gathering law is to protect people by making it a crime by bringing a firearm or dangerous weapon to the gathering presumably because it increases the likely hood of harm occurring. Whether that presumption is valid is a matter of debate and we can go back and forth for hours on end but never the less there is no rational reason why churches should be given less protection than schools and sporting events. That's the first problem, the second problem is that it provides less legal protection in the sense that it removes a recourse of a church leader that someone comes onto the premises with a firearm without permission. Currently the church has a policy of no firearms and the policy is violated the church leader can call law enforcement. It would be against the law under the current code so they could act. If HB 1241 were to pass and a person came in with the weapon against the policy the church leader may not have any recourse, they can ask the person to leave but if they don't what recourse do they have by calling law enforcement? Following last sessions change in the law Bishop Caigan instructed a Catholic parish of the Bismarck Diocese that parishes would not be allowed to have firearms on the premises. Shortly after that he reminded me that on November 2, 2013 a man walked into St. Michaels parish with a shot gun during mass. He ended up robbing everyone during the mass and was later arrested for armed robbery, but let's assume that he just came in with a gun. If 1241 were to pass it's not clear that the pastor will have any recourse someone might slip out and call law enforcement on their cell phone but the person attending mass just happens to have a gun. They might be terrorizing they might be disturbing the peace. It might not even be a permissible firearm, but that may not be clear. What's clear now is that the person would be violating the current section of the law. The pastor can call, someone can call local law enforcement can come and defuse the situation. This removes that right of the church. Now keep in mind that sometimes we have these policies because the insurance companies tell us we have to. Third problem is that by removing any legal prohibitions on bringing a firearm into a church without permission house bill 1241 could be interpreted as giving a right to bring a firearm into a church. Indeed we heard the bill sponsors say just as much, that it's a right. This was a serious concern regarding religious freedom. Some churches have a long history of opposition to firearms and violence. The current law allows them to apply their beliefs within the grounds of their own churches. House bill 1241 removes that

ability and possibly unconstitutionally infringes upon their freedom to create and maintain a worship environment which is consistent with their beliefs. So we are a do pass as regards to section 3 and section 4.

**Vice Chairman Damschen:** Do you think there would be a chance that that person might not walk into a church with a shot gun if the thought that somebody else might be armed?

**Dodson:** That's always a possibility but the issue is here is do we remove the right of Bishop Caigan or a church leader or congregation leader to decide if they want to take that chance.

**Rep. Corey Mock:** Since the previous bill was passed last session, are you aware of any situations where the church has had to contact the authorities because someone was on premises without permission or had a firearm without permission?

**Dodson:** I am not aware of that.

**Vice Chairman Damschen:** once you set restrictions in areas that don't allow guns, the honest people obey the law but the guy who doesn't care still has the gun. And he's more apt to go to that place, it seems to be the history where most shootings have taken place are in gun free zones and that's my concern about opening up exceptions.

**Dodson:** Our history is built on the principle that they have a right to preserve their sacred space as they see fit, even if the rest of us think that that is foolish.

**Terry Turiana:** President of the North Dakota Hospital Association. I have been asked by two of our members to ask the section 4 of house bill 1241 be removed. It prohibits physicians from practicing quality medicine and prohibits them from doing the job that they were trained for.

**Susan Bueler:** Resident of Mandan, mother of five children, grandmother to two. In some of the testimony we heard we heard a gun owner say that it's his civil right to take his second amendment into a private business. I am a private business owner and a test administrator. I administer test that are written and in our facility our policy is you don't bring a gun in when you are testing. My problem with house bill 1241, I want a do not pass, there are lots of problems with it but the most offensive to me is I hold the second amendment highly, but there's a reason the first amendment is the first and I hold that dearly. I love the privilege to be able to state my opinion, but because I have that right the first amendment is also regulated as all our rights are. I can't come into this committee room and start yelling at you. Some might call that a first amendment right, but that is not a right to conduct myself in a manner that is not protocol. So as a business owner if you choose not to allow a gun into your place that should be your first amendment right, your civil right, and we in our country don't let those rights overlap to the point where someone has to sacrifice to the point where it makes that first amendment right now void. If I come to a political rally and have to be concerned that someone, just because they were given the license which is only and eight hour test, and you can get the receptacle license through Facebook, that test is not an insurance that that person is a responsible gun owner. SO at a political rally if I say something that is offensive and they want to shut me down who do you think is going to win,

my loud voice or the gun that they have? Our constitutional writers made the first amendment for a reason. It is the first amendment so we have to be careful when we are looking at other rights that they don't overlap so far that they don't extinguish another right. With that I oppose 1241. As a responsible gun owner you need to know where they are allowed. That's a responsibility.

**Chairman Porter closes hearing**

Glen Baltrush was absent, sent testimony by email. #9


# 2015 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Pioneer Room, State Capitol

HB 1241  
2/12/2015  
Job # 23726

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

Relating to firearms; relating to firearms in vehicles; and to provide a penalty.

### Minutes:

Attachments 2

Chairman Porter opens discussion

Chairman Porter: I asked Tim Dawson to come down and explain the amendments in this bill. Handed out amendments; written testimony #2.

Tim Dawson, Legislative Counsel

Handed out the mark up copy of the bill; written testimony #1

I am here to explain and clarify the mark up copy of the bill.

When I go through these that you delineate in your mind the terms used: Firearm refers to hand gun, shot gun, and rifle. A loaded firearm is when it's a rifle or a shot gun, one cannot be in the chamber, but they can be in the magazine. Whereas, a pistol you can't have a cartridge anywhere in the magazine or in the cylinder. Another thing to note is that there are exceptions to the hunting furbearers.

Rep. Glen Froseth: Will it be a problem to define whether a person is carrying a gun to hunt coyotes or for some other purpose?

Dawson: That's the same issue they have right now.

Dawson: Continues explaining amendments.

Rep. George Keiser: A drafting issue I see is on line 15-17 dropping that "individual while operating a snowmobile in the state," It would be covered under above operating or "motor vehicle" or simply adding in the phrase above "aircraft, motor vehicle, or snowmobile."

Dawson: Yes, I see that.

Rep. Dick Anderson: The Game and Fish have some concerns about the language with snowmobiles.

Dawson: You're allowed to hunt a coyote off of any other type of motor vehicle; the idea was to keep it consistent.

Chairman Porter: A UTV on tracks is a motor vehicle, you can shot a coyote from that, but you can't do that on a snowmobile.

Rep. Glen Froseth: The penalties in 4 and 5 don't seem like much of a deterrent to commit the crime.

Rep. Glen Froseth: I'd like to have Game and Fish address it.

Rep. Mike Lefor: On page 4 in blue lettering, is that current law?

Chairman Porter: It is.

Rep. Corey Mock: Sec 5, concerning the public gathering places; today each municipality get to regulate if they allow permitted concealed weapons in their parks. Under the new law that would be taken away?

Chairman Porter: Yes.

Chairman Porter: We are not going to open this as a full committee. We want to make sure we are doing this right. I will appoint a subcommittee to deal with this; Vice Chairman Damschen, Rep. Dick Anderson, Rep. Naomi Muscha.

The subcommittee has until next Friday.

Chairman Porter closes discussion.

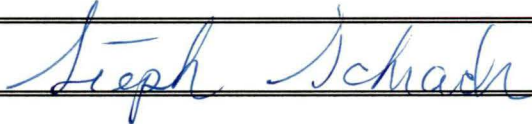
# 2015 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Pioneer Room, State Capitol

HB 1241  
2/13/2015  
Job # 23841

☒ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

Relating to firearms; relating to firearms in vehicles; and to provide a penalty.

### Minutes:

Attachments 1

**Meeting location:** Pioneer Room

**Time meeting was called to order:** 10:00 AM.

**Members present:** Vice Chairman Damschen, Rep. Dick Anderson, Rep. Naomi Muscha

**Others in attendance:** Robert Timian; ND Game and Fish, Tim Dawson; Legislative Counsel, Bruce Burkett; ND Peace Officer's Association, Phil Pfennig; ND Bureau of Criminal Investigation.

**Written testimony #1:** Mark up copy of HB1241 used in discussion.

### Topics Discussed:

That ND Game and Fish would prefer that Section 1 to be taken out and kept as a harassment law.

To make sure snowmobile is treated the same way as a vehicle as far as carrying weapons. Section 6, page 5; to change the title to, "loaded firearm in or on a vehicle, off road vehicle, or snowmobile.

To ensure that a person with a concealed weapons permit is not breaking the law if they have a concealed weapon in their vehicle while they are hunting. Change the wording to, "An individual may not carry or keep a loaded firearm in or on any motor vehicle, off road vehicle, or snowmobile in this state." Then in exceptions to that law, make carrying a permitted concealed weapon an exception.

To resolve the issue of a felon being able to lawfully carry a stun gun or Taser due to the wording in the amendment. Sec 3 and in sec 9 the wording could be changed to, "For

purposes of this chapter, for individuals not otherwise prohibited from possessing firearms or possession of firearms, the term dangerous weapon does not include spray, aerosol, etc., etc."

Reinstating the language from lines 5-13 because without it state law enforcement loses its ability to seize and potentially charge the individual for the illegal possession of the weapon. The remedy is to remove the strike from 3-13.

Lines 14-16; fifteen days is too short a time to give due diligence to the paper work for the Tax Stamp to be processed, 30 days is a more reasonable time.

Legislative Counsel will generate the amendments for next week's committee work.

Rep. Dick Anderson: moves to adjourn.

Rep. Naomi Muscha: Second.

# 2015 HOUSE STANDING COMMITTEE MINUTES

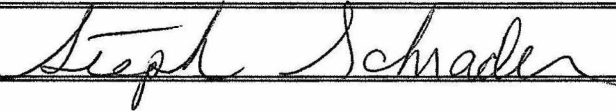
## Energy and Natural Resources Committee

Pioneer Room, State Capitol

HB 1241  
2/19/2015  
Job # 24131

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

Relating to firearms; relating to firearms in vehicles; and to provide a penalty.

### Minutes:

Attachments 2

**Chairman Porter** opens hearing on HB1241.

**Written testimony #1 and #2** are handed out to each committee member.

**Tim Dawson, Legislative Council**, goes over amendments on markup copy; **written testimony #1**.

**Vice Chairman Damschen**: I move the amendments.

**Rep. Dick Anderson**: Second.

**Voice vote**: Carries.

### Rep. Corey Mock:

Looking at the marked up version, page 3 section 4, we are, as a state, saying that all parks must allow concealed weapons and we are removing the ability from the park district to decide, is that correct?

### Chairman Porter:

That is partially correct, the park districts never had the ability, it is in the state law that there was no conceal carry in the parks. They could allow it by ordinance, but they can't be any more restrictive than the state law.

### Rep. Corey Mock:

Currently, parks could allow concealed weapons if the controlling entity allowed it, but this would remove that and it would be allowed no matter what and the park could not restrict that ability.

**Chairman Porter:** That is correct. Just so everybody is clear on this, This is only allowing the person who has gone through all the background checks, gone through all of the necessary paper work with law enforcement, and the finger prints and the mug shots that is a legal conceal carry permit, would be allowed to have a concealed weapon in a city park. The bad guys can already do it. This is just allowing the good guys to do it.

**Rep. Corey Mock:** We don't allow them at schools, what I'm wondering is, is it actually the school property or a radius around that property that is prohibited.

**Chairman Porter:** Under current law, it would just be the school grounds.

**Rep. Corey Mock:** I like this bill with the exception of allowing concealed weapons in parks.

**Vice Chairman Damschen:** I move a **Do Pass** on 1241 **as amended**.

**Rep. Dick Anderson:** Second

**Vote:** Yes 11, No 1, Absent 1.

**Vice Chairman Damschen:** Carrier.

**Chairman Porter** closes hearing.

110  
2-19-15  
1084

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1241

Page 1, line 1, remove "create and enact a new section to chapter 62.1-02 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to medical workers and firearms; to"

Page 1, line 2, replace "sections" with "section"

Page 1, line 3, after the first comma insert "subsection 1 of section 62.1-01-01, sections"

Page 1, line 3, after the third comma insert "62.1-02-10, and"

Page 1, line 3, after the fourth comma insert "subsection 5 of section 62.1-04-01,"

Page 1, line 3, after "and" insert "sections 62.1-04-02 and"

Page 1, line 4, after "firearms" insert "and dangerous weapons"

Page 1, line 4, remove "to repeal section 62.1-02-10 of the North Dakota Century Code,"

Page 1, line 5, remove "relating to firearms in vehicles;"

Page 1, after line 15, insert:

**"SECTION 2. AMENDMENT.** Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses direct contact to deliver voltage for the defense of an individual, unless the device uses a projectile and voltage, then the term includes the device for an individual who is prohibited from possessing a firearm under this title."

Page 1, line 21, after "sale" insert "and consumption"

Page 1, line 23, after the period insert "In addition, an individual is guilty of an offense under this section for possession of a device that uses a projectile and voltage in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages."

Page 2, line 2, remove "An individual possessing a concealed weapons license from this state or who has"

204

Page 2, remove lines 3 through 5

Page 2, line 6, remove "c."

Page 2, line 7, remove the overstrike over "e."

Page 2, line 7, remove "d."

Page 2, line 8, remove the overstrike over "d."

Page 2, line 8, remove "e."

Page 2, line 10, remove the overstrike over "e."

Page 2, line 10, remove "f."

Page 2, line 13, remove the overstrike over "f."

Page 2, line 13, remove "g."

Page 2, line 21, after "means" insert "an"

Page 2, line 21, overstrike "events, schools or school functions,"

Page 2, line 23, after "~~proclamation~~" insert "event, a school, a church,"

Page 2, line 23, after "and" insert "a"

Page 2, line 24, overstrike "buildings" and insert immediately thereafter "building"

Page 2, line 29, remove "An individual possessing a concealed weapons license from this state or who has"

Page 2, remove line 30

Page 2, line 31, remove "d."

Page 3, line 1, remove the overstrike over "d."

Page 3, line 1, remove "e."

Page 3, line 2, remove the overstrike over "e."

Page 3, line 2, remove "f."

Page 3, line 3, remove the overstrike over "f."

Page 3, line 3, remove "g."

Page 3, line 5, remove the overstrike over "g."

Page 3, line 5, remove "h."

Page 3, line 6, remove the overstrike over "h."

Page 3, line 6, remove "i."

Page 3, line 7, remove the overstrike over "i."

Page 3, line 7, remove "j."

Page 3, line 8, remove the overstrike over "j."

Page 3, line 8, remove "k."

304

Page 3, line 11, remove "and"

Page 3, remove the overstrike over lines 12 through 20

Page 4, replace lines 1 through 7 with:

**"SECTION 5. 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~~ecertain vehicles prohibited~~ - Penalty - Exceptions.**

An individual may not keep or carry a loaded firearm in or on any motor vehicle, including an off-highway vehicle or snowmobile in this state. 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. An individual possessing a valid North Dakota concealed weapons license from this state or a valid license issued by another state authorizing the individual to carry a firearm or dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a firearm or dangerous weapon concealed in that state without obtaining a similar license from that state, except while that individual is in the field engaged in hunting or trapping activities who has reciprocity under section 62.1-04-03.1 with a handgun, or with a rifle or shotgun if not in the field hunting or trapping.
4. 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 properly licensed to carry firearms.
6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05."

Page 4, line 23, remove the overstrike over "~~However, nothing in this exception authorizes the carrying of a loaded~~"

Page 4, remove the overstrike over line 24

Page 5, replace lines 14 and 15 with:

**"SECTION 7. AMENDMENT.** Subsection 5 of section 62.1-04-01 of the North Dakota Century Code is amended and reenacted as follows:

5. A bow and arrow, ~~an unloaded rifle or~~ shotgun, unloaded handgun, 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 CO<sub>2</sub> gun, while carried in a motor vehicle.

**SECTION 8. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

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

An individual, other than a law enforcement officer, may not carry any firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter. For purposes of this chapter, the term "dangerous weapon" does not include a spray or aerosol containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone) or other irritating agent intended for use in the defense of an individual, nor does the term include any ~~stun-gun or device that uses direct contact to deliver voltage for the defense of an individual, unless the device uses a projectile and voltage, then the term includes the device for an individual who is prohibited from possessing a firearm under this title.~~

Page 5, after line 27 insert "2."

Page 5, line 28, remove the overstrike over "A person who violates this section is guilty of a class C felony. Upon arrest of that person,"

Page 5, remove the overstrike over lines 29 through 31

Page 6, remove the overstrike over lines 1 through 5

Page 6, line 6, replace "2." with "3."

Page 6, line 7, replace "fifteen" with "thirty"

Page 6, remove line 9

Renumber accordingly

Date: 2/19/15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1241

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: Amendments that are recommended by subcommittee

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep Damschen Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep Hunskor		
Vice Chairman Damschen			Rep Mock		
Rep D Anderson			Rep Muscha		
Rep Brabandt					
Rep Devlin					
Rep Froseth					
Rep Hofstad					
Rep Keiser					
Rep Lefor					
Rep Nathe					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

The amendments that are recommended by the subcommittee

Date: 2/19/15  
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1241

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: 15.0519.03006

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Damschen Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hunskor	✓	
Vice Chairman Damschen	✓		Rep Mock		✓
Rep D Anderson	✓		Rep Muscha	✓	
Rep Brabandt	✓				
Rep Devlin	✓				
Rep Froseth	✓				
Rep Hofstad	✓				
Rep Keiser	A				
Rep Lefor	✓				
Rep Nathe	✓				

Total (Yes) 11 No 1

Absent 1

Floor Assignment Rep. Damschen

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

**REPORT OF STANDING COMMITTEE**

**HB 1241: Energy and Natural Resources Committee (Rep. Porter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1241 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 62.1-02 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to medical workers and firearms; to"

Page 1, line 2, replace "sections" with "section"

Page 1, line 3, after the first comma insert "subsection 1 of section 62.1-01-01, sections"

Page 1, line 3, after the third comma insert "62.1-02-10, and"

Page 1, line 3, after the fourth comma insert "subsection 5 of section 62.1-04-01,"

Page 1, line 3, after "and" insert "sections 62.1-04-02 and"

Page 1, line 4, after "firearms" insert "and dangerous weapons"

Page 1, line 4, remove "to repeal section 62.1-02-10 of the North Dakota Century Code,"

Page 1, line 5, remove "relating to firearms in vehicles;"

Page 1, after line 15, insert:

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Page 2, remove lines 3 through 5

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Page 2, line 7, remove "d."

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Page 6, remove the overstrike over lines 1 through 5

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Page 6, remove line 9

Renumber accordingly

**2015 SENATE ENERGY AND NATURAL RESOURCES**

**HB 1241**

# 2015 SENATE STANDING COMMITTEE MINUTES

**Energy and Natural Resources**  
Fort Lincoln Room, State Capitol

HB 1241  
3/19/2015  
25104

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Katie Oliver*

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

Relating to firearms and dangerous weapons; and to provide a penalty.

## **Minutes:**

2 Attachments

Chairman Schaible called the committee back to order. Representative Streyle was on hand to introduce and explain the changes that the bill seeks to make.

Representative Streyle: District 5. See attachment #1. (:03-6:17)

Senator Armstrong: We passed a bill over that has some of that language but didn't deal with the stricken languages did we?

Representative Streyle: I would have to look again but I do not believe so. We wouldn't want to conflict this bill with that bill.

Senator Triplett: There is a little bit of overlap with sponsorship of this bill with the previous bill. Did the sponsors coordinate because there is overlap with the sections being dealt with and they are not being dealt with in exactly the same way? Would you have any problem if we worked the bills together?

Representative Streyle: There was most likely was some coordination between the committees on sections but if they were in the same committee like they are now it is much easier.

Senator Triplett: We heard in the previous hearing that the churches really appreciate the language in the other bill to expand it to church grounds opposed to just church. Some of those things seem like they would work better together than apart.

Representative Streyle: I know that the public gathering sections are different in both, the previous one for example, there was some language about ticketed events. This one says that a church and all the new language that was added applies.

Senator Triplett: So it is not that you opposed some of the changes they were just done by different people had done at different times, is that what you are telling us?

Representative Streyle: No, they were in separate committees and the prime sponsor on the previous one is on this one as well.

Chairman Schaible: On the chief law enforcement officer to sign the National Firearm Act form within 30 days, what is the recourse if they don't? How do we actually get that done?

Representative Streyle: I would need to look into the bill that Senator Armstrong had mentioned to see if it could be addressed in that bill in better language. This is a state registration, in a sense, if you are requiring those documents to be turned into the state when we don't need it.

Senator Murphy: Section 5 number 3, allowing a handgun in the vehicle while hunting. What is the reasoning for that?

Representative Streyle: This says that you do not lose those rights if you happen to be hunting.

Paul Hamers: Municipal Court judge. I support this bill as penned. See attachment #2. (11:53-14:29)

Pat Heinert: Burleigh County Sheriff. In listening to the testimony something occurred to me, in section 3, talking about allowing a conceal and carry in a bottle store. Most of the liquor stores do wine tasting within their establishment and I do not want to have unintended consequences for anyone with a concealed weapons permit who may walk into a liquor store and not know that there is a wine tasting going on.

Tanya Long: For the most part this bill is good my only concern is taking Tasers off the list of dangerous weapons under projectile and voltage. I gave testimony last session to have stun guns taken off the list of dangerous weapons because, to my knowledge, there is not enough voltage in a stun gun to kill someone. The reason that Tasers were left on there is because there is enough voltage with them to kill someone. You can still get a Taser with a concealed weapons permit but to keep that on there is the best idea. The reason we took stun guns off is so women have a little something more to protect yourself with without having to have a concealed weapons permit.

Senator Triplett: The representative made distinction between Tasers for law enforcement versus for individuals. Are you saying the Tasers that are available to the public can kill people?

Tanya Long: I am not 100% if it is true or not.

Chairman Schaible: I assume what the Representative is talking about is the single use Tasers and we are not sure what the correct title for each one of these items are. We need some clarification.

Phil Pfenning: Chief Agent for North Dakota BCI. With regards to the differences between the Tasers there are law enforcement and civilian. They are restricted only by the company and their policy as to who they will sell to. They are not restricted by law as far as possession. If the company were to make a change in their policy as to who they would sell to or how they would go about selling those or if a company purchased Tasers from the manufacturer determined it was fine to sell the law enforcement version to civilians theoretically that would be possible. The primary differences between the two versions is the law enforcement allows for a shorter duration but multiple shocks the civilian version was intended to fire once or twice for a longer period of time the idea being they could get away from their attacker

Senator Armstrong: There is a potential for death with Tasers. How many people die from it?

Phil Pfenning: I do not have that number for you I believe the manufacture would have those numbers. Lethality is always a factor.

Senator Armstrong: So if we wanted to clarify could we say single-shot Taser.

Phil Pfenning: I am unsure how to phrase it.

Senator Triplett: Can these single jolt use Tasers kill someone? Is it possible?

Phil Pfenning: It is my understanding that yes it is possible.

Sue Beehler: Mandan resident; mother of 5, grandmother of 2. I am in opposition to HB 1241. Would this be playgrounds too? In my research I do not know why you would hunt with a short barrel shotgun. Page 2 line 2 would this allow conceal and carry at liquor stores.

There was no further testimony and Chairman Schaible closed the public hearing on HB 1241.

# 2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources  
Fort Lincoln Room, State Capitol

HB 1241  
4/2/2015  
25742

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Kate Oliver*

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

Relating to firearms and dangerous weapons; and to provide a penalty.

## Minutes:

1 Attachment

Chairman Schaible called the committee to order and opened committee work on HB 1241. Senator Armstrong handed out amendments from legislative council. See attachment #1.

Senator Armstrong: What is not in 1241 is universities and the new definition of an unloaded handgun. Subsection 1 is the short barrel rifle language, in order to get a short barrel you need to go through federal permitting this would allow you to hunt with one provided you meet the game and fish's caliber restrictions. Subsection 2 adds single-shot Tasers are no longer classified as a dangerous weapon. There are two types of Tasers, one that gives a single electrical impulse when you pull the trigger and then there is one the law enforcement has, which allows them to keep pulling the trigger and continue to deliver electricity. In talking to law enforcement the only distinction between those two is how monitor that. We put in code that in order to have a multi shot Taser you need to have concealed weapons permit. Section 3 is allowing you to carry a conceal and carry in a retail liquor store that isn't in the business of selling drinks. Even though Tasers are not a dangerous weapon they are not allowed in bars. It allows people to carry in more places and where they cannot. Section 4 of the amendment is the big piece of the bill, this is where we are expanding where you can conceal and carry and more clearly defining and simplifying what are excluded places. On page 4, line 3 that is getting rid of the class one that is only for North Dakota. On the BCI's website it says that class one and class two are treated identically. Section 7 says that you can carry a loaded or unloaded rifle or shotgun in your car and an unloaded handgun. It is still illegal to have a loaded handgun in your car without a concealed weapons permit. On the top of page 7 that is crossing out duplicative language. Section 9 is the same situation where class one and class two are equally valid in the state and section 10 comes from Representative Porter's bill which the director may tell you the reason for your denial of conceal and carry permit. Section 11, the language that is crossed out, we are the only state that requires this and we do not do anything with it and BCI is comfortable getting rid of it.

Senator Murphy: I would complement Senator Armstrong for his work on this.

Senator Laffen: Does athletic or sporting event need to be tightened up at all?

Senator Armstrong: Whenever you put something in like this you are going to have that line but if you put in language about admission charged what if you are a high school football game, not on school property because you are in a small town and they don't charge admission. That is part of the reason some of the knowingly language went in. The other reason is that if I am at the park with my wife and leave my backpack and it has a weapon in it. At what point for every line you draw you will be on the other side of it. Our football games are not on school property but it is a public building.

Senator Hogue: I agree that the subcommittee did a great job, on section 10 it says 'may'. Why wouldn't we require BCI to give the applicant the reason they weren't approves.

Senator Murphy: Confidentiality problems and didn't feel like they could have done this which is why the Attorney General brought forth that section.

Senator Hogue: Why wouldn't we want to compel to tell the applicant that information? If you are denied you have a right to know the reason so that maybe the denial is based on a mistake in fact. I think that the applicant should be told what the reason in; there is a part of policy in this bill that is already existing law it is on page 3 of this bill line 3-6. This section says that the state is setting these comprehensive rules about where you can and cannot carry a concealed weapon. We have this statue to have a uniform system of law and for us to perpetuate this piece of policy doesn't make sense to me.

Senator Murphy: This has been in existence but I do not know how often it occurs in the code and I do not know how long standing it is. We didn't talk about trying to eliminate it but I was taken aback by it.

Senator Triplett: Why is it underlined in this bill, suggesting it is new language, when it is repeating exactly current law? I do not get that.

Senator Armstrong: I asked Tim Dawson about that and I was told that it was underlined because it is not in 62.1 as a law of general applicability; it is in subsection 5 and subsection 4. It is just being mirrored from the subsection regarding the public gathering language where it is already in law.

Senator Murphy: If we were to not support this bill because of the section it wouldn't really affect the language in other parts of the code.

Senator Hogue: We almost never say here is comprehensive legislation and this is not the way to have uniform laws.

Senator Triplett: I think that what the Senator Hogue is says is that we are creating the same kind of mess much like the mess that exists now,

Senator Armstrong: I would bet that there is no city commission that would allow someone to carry a gun in a bar.

Vice Chair Unruh: I would support that although I think that the flip side to the argument of citizens not know where to carry if you always default to what state law says you are always going to be safe.

Senator Hogue made a motion to strike lines 3-6 on page 3 of the marked up copy of the bill and change may to shall on page 8, line 15 with a second by Senator Murphy

Chairman Schaible: We are looking at the .04002 amendment and are talking about including striking page 3, lines 3-6 and on page 8, line 15 changing the may to shall.

Vice Chair Unruh: Is BCI going to be ok to being required to do this?

Senator Murphy: That is the kind of thing that I do not want to mess with. When the Attorney General offered the bill they felt like they could but in many cases wouldn't want to tell the applicant.

Senator Armstrong: This language just came from another bill. I am not sure if it changes big things as a policy standpoint it can change depending on who is in the office.

Senator Hogue: If you have 1,000 apply for conceal and carry I am guessing you would have 50 are denied are you saying that if they are denied and one makes it happen when they can get their results as to why they were denied. My preference would be to keep it as shall and let the Attorney General or BCI tell us why they cannot tell the applicant in some cases.

Senator Triplett: Their confidentially requirement would trump this law. I think we can say shall but it would be trumped for the ongoing process.

Senator Armstrong: The most common reason to be denied is that you forgot to put something like a 20 year old minor in consumption on your application and most of the time it is because you honestly forgot.

Senator Murphy: When we change the 'may' to 'shall' they don't have to ask we are ordering them to disclose.

Senator Armstrong: How about adding the language "upon request"?

A vote was then taken for Senator Hogue's motion to take out lines 3-6 on page 3 and adding 'upon request' and changing the 'may' to 'shall', roll was taken and the motion passed on a 7-0-0 vote.

Senator Triplett: On page 3, between 11 and 16, I think that there is something wrong with the grammar if you put it together.

Vice Chair Unruh: I think if we worded it that way, specifically an event at a school or a church it could be argued that regular school hours would not be considered an event.

Senator Triplett: I am open to suggestions and think it reads a little off.

Senator Armstrong: I would change gathering and leave everything else.

Vice Chair Unruh: What if you used the language 'public gathering or building'?

Senator Triplett: It might be cleaner that way. Would that idea work?

Senator Armstrong: If the committee has answers to this I am open to that. I understand what the Senator Triplett is saying but I do not think that it is necessarily fatal to the language.

Vice Chair Unruh: I don't think that it is necessary to change it.

Vice Chair Unruh made a motion to adopt amended amendment .04002 to HB 1241 with a second by Senator Armstrong, there was no further discussion, roll was taken and the motion passed on a 7-0-0 count.

Senator Armstrong made a motion for a do pass as amended with a second by Vice Chair Unruh, there was no further discussion, roll was taken, and the motion passed on a 7-0-0 count with Senator Armstrong carrying the bill to the floor.

There was no further discussion and Chairman Schaible closed the committee work on HB 1241.

April 1, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1241

Page 1, line 3, replace "and sections" with "section"

Page 1, line 3, after "62.1-04-02" insert ", subsections 2 and 7 of section 62.1-04-03,"

Page 1, line 3, after the second "and" insert "section"

Page 2, line 7, after the underscored period insert "However, the term includes a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident."

Page 2, line 13, remove "and consumption"

Page 2, line 13, after "beverages" insert "and the consumption of purchased alcoholic beverages"

Page 2, line 14, overstrike "in the possession of" and insert immediately thereafter "that individual knowingly possesses"

Page 2, line 16, after "for" insert "the knowing"

Page 2, after line 29, insert:

"3. This section does not prevent a political subdivision from enacting an ordinance relating to the possession of firearms or dangerous weapons which is less restrictive than this section. An enacted ordinance supersedes this section within the jurisdiction of the political subdivision."

Page 3, line 3, after "who" insert "knowingly"

Page 3, line 25, overstrike "class 1"

Page 4, after line 8, insert:

"m. An individual in a publicly owned or operated rest area or restroom."

Page 6, overstrike lines 23 and 24

Page 6, line 25, overstrike "agent intended for use in the defense of an individual, nor does the term include any"

Page 6, line 26, overstrike "device that uses"

Page 6, line 26, overstrike "voltage for the defense of an individual"

Page 6, line 26, and remove ", unless the"

Page 6, replace lines 27 and 28 with:

**"SECTION 9. AMENDMENT.** Subsection 2 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous weapon licenses to carry a firearm or dangerous weapon concealed under the following requirements:

- a. An applicant for a class 1 firearm 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, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:
  - (1) Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor;
  - (2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;
  - (3) Possession of a license from another state to carry a firearm, 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.
- b. An applicant for a class 2 firearm and dangerous weapon license is required to successfully complete the open book test offered for the class 1 firearm license.
- c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. Class 1 and class 2 permits are equally valid in this state.
- d. Additional testing is not required to renew a class 2 firearm and dangerous weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within thirty days before submission of the application for renewal.

**SECTION 10. AMENDMENT.** Subsection 7 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

- 7. 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. The director of the bureau of criminal investigation may disclose to the applicant the specific reason for denial or revocation of the license."

Page 7, remove lines 20 through 22

Renumber accordingly

April 2, 2015

4/2/15  
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142

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1241

Page 1, line 3, replace "and sections" with "section"

Page 1, line 3, after "62.1-04-02" insert ", subsections 2 and 7 of section 62.1-04-03,"

Page 1, line 3, after the second "and" insert "section"

Page 2, line 7, after the underscored period insert "However, the term includes a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident."

Page 2, line 13, remove "and consumption"

Page 2, line 13, after "beverages" insert "and the consumption of purchased alcoholic beverages"

Page 2, line 14, overstrike "in the possession of" and insert immediately thereafter "that individual knowingly possesses"

Page 2, line 16, after "for" insert "the knowing"

Page 3, line 3, after "who" insert "knowingly"

Page 3, line 25, after "k." insert "An individual in a publicly owned or operated rest area or restroom;

l."

Page 3, line 25, overstrike "class 1"

Page 4, line 3, overstrike "l." and insert immediately thereafter "m."

Page 6, overstrike lines 23 and 24

Page 6, line 25, overstrike "agent intended for use in the defense of an individual, nor does the term include any"

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deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:

4/12/15  
2/22

- (1) Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor;
  - (2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;
  - (3) Possession of a license from another state to carry a firearm, 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.
- b. An applicant for a class 2 firearm and dangerous weapon license is required to successfully complete the open book test offered for the class 1 firearm license.
- c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. Class 1 and class 2 permits are equally valid in this state.
- d. Additional testing is not required to renew a class 2 firearm and dangerous weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within thirty days before submission of the application for renewal.

**SECTION 10. AMENDMENT.** Subsection 7 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

7. 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. The director of the bureau of criminal investigation shall disclose to the applicant the specific reason for denial or revocation of the license."

Page 7, remove lines 20 through 22

Renumber accordingly

Date: 4/2/2015  
Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1241**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number See below

Action Taken Adopt Amendment

Motion Made By Senator Hogue Seconded By Senator Murphy

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	X		Senator Murphy	X	
Vice Chair Unruh	X		Senator Triplett	X	
Senator Armstrong	X				
Senator Hogue	X				
Senator Laffen	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Strike Lines 3-6 on page 3 & on page 8  
Line 15 change "may" to "shall"

Date: 4/2/2015  
Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1241**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 15.0519.04002

Action Taken	Adopt Further Amendments
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Motion Made By Vice Chair Unruh                      Seconded By Senator Armstrong

[illegible]

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

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

Date: 4/2/2015  
Roll Call Vote #: 3

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1241**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass as Further Amended

Motion Made By Senator Armstrong Seconded By Vice Chair Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	X		Senator Murphy	X	
Vice Chair Unruh	X		Senator Triplett	X	
Senator Armstrong	X				
Senator Hogue	X				
Senator Laffen	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Armstrong

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

**REPORT OF STANDING COMMITTEE**

**HB 1241, as engrossed: Energy and Natural Resources Committee (Sen. Schaible, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1241 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "and sections" with "section"

Page 1, line 3, after "62.1-04-02" insert ", subsections 2 and 7 of section 62.1-04-03,"

Page 1, line 3, after the second "and" insert "section"

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firearm, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:

- (1) Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor;
  - (2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;
  - (3) Possession of a license from another state to carry a firearm, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
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- c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. Class 1 and class 2 permits are equally valid in this state.
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7. 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. The director of the bureau of criminal investigation shall disclose to the applicant the specific reason for denial or revocation of the license."

Page 7, remove lines 20 through 22

Renumber accordingly

**2015 TESTIMONY**

**HB 1241**

**SECOND AMENDMENT  
UNITED STATES CONSTITUTION**

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

**ARTICLE I  
DECLARATION OF RIGHTS**

**Section 1.** All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; **and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.**

Our State Constitution says we have the right to bear arms for defense of self and family, yet the state has made several laws which prevent citizens from doing that based on specific locations that person may work or visit. Why do we carve out exemptions on where citizens are allowed to exercise their inalienable rights? As a state, we have given permission for people to conceal carry firearms, but we don't trust those people to be responsible with firearms in certain locations.

**Section 1:**

Suppressor section was added to NDCC last session.

<https://www.atf.gov/firearms/faq/national-firearms-act-short-barreled-rifles-shotguns.html>

<http://www.gf.nd.gov/regulations-hunting-fishing-etc/deer-guide-regulations>

Deer gun season: "Rifles must have a minimum barrel length of 16 inches."

Many hunters have tax stamps from the ATF and can legally have short barreled rifles (SBR's). There is no reason to prevent those who legally have SBR's from hunting. Also applies to hunting other game.

This doesn't affect caliber restrictions, that's done via G&F regulation.

Purchase Process for SBR's:

- 1) Find Class 3 FFL Dealer and purchase the product
- 2) Pay \$200 NFA Tax (one-time)
- 3) File the Required Forms with FFL Dealer.

## **Section 2:**

**62.1-02-04** Allow concealed weapons permit holders to carry in bars and the over 21 area of restaurants that serve alcohol, but forbid them to drink alcohol.

Bar and Grills Example.

## **Section 3:**

**62.1-02-05** Possession of a firearm or dangerous weapon at a public gathering.

Change paragraph 1 to:

1. An individual who possesses a firearm or dangerous weapon 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.

Why are we not allowed to carry in parks, churches, political functions? If we take our family to a public parks, churches, musical concert, or political functions shouldn't we be able to protect ourselves and our family?

See amendment 15.0519.03001 to correct an error in draft of bill.

## **Section 4:**

Prevent healthcare workers from inquiring about firearm ownership.

Possibly amendment to exempt: "Immediate threat/danger to self or others."

## **Section 5:**

Line 14, Would allow law abiding citizens to carry a handgun in a vehicle loaded without a permit. Many states consider a vehicle an extension of your home (castle doctrine). Without a permit, the handgun currently needs to be unloaded and/or secured. How can an individual protect themselves with an unloaded/secured handgun?

**Castle doctrine** is a legal doctrine that designates a person's abode (or, in some states, any legally occupied place [e.g., a vehicle or workplace]) as a place in which that person has certain protections and immunities permitting him or her, in certain circumstances, to use force (up to and including deadly force) to defend themselves against an intruder, free from legal responsibility/prosecution for the consequences of the force used.

Make vehicle extension of home, a loaded weapon in a car should not be a crime. Many states consider motor vehicles an extension of the home.

## **Section 6:**

### **CHAPTER 62.1-05**

#### **MACHINE GUNS, AUTOMATIC RIFLES, SILENCERS, BOMBS**

**62.1-05-01.** Possession and sale of machine guns, automatic rifles, silencers, and bombs - Penalty - Forfeiture.

No person may purchase, sell, have, or possess a machine gun, fully automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or any other federally licensed firearm or dangerous weapon unless that person has complied with the National Firearms Act [26 U.S.C. 5801-5872].

~~Any federal licensee who purchases, sells, has, or possesses those items for the licensee's protection or for sale must forward a copy of the licensee's federal license along with the required weapons transfer form to the licensee's local county sheriff and to the chief of the bureau of criminal investigation within five days of the receipt of those forms.~~

~~A person who violates this section is guilty of a class C felony. Upon arrest of that person, the firearm or dangerous weapon must be seized. Upon conviction of the person and motion to the court in which the conviction occurred, the firearm or dangerous weapon must be forfeited to the jurisdiction in which the arrest was made. The firearm or dangerous weapon may be sold at public auction, retained for use, or destroyed pursuant to the court's order. If a qualified local program as defined under section 12.1-32-02.2 has paid a reward for information that resulted in forfeiture of the item and the item has been sold, the jurisdiction shall, after payment of expenses for forfeiture and sale, repay the qualified local program for the reward that it has paid.~~

This is state registration of NFA firearms. Individuals who own these firearms have been vetted by the BATF and are legally authorized to possess these items. Why does a citizen need to notify state and local law enforcement for an item they are legally allowed to own? Additionally these items require a tax stamp paid to the government. What right does ND have to demand tax documents paid not related to income? In 2011 ND passed a law specifically allowing the use of suppressors for hunting, how many of those ND residents who went out and purchased a suppressor are now in violation of a ND felony due to this section?

"Add a requirement for the CLEO to sign NFA forms within 15 day unless otherwise prohibited."

Offer amendment to strike or amend language located in Senator Armstrong SB 2274 bill.

## **Section 7: Repeal (Attachment)**

### **62.1-02-10 Carrying a loaded firearm in a car while hunting**

Why is it illegal to carry a legal gun while hunting? Just because a person is hunting with a shotgun or rifle why do they then lose their 2<sup>nd</sup> amendment right to carry handgun?

#### **62.1-02-10.1 Removes the penalty for violating section**

#2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1241

Page 2, line 29, remove "An individual possessing a concealed weapons license from this state or who has"

Page 2, remove line 30

Page 2, line 31, remove "d."

Page 3, line 1, remove the overstrike over "d."

Page 3, line 1, remove "e."

Page 3, line 2, remove the overstrike over "e."

Page 3, line 2, remove "f."

Page 3, line 3, remove the overstrike over "f."

Page 3, line 3, remove "g."

Page 3, line 5, remove the overstrike over "g."

Page 3, line 5, remove "h."

Page 3, line 6, remove the overstrike over "h."

Page 3, line 6, remove "i."

Page 3, line 7, remove the overstrike over "i."

Page 3, line 7, remove "j."

Page 3, line 8, remove the overstrike over "j."

Page 3, line 8, remove "k."

Page 3, line 12, remove the overstrike over "k."

Page 3, line 21, overstrike "l."

Renumber accordingly

HB 1241 - Repealed Section (Section 7 of the Bill)  
Rep. Roscoe Streytle

# 3

HB 1241  
1/22/15

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

An individual may not keep or carry a loaded firearm in or on any motor vehicle in this state.

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. An individual possessing a valid North Dakota concealed weapons license or a valid license issued by another state authorizing the individual to carry a firearm or dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a firearm or dangerous weapon concealed in that state without obtaining a similar license from that state, except while that individual is in the field engaged in hunting or trapping activities.
4. 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 properly licensed to carry firearms.
6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

**62.1-02-10.1. 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.

HB1241  
1/22/15

22 January 2015

#4

Chairperson and Members,  
House Energy and Natural Resources Committee  
64<sup>th</sup> Legislative Assembly  
State of North Dakota

Good afternoon,

My name is Paul Hamers. Let me touch on a few high points of my background. Both my wife and I were born and raised in North Dakota. I am a retired paratrooper of the U.S. Army. I have earned a Master's Degree in Military History, a Bachelor's Degree in Social Sciences Education, a Minor in Business Administration, and an Associate's Degree in Electronic Communications Technology. I am the current Municipal Court Judge for the City of Napoleon, the Technology Coordinator for Napoleon Public Schools, the President of the Napoleon Education Association, and the Lay leader of the Salem United Methodist Church. I have an extensive background in teaching the moral, ethical, and practical use of force to military personal, law enforcement, and civilians. I am currently certified as a North Dakota Concealed Weapons Permit Test Administrator.

I must start by telling a story. I retired from the U.S. Army in 1999 and was content to quietly lead my on life and pursuits within the shooting sports. I possess a Federal Firearms License and so I attended a gun show where my table was next a gentleman that was administering concealed weapons permits. I have carried a firearm concealed on my person every day since I was first issued a ND Concealed Carry Permit in 1988, even during my years of military service. The process by which the person operated and the advice he was giving seemed morally questionable at best. I thought that there must be a responsible person to guide individuals in the moral use of firearms and deadly force. I soon found myself troubled and I realized that I had the background to offer morally responsible firearms safety training. I conduct classes only when contacted because this brings morally responsible students and myself together.

Let me state that I am in support of HB1241 if for no other reason than that it represents a clarification of rights granted in the State Constitution of North Dakota, (Article 1, section 1), but more importantly it will clarify and correct ambiguities in firearms related portions of the Century Code.

I am not sure how this testimony should be presented. There are several amendments in HB1241, but I will just comment on each.

Section 1 of HB1241: Short barreled rifles have the same capabilities and shortcomings and the long barreled version. I foresee no issue with a legally possessed rifle of any sort being used for hunting.

Section 2 of HB1241: Allows for the carry of firearms in Liquor establishments and Gaming sites. If responsible citizen wishes to carry then they must not consume alcohol. With the clarity of what exactly qualifies as a liquor establishment or gaming site always called into question, this provision makes sense.

Section 3 of HB1241: Removes ambiguity related to the definition of a "public gathering".

Section 4 of HB1241: Medical workers do not need to know the status of a citizen's gun collection or hunting habits unless directly related to a clear and present health issue, such as lead exposure from shooting at an indoor range or reloading ammunition.

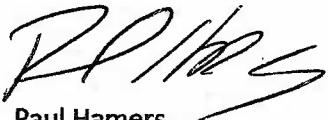
Section 5 of HB1241: Again a clarification of where citizens may carry weapons.

Section 6 of HB1241: Compliance with federal ownership requirements already makes portions of 62.1-05-01 totally unnecessary.

Section 7 of HB1241: Repeals penalties for carrying weapons in motor vehicle.

In closing, Chairperson and Members, I thank you for this opportunity to weigh in on HB1241. Feel free to contact me for further commentary at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Hamers', written in a cursive style.

Paul Hamers  
USA Retired  
Owner

**RICOCHET GUN WORKS**  
701-400-0085  
ricochetgunworks@gmail.com

HB 1241  
1-22-15

#5

~~100~~

**Testimony**  
**House Bill 1241 – Department of Human Services**  
**House Energy and Natural Resources Committee**  
**Representative Todd Porter, Chairman**  
**January 22, 2015**

Chairman Porter, members of the House Energy and Natural Resources Committee, I am Dr. Andy McLean, Medical Director of the Department of Human Services (Department). I am here representing the Department in opposition to Section 4 of House Bill 1241.

Section 4 reads:

***SECTION 4.*** *A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:*

***Medical worker prohibited from firearms inquiry - Penalty.***

*A person providing medical or health care services for which that person is licensed or another person providing services for that person may not inquire of a patient about the patient's ownership or possession of firearms that are not in the present and immediate possession of the patient. A violation of this section is an infraction.*

I am a native North Dakotan and a board certified psychiatrist who has practiced medicine in this state for decades.

We know that one of the favorite past times of North Dakotans is the enjoyment of the outdoors, including hunting and fishing activities that many families cherish together.

We also know that some North Dakotans have the same mental health issues as those in any other state. Whether those issues include depression, severe emotional stress or psychosis, we know that, for those living with mental health issues, there can be particular times of risk of harm to self or others. It is the role of the medical professional (as well as others trained in areas of substance abuse and mental health) to ascertain risk, keeping in mind the individual's rights, as well as the safety of the individual and society.

Many individuals who are struggling with mental health issues can have poor decision-making capacity, or be impulsive. Add alcohol or other substances to that, (or a yet to be fully developed brain, i.e. teens/young adults) and you increase the risk.

Some information:

The number of firearm deaths by suicide far outweighs that of homicide, and firearms are the number one method for suicide in the United States, with a lethality of 85%, vs. 3% for overdose.

A 2001 study was done in Houston of people ages 13 to 34 who had survived a near-lethal suicide attempt. Asked how much time had passed between when they decided to take their lives and when they actually made the attempt, a startling 24 percent said less than 5 minutes; 48 percent said less than 20 minutes; 70 percent said less than one hour; and 86 percent said less than eight hours.

As you can see there can be windows of time, often very brief, in which people make what a colleague wrote of as "The Forever Decision."

All best-practice suicide prevention approaches, including those used in both civilian and VA/Military populations have as a major component the reduction of access to lethal means for those at significant risk.

When a pediatrician asks about preventative care, including bicycle helmet use, child car seats, or medications or firearms in the home being out of reach/access, that is good practice. When a psychiatrist or Emergency Room physician is trying to ascertain the level of suicide or homicide risk in an already identified higher risk individual, it is not only best practice, but necessary, to inquire about firearms, as well as the individual's access to other potential lethal means.

The ability of a provider to ask a patient about access to firearms is not limited to mental health providers. We know that the majority of mental health treatment is not done by mental health professionals, but by primary care providers. My father, a rural North Dakota family practitioner, always told me that about half of what he did was mental health work. There is a formal movement in medicine toward the integration of primary care and behavioral health, with primary care providers utilizing screening tools for chronic illnesses, including depression. In many cases, asking follow-up questions is necessary to ascertain risk.

Chairman Porter and Members of the committee, the Department requests your consideration to remove Section 4 from House Bill 1241: which would allow medical providers to appropriately evaluate the risk of a patient making "The Forever Decision."

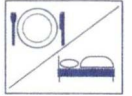
Thank you. I would be happy to answer any questions.

**North Dakota  
Hospitality  
Association**

*ND Restaurant, Lodging & Beverage Association*

#06 1/22/15 HB1241

**ND's Restaurant, Lodging &  
Beverage Association**



P.O. Box 428 • Bismarck, ND 58502 • Phone: 701-223-3313 • Fax: 701-223-0215  
E-mail: NDhospitalityassn@gmail.com • www.ndhospitality.com

**Testimony of Rudie Martinson**

Executive Director, ND Hospitality Association

**In opposition to HB 1241**

Before the House Energy and Natural Resources Committee

January 22, 2015

Good afternoon Mr. Chairman and members of the House Energy and Natural Resources Committee. My name is Rudie Martinson, and I am the Executive Director of the ND Hospitality Association. We are the trade association for North Dakota's restaurant, lodging, and retail beverage industries.

I rise today in opposition to HB 1241. Specifically, we oppose section 2 of the bill, which allows for concealed carry in a liquor establishment.

Under current law, it is illegal to possess a firearm in any establishment licensed for the retail sale of alcoholic beverages. We in the retail beverage industry are comfortable with the current status of the law on this topic.

Allowing for concealed carry in bars creates the potential for danger to our employees, our customers, and the public. It also creates potential complications for law enforcement, as well as potential issues of liability and insurability for our retailers.

In short, guns and alcohol don't mix. Current law recognizes that fact by drawing a bright line around bars and declaring guns aren't welcome in those establishments. Let's keep it that way.

Thank you.



## House Energy and Natural Resources Committee

HB 1241

January 22, 2015

Chairman Porter and Committee Members, I am Courtney Koebele and I serve as Executive Director for the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

The North Dakota Medical Association is strongly opposed to section 4 of House Bill 1241. Section Four reads as follows:

### **Medical worker prohibited from firearms inquiry - Penalty**

A person providing medical or health care services for which that person is licensed or another person providing services for that person may not inquire of a patient about the patient's ownership or possession of firearms that are not in the present and immediate possession of the patient. A violation of this section is an infraction.

Every physician that has read this bill has had strong opposition to the provision. It is a clear interference with the patient/physician relationship and contrary to good medical practice. Many of the objections may appear obvious, but include the following:

- It is the duty of medical providers to inquire about access to lethal means when confronted with a person expressing suicidal ideation or intent. This means specific questions regarding access to firearms-regardless of whether they are in the immediate and present possession of the individual in question.
- Part of a thorough social history on a pediatric patient is to question the parents about firearms in the home, to educate them about the importance of proper and secure storage of those firearms, and to answer questions generated by such a discussion for the safety and well-being of the members of the household. In studies, individuals who received physician counseling were more likely to report the adoption of one or more safe gun-storage practices. This is especially important in North Dakota.

- It is the duty of medical providers to inquire about the presence of weapons, including firearms, when confronted with a victim of domestic violence or child abuse. This is to ensure that said victim is safe if or when they return to the home environment.
- Not asking about firearms sets up a physician for malpractice while violating their first amendment right to free speech. Simply stated, imposing this provision puts physicians in a perilous position and patients at risk.

For all of the above stated reasons, we request that section 4 be stricken from HB 1241. Thank you.

House Energy and Natural Resources Committee  
Representative Todd Porter, Chairman  
Testimony against House Bill 1241  
January 22, 2015

#8 HB 1241  
1/22/15

Chairman Porter, members of the Committee, my name is Joan Connell. I am a pediatrician and currently serve as president of the North Dakota Chapter of the American Academy of Pediatrics. I will confine my testimony against HB 1241 to Section 4 of the bill, which would prohibit medical workers from inquiring about firearms. My opposition can be summarized in the following points.

First, families need and respond to anticipatory guidance on firearms. As you know, many children in North Dakota (almost **3000** according to a study performed in 2005) live in a residence with at least 1 loaded and unlocked firearm. Studies show that families who received physician counseling about safe storage of firearms adopted at least one of the safe practice recommendations (unloaded gun that is locked, separately stored ammunition that is also locked). This counseling is delivered in a manner similar to counseling about car seat and sunblock usage. I have provided this education to many of my patient families and as a result, have witnessed many families improve the safety of their gun/ammunition storage.

Second, children, and hence their families, suffer from firearm injuries. Nationally, a study from 2007 revealed that firearms resulted in 1 out of 6 of all injury deaths in US children aged 1-19 years old and 1 out of 4 injury deaths in 15-19 year old children/young adults. Alarming, **43** North Dakota children/adolescents under the age of 21 were killed by a firearm between 2008-2012, according to data from the CDC.

Third, guns in the home are associated with an increased risk of suicide, homicide, and accidental injury. This in part is because suicide attempts with a firearm are fatal 91% of the time, compared with attempts involving drug overdose, which are associated with a 23% fatality rate. **28** North Dakota children/adolescents less than 21 years old used a firearm to commit suicide between 2008-2012.

Finally, beginning the practice of censoring what physicians can discuss with their patients is a very slippery slope, and seems to be a violation of the First Amendment of the Constitution. In North Dakota, we pride ourselves on our conservative approach to government. This bill seems to take North Dakota in the opposite direction by imposing MORE government control for no clear benefit. So please, when representing North Dakotans today, make decisions that will allow me to do my job of optimizing children's health, growth, and development. Aren't our North Dakota kids worth it?

I thank you for the opportunity to testify, your time, and your attention. I will gladly stand for any questions.

HB 1241  
1-22-15

#9

# Testimony before the 64<sup>th</sup> Legislative Assembly

## House Energy and Natural Resources Committee

### House Bill 1241

Thursday, January 22, 2015 at 2:30 P.M.

By Glen E. Baltrusch

Mr. Chairman and Committee Members,

Good afternoon! My name is Glen Baltrusch, and I reside at Harvey, ND; which is in District 14. I stand before you this morning in support of House Bill No. 1241. This bill is a sound and reasonable piece of legislation that is before this House Committee and the 64<sup>th</sup> Legislative Assembly.

House Bill No. 1241 should be enacted for several reasons. In reviewing this Act, House Bill No. 1241 provides in part what House Bill No. 1157 was attempting to do. The main difference is that House Bill No. 1157 was an Act that provided exemptions and privileges for elected officials, but prohibited those same rights by law to the citizens of North Dakota and those citizens with Concealed Weapons Licenses. House Bill No. 1241 does not do that. The SECTION 3. AMENDMENT. of Section 62.1-02-05 of the North Dakota Century Code provides new language on Page 2, lines 29 through 30 that would provide the same rights to elected officials as well as the citizen.

In reviewing House Bill No. 1241, I find that I can easily support the amendments in Section 1; Section 2; Section 3; Section 4; Section 5; Section 6; and repeal in Section 7. I would however like to make a point about Section 4 for your consideration and amending.

The prohibition of a medical worker from inquiring about a person's firearms is definitely needed as it is a privacy issue. What I would like for this committee do is several things in relation to this section. First, the violations of this provision should be amended into a minimum, a misdemeanor and each willful violation of this provision should count as a separate offense and be prosecuted at the next level from misdemeanor for the first offense and thereafter increase for each willful offense up to a class A felony. This Act should also be amended to include social workers and educators.

To be honest with you, Section 2; Section 3; and Section 5 of this Act should be amended to repeal those sections of Chapter 62.1 of the North Dakota Century Code. Repeal of those sections would put Chapter 62.1 of the North Dakota Century Code in compliance with the Second Amendment of the Bill of Rights to the Constitution of the United States; and Article I of the Declaration of Rights, Section 1, of the Constitution of North Dakota.

The Second Amendment of the Bill of Rights to the Constitution of the United States reads as follows:

***Amendment 2 – Right to Bear Arms***

*A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.*

Article I, Section 1, of the Declaration of Rights to the Constitution of North Dakota reads as follows:

***Section 1.*** *All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.*

Both Constitutions have four words in common: “shall not be infringed”. Both of Constitutions provide the right to keep and bear arms. It does not mandate that a person must possess a firearm, but allows a person the choice of whether or not if that person wishes to own a firearm.

The definition of “**Infringe**”; *infringe vb* [Latin *infringer*] 1: violate, transgress 2: encroach, trespass. In the context of the Constitution, phrases like “shall not be infringed,” “shall make no law,” and “shall not be violated” sound pretty unbendable, but the Supreme Court of the United States has ruled that *some* laws can, in fact encroach on these phrases. While we have freedom of speech, you cannot slander someone; while you can own a pistol, you cannot own a nuclear weapon, for example.

However, a person has the right to protect oneself, one’s family, or one’s property from a real or threatened attack. Sections of the current version of Chapter 62.1 of the North Dakota Century Code prohibits that right. Whether anyone likes it or not – current statute provides, and allows, for “*kill zones*” all around each and every citizen across the entire State of North Dakota, especially once the person steps outside of their place of residence. Should this committee or the House of Representatives remove the proposed language on Page 2, lines 29 through 30, then it is clear that a majority of our elected and public officials do not support their oath of office; nor the Bill of Rights to the Constitution of the United States; or the Constitution of North Dakota.

Mr. Chairman and Committee Members, I respectfully request your support of House Bill No. 1241 with a unanimous “Do Pass” recommendation of House Bill No. 1241 as introduced; or amended as requested in this testimony for your consideration, to the House of Representatives, and that the 64<sup>th</sup> Legislative Assembly enact House Bill No. 1241.

Thank you for your time and consideration of this pertinent matter.

Sixty-fourth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1241**

Introduced by

Representatives Streyle, Brabandt, Karls, B. Koppelman, Toman

Senators Armstrong, Larsen, Unruh

A BILL for an Act to ~~create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to medical workers and firearms; to~~ amend and reenact sections 20.1-01-11, 20.1-01-36, subsection 1 of section 62.1-01-01, sections 62.1-02-04, 62.1-02-05, 62.1-02-10, 62.1-03-01, 62.1-04-01, and 62.1-05-01 of the North Dakota Century Code, relating to firearms and dangerous weapons; ~~to repeal section 62.1-02-10 of the North Dakota Century Code, relating to firearms in vehicles;~~ and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 20.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-11. Hunting and harassing game from aircraft, motor vehicle, or snowmobile prohibited.**

~~Except as provided in this title, or when necessary for the protection of life or property except as provided in section 20.1-02-05, no person~~ An individual operating or controlling the operation of any aircraft or motor vehicle in this state may not intentionally kill, chase, or harass any wild animal or wild bird, protected or unprotected. ~~No person~~ An individual, while operating a snowmobile in this state, may not intentionally kill, chase, flush, or harass any wild animal or wild bird, protected or unprotected. This section does not apply if otherwise allowed by the director or law, if necessary for the protection of life or property, or if an individual while afield is hunting nongame species or fur-bearing animals from a motor vehicle or snowmobile with a firearm.

**SECTION 2. AMENDMENT.** Section 20.1-01-36 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-36. Suppressor and short-barreled rifle allowed for hunting.**

1. An individual in lawful possession of a device that will silence or deaden the sound or natural report of a firearm when the firearm is discharged may hunt any game for which the individual is licensed and for which a firearm is allowed with that device for or attached to the firearm.
2. An individual in lawful possession of a short-barreled rifle may hunt any game for which the individual is licensed and for which a rifle is allowed.

**SECTION 3. AMENDMENT.** Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses ~~direct contact to deliver~~ voltage for the defense of an individual.

**SECTION 4. AMENDMENT.** Section 62.1-02-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1. An individual who enters or remains in that part of the establishment that is set aside for the retail sale and consumption of alcoholic beverages or used as a gaming site at which bingo is the primary gaming activity while in the possession of a firearm or dangerous weapon is guilty of a class A misdemeanor. In addition, an individual is guilty of an offense under this section for possession of a device that uses a projectile

and voltage in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages.

2. This section does not apply to:

a. A law enforcement officer.

b. ~~An individual possessing a concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 for the weapon allowed by the license, if the individual does not consume alcoholic beverages at the establishment or site and is not under the influence of intoxicating liquor.~~

~~c.~~ The proprietor.

~~c.d.~~ The proprietor's employee.

~~d.e.~~ 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.

~~e.f.~~ Private security personnel while on duty for the purpose of delivering or receiving moneys used at the liquor establishment or at the gaming site at which bingo is the primary gaming activity.

~~f.g.~~ The restaurant part of an establishment if an individual under twenty-one years of age is not prohibited in that part of the establishment.

**SECTION 5. AMENDMENT.** Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering - Penalty - Application.**

1. An individual who possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" ~~includes~~means an athletic or sporting ~~event~~event, ~~schools or~~a school ~~functions~~, ~~churches or~~a church functions, political rallies or functions, musical concerts, and ~~individuals in publicly owned parks where hunting is not allowed by proclamation and~~ a publicly owned or operated ~~buildings~~building.

2. This section does not apply to:

a. A law enforcement officer;

b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;

- 1 c. ~~An individual possessing a concealed weapons license from this state or who has~~  
2 ~~reciprocity under section 62.1-04-03.1 for the weapon allowed by the license;~~  
3 ~~d.~~ A competitor participating in an organized sport shooting event;  
4 ~~d.e.~~ A gun or antique show;  
5 ~~e.f.~~ A participant using a blank cartridge firearm at a sporting or theatrical event;  
6 ~~f.g.~~ A firearm or dangerous weapon carried in a temporary residence or motor  
7 vehicle;  
8 ~~g.h.~~ A student and an instructor at a hunter safety class;  
9 ~~h.i.~~ Private security personnel while on duty;  
10 ~~i.j.~~ A state or federal park;  
11 ~~j.k.~~ An instructor, a test administrator, an official, or a participant in educational,  
12 training, cultural, or competitive events involving the authorized use of a  
13 dangerous weapon if the event occurs with permission of the person or entity  
14 with authority over the function or premises in question; ~~and~~  
15 k. An individual possessing a valid class 1 concealed weapons license from this  
16 state or who has reciprocity under section 62.1-04-03.1 authorizing the individual  
17 to carry a dangerous weapon concealed if the individual is in a church building or  
18 other place of worship and has the approval to carry in the church building or  
19 other place of worship by a primary religious leader of the church or other place  
20 of worship or the governing body of the church or other place of worship. If a  
21 church or other place of worship authorizes an individual to carry a concealed  
22 weapon, local law enforcement must be informed of the name of the authorized  
23 individual; and  
24 l. A municipal court judge, a district court judge, a staff member of the office of  
25 attorney general, and a retired North Dakota law enforcement officer, if the  
26 individual maintains the same level of firearms proficiency as is required by the  
27 peace officer standards and training board for law enforcement officers. A local  
28 law enforcement agency shall issue a certificate of compliance under this section  
29 to an individual who is proficient.  
30 3. This section does not prevent any political subdivision from enacting an ordinance that  
31 is less restrictive than this section relating to the possession of firearms or dangerous

1 weapons at a public gathering. An enacted ordinance supersedes this section within  
2 the jurisdiction of the political subdivision.

3 ~~—SECTION 5. A new section to chapter 62.1-02 of the North Dakota Century Code is created~~  
4 ~~and enacted as follows:~~

5 ~~—Medical worker prohibited from firearms inquiry - Penalty.~~

6 ~~—A person providing medical or health care services for which that person is licensed or~~  
7 ~~another person providing services for that person may not inquire of a patient about the~~  
8 ~~patient's ownership or possession of firearms that are not in the present and immediate~~  
9 ~~possession of the patient. A violation of this section is an infraction.~~

10 **SECTION 6. AMENDMENT.** Section 62.1-02-10 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **62.1-02-10. Carrying loaded firearm in vehicle - Penalty - Exceptions.**

13 An individual may not keep or carry a loaded firearm in or on any motor vehicle in this state.  
14 An individual violating this section is guilty of a class B misdemeanor. This prohibition does not  
15 apply to:

- 16 1. A member of the armed forces of the United States or national guard, organized  
17 reserves, state defense forces, or state guard organizations while possessing the  
18 firearm issued to the member by the organization and while on official duty.
- 19 2. A law enforcement officer, except while the officer is engaged in hunting or trapping  
20 activities with a rifle or shotgun.
- 21 3. An individual possessing a valid ~~North Dakota~~ concealed weapons license from this  
22 state or ~~a valid license issued by another state authorizing the individual to carry a~~  
23 ~~firearm or dangerous weapon concealed if that state permits a holder of a valid North~~  
24 ~~Dakota concealed weapons license to carry a firearm or dangerous weapon concealed~~  
25 ~~in that state without obtaining a similar license from that state, except while that~~  
26 ~~individual is in the field engaged in hunting or trapping activities~~who has reciprocity  
27 under section 62.1-04-03.1 with a handgun, or with a rifle or shotgun if not in the field  
28 hunting or trapping.
- 29 4. An individual in the field engaged in lawful hunting or trapping of nongame species or  
30 fur-bearing animals with a rifle or shotgun.
- 31 5. A security guard or private investigator properly licensed to carry firearms.

6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

**SECTION 7. AMENDMENT.** Section 62.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~An unloaded~~A handgun may not be carried unless by an individual not otherwise prohibited and if:
  - a. Between the hours of one hour before sunrise and one hour after sunset, the handgun is unloaded and either in plain view or is secured.
  - b. Between the hours of one hour after sunset and one hour before sunrise, the handgun is unloaded and secured.
2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:
  - a. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1.
  - b. An individual on that person's land, or in that individual's permanent or temporary residence, or fixed place of business.
  - c. An individual while lawfully engaged in target shooting.
  - d. An individual 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. An individual permitted by law to possess a firearm 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 of another state if on official duty within this state.
  - h. Any armed security guard or investigator as authorized by law 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.

- 1 k. Any officer or employee of the United States duly authorized to carry a handgun.  
2 l. An individual engaged in manufacturing, repairing, or dealing in handguns or the  
3 agent or representative of that individual possessing, using, or carrying a  
4 handgun in the usual or ordinary course of the business.  
5 m. Any common carrier, but only when carrying the handgun as part of the cargo in  
6 the usual cargo carrying portion of the vehicle.

7 ~~n. An individual in or on a motor vehicle if that individual is lawfully present in or on~~  
8 ~~the motor vehicle.~~

9 **SECTION 8. AMENDMENT.** Subsection 5 of section 62.1-04-01 of the North Dakota  
10 Century Code is amended and reenacted as follows:

- 11 5. A bow and arrow, ~~an unloaded rifle or~~ shotgun, handgun, or ~~an unloaded~~ weapon  
12 that will expel, or is readily capable of expelling, a projectile by the action of a spring,  
13 compressed air, or compressed gas including any such weapon commonly referred to  
14 as a BB gun, air rifle, or CO<sub>2</sub> gun, while carried in a motor vehicle.

15 **SECTION 9. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **62.1-04-02. Carrying concealed firearms or dangerous weapons prohibited.**

18 An individual, other than a law enforcement officer, may not carry any firearm or dangerous  
19 weapon concealed unless the individual is licensed to do so or exempted under this chapter.  
20 For purposes of this chapter, the term "dangerous weapon" does not include a spray or aerosol  
21 containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone) or other irritating  
22 agent intended for use in the defense of an individual, nor does the term include any ~~stun gun~~  
23 ~~or device that uses direct contact to deliver~~ voltage for the defense of an individual.

24 **SECTION 10. AMENDMENT.** Section 62.1-05-01 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and**  
27 **bombs - Penalty - Forfeiture.**

- 28 1. ~~No~~A person may not purchase, sell, have, or possess a machine gun, fully automatic  
29 rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or  
30 any other federally licensed firearm or dangerous weapon unless that person has  
31 complied with the National Firearms Act [26 U.S.C. 5801-5872].

1       Any federal licensee who purchases, sells, has, or possesses those items for the licensee's  
2 protection or for sale must forward a copy of the licensee's federal license along with the  
3 required weapons transfer form to the licensee's local county sheriff and to the chief of the  
4 bureau of criminal investigation within five days of the receipt of those forms.

5       A person who violates this section is guilty of a class C felony. Upon arrest of that person,  
6 the firearm or dangerous weapon must be seized. Upon conviction of the person and motion to  
7 the court in which the conviction occurred, the firearm or dangerous weapon must be forfeited  
8 to the jurisdiction in which the arrest was made. The firearm or dangerous weapon may be sold  
9 at public auction, retained for use, or destroyed pursuant to the court's order. If a qualified local  
10 program as defined under section 12.1-32-02.2 has paid a reward for information that resulted  
11 in forfeiture of the item and the item has been sold, the jurisdiction shall, after payment of  
12 expenses for forfeiture and sale, repay the qualified local program for the reward that it has  
13 paid.

14       2.   If not prohibited by law, the chief law enforcement officer shall sign any document  
15           required by a person to comply with the National Firearms Act within fifteen days of  
16           receipt of the document.

17       — **SECTION 9. REPEAL.** ~~Section 62.1-02-10 of the North Dakota Century Code is repealed.~~

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1241

Page 1, line 1, remove "create and enact a new section to chapter 62.1-02 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to medical workers and firearms; to"

Page 1, line 2, after "sections" insert "20.1-01-11,"

Page 1, line 3, after the first comma insert "subsection 1 of section 62.1-01-01, sections"

Page 1, line 3, after the third comma insert "62.1-02-10,"

Page 1, line 3, after the fourth comma insert "62.1-04-01,"

Page 1, line 4, after "firearms" insert "and dangerous weapons"

Page 1, line 4, remove "to repeal section 62.1-02-10 of the North Dakota Century Code,"

Page 1, line 5, remove "relating to firearms in vehicles;"

Page 1, after line 6, insert:

**"SECTION 1. AMENDMENT.** Section 20.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-11. Hunting and harassing game from aircraft, motor vehicle, or snowmobile prohibited.**

~~Except as provided in this title, or when necessary for the protection of life or property except as provided in section 20.1-02-05, no person~~ An individual operating or controlling the operation of any aircraft or motor vehicle in this state may not intentionally kill, chase, or harass any wild animal or wild bird, protected or unprotected. ~~No person~~ An individual, while operating a snowmobile in this state, may not intentionally kill, chase, flush, or harass any wild animal or wild bird, protected or unprotected. This section does not apply if otherwise allowed by the director or law, if necessary for the protection of life or property, or if an individual while afield is hunting nongame species or fur-bearing animals from a motor vehicle or snowmobile with a firearm.

Page 1, after line 15, insert:

**"SECTION 3. AMENDMENT.** Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or

capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses ~~direct contact to deliver voltage~~ for the defense of an individual."

Page 1, line 21, after "sale" insert "and consumption"

Page 1, line 23, after the period insert "In addition, an individual is guilty of an offense under this section for possession of a device that uses a projectile and voltage in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages."

Page 2, line 2, remove "An individual possessing a concealed weapons license from this state or who has"

Page 2, remove lines 3 through 5

Page 2, line 6, remove "c."

Page 2, line 7, remove the overstrike over "e."

Page 2, line 7, remove "d."

Page 2, line 8, remove the overstrike over "d."

Page 2, line 8, remove "e."

Page 2, line 10, remove the overstrike over "e."

Page 2, line 10, remove "f."

Page 2, line 13, remove the overstrike over "f."

Page 2, line 13, remove "g."

Page 2, line 21, after "means" insert "an"

Page 2, line 21, overstrike "events" and insert immediately thereafter "event"

Page 2, line 21, overstrike "schools or" and insert immediately thereafter "a"

Page 2, line 21, overstrike "functions"

Page 2, line 21, after the third "or" insert "a"

Page 2, line 22, remove the overstrike over "church"

Page 2, line 23, after "and" insert "a"

Page 2, line 24, overstrike "buildings" and insert immediately thereafter "building"

Page 2, line 29, remove "An individual possessing a concealed weapons license from this state or who has"

Page 2, remove line 30

Page 2, line 31, remove "d."

Page 3, line 1, remove the overstrike over "d."

Page 3, line 1, remove "e."

Page 3, line 2, remove the overstrike over "e."

Page 3, line 2, remove "f."

Page 3, line 3, remove the overstrike over "f."

Page 3, line 3, remove "g."

Page 3, line 5, remove the overstrike over "g."

Page 3, line 5, remove "h."

Page 3, line 6, remove the overstrike over "h."

Page 3, line 6, remove "i."

Page 3, line 7, remove the overstrike over "i."

Page 3, line 7, remove "j."

Page 3, line 8, remove the overstrike over "j."

Page 3, line 8, remove "k."

Page 3, line 11, remove "and"

Page 3, remove the overstrike over lines 12 through 20

Page 4, replace lines 1 through 7 with:

**"SECTION 6. 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.**

An individual may not keep or carry a loaded firearm in or on any motor vehicle in this state. 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. An individual possessing a valid ~~North Dakota~~ concealed weapons license ~~from this state or a valid license issued by another state authorizing the individual to carry a firearm or dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a firearm or dangerous weapon concealed in that state without obtaining a similar license from that state, except while that individual is in the field engaged in hunting or trapping activities~~ who has reciprocity under section 62.1-04-03.1 with a handgun, or with a rifle or shotgun if not in the field hunting or trapping.

4. An individual in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals with a rifle or shotgun.
5. A security guard or private investigator properly licensed to carry firearms.
6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05."

Page 4, line 23, remove the overstrike over "~~However, nothing in this exception authorizes the carrying of a loaded~~"

Page 4, remove the overstrike over line 24

Page 5, replace lines 14 and 15 with:

**"SECTION 8. AMENDMENT.** Subsection 5 of section 62.1-04-01 of the North Dakota Century Code is amended and reenacted as follows:

5. A bow and arrow, ~~an unloaded rifle or~~ shotgun, handgun, ~~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 CO<sub>2</sub> gun, while carried in a motor vehicle.

**SECTION 9. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

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

An individual, other than a law enforcement officer, may not carry any firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter. For purposes of this chapter, the term "dangerous weapon" does not include a spray or aerosol containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone) or other irritating agent intended for use in the defense of an individual, nor does the term include any ~~stun gun or device that uses direct contact to deliver voltage~~ for the defense of an individual."

Page 6, remove line 9

Renumber accordingly

Sixty-fourth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1241**

Introduced by

Representatives Streyle, Brabandt, Karls, B. Koppelman, Toman

Senators Armstrong, Larsen, Unruh

A BILL for an Act to ~~create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to medical workers and firearms;~~ to amend and reenact sections 20.1-01-11, 20.1-01-36, subsection 1 of section 62.1-01-01, sections 62.1-02-04, 62.1-02-05, 62.1-02-10, 62.1-03-01, 62.1-04-01, and 62.1-05-01 of the North Dakota Century Code, relating to firearms and dangerous weapons; ~~to repeal section 62.1-02-10 of the North Dakota Century Code, relating to firearms in vehicles;~~ and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 20.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-11. Hunting and harassing game from aircraft, motor vehicle, or snowmobile prohibited.**

~~Except as provided in this title, or when necessary for the protection of life or property except as provided in section 20.1-02-05, no person~~ An individual operating or controlling the operation of any aircraft or motor vehicle in this state may not intentionally kill, chase, or harass any wild animal or wild bird, protected or unprotected. ~~No person~~ An individual, while operating a snowmobile in this state, may not intentionally kill, chase, flush, or harass any wild animal or wild bird, protected or unprotected. This section does not apply if otherwise allowed by the director or law, if necessary for the protection of life or property, or if an individual while afield is hunting nongame species or fur-bearing animals from a motor vehicle or snowmobile with a firearm.

**SECTION 2. AMENDMENT.** Section 20.1-01-36 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-36. Suppressor and short-barreled rifle allowed for hunting.**

1. An individual in lawful possession of a device that will silence or deaden the sound or natural report of a firearm when the firearm is discharged may hunt any game for which the individual is licensed and for which a firearm is allowed with that device for or attached to the firearm.
2. An individual in lawful possession of a short-barreled rifle may hunt any game for which the individual is licensed and for which a rifle is allowed.

**SECTION 3. AMENDMENT.** Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses ~~direct contact to deliver~~ voltage for the defense of an individual.

**SECTION 4. AMENDMENT.** Section 62.1-02-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1. An individual who enters or remains in that part of the establishment that is set aside for the retail sale and consumption of alcoholic beverages or used as a gaming site at which bingo is the primary gaming activity while in the possession of a firearm or dangerous weapon is guilty of a class A misdemeanor. In addition, an individual is guilty of an offense under this section for possession of a device that uses a projectile

and voltage in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages.

2. This section does not apply to:

a. A law enforcement officer.

b. ~~An individual possessing a concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 for the weapon allowed by the license, if the individual does not consume alcoholic beverages at the establishment or site and is not under the influence of intoxicating liquor.~~

~~c.~~ The proprietor.

~~c.d.~~ The proprietor's employee.

~~d.e.~~ 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.

~~e.f.~~ Private security personnel while on duty for the purpose of delivering or receiving moneys used at the liquor establishment or at the gaming site at which bingo is the primary gaming activity.

~~f.g.~~ The restaurant part of an establishment if an individual under twenty-one years of age is not prohibited in that part of the establishment.

**SECTION 5. AMENDMENT.** Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering -**

**Penalty - Application.**

1. An individual who possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" ~~includes means an~~ athletic or sporting ~~event~~ event, ~~schools or a school functions,~~ ~~churches or a church functions,~~ ~~political rallies or functions,~~ ~~musical concerts, and~~ individuals in publicly owned parks where hunting is not allowed by proclamation and a publicly owned or operated ~~buildings~~ building.

2. This section does not apply to:

a. A law enforcement officer;

b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;

- 1           c. ~~An individual possessing a concealed weapons license from this state or who has~~  
2           ~~reciprocity under section 62.1-04-03.1 for the weapon allowed by the license;~~
- 3           ~~d.~~ A competitor participating in an organized sport shooting event;  
4           d.~~e.~~ A gun or antique show;  
5           e.~~f.~~ A participant using a blank cartridge firearm at a sporting or theatrical event;  
6           f.~~g.~~ A firearm or dangerous weapon carried in a temporary residence or motor  
7           vehicle;  
8           g.~~h.~~ A student and an instructor at a hunter safety class;  
9           h.~~i.~~ Private security personnel while on duty;  
10          i.~~j.~~ A state or federal park;  
11          j.~~k.~~ An instructor, a test administrator, an official, or a participant in educational,  
12          training, cultural, or competitive events involving the authorized use of a  
13          dangerous weapon if the event occurs with permission of the person or entity  
14          with authority over the function or premises in question; ~~and~~
- 15          k. An individual possessing a valid class 1 concealed weapons license from this  
16          state or who has reciprocity under section 62.1-04-03.1 authorizing the individual  
17          to carry a dangerous weapon concealed if the individual is in a church building or  
18          other place of worship and has the approval to carry in the church building or  
19          other place of worship by a primary religious leader of the church or other place  
20          of worship or the governing body of the church or other place of worship. If a  
21          church or other place of worship authorizes an individual to carry a concealed  
22          weapon, local law enforcement must be informed of the name of the authorized  
23          individual; and
- 24          l. A municipal court judge, a district court judge, a staff member of the office of  
25          attorney general, and a retired North Dakota law enforcement officer, if the  
26          individual maintains the same level of firearms proficiency as is required by the  
27          peace officer standards and training board for law enforcement officers. A local  
28          law enforcement agency shall issue a certificate of compliance under this section  
29          to an individual who is proficient.
- 30          3. This section does not prevent any political subdivision from enacting an ordinance that  
31          is less restrictive than this section relating to the possession of firearms or dangerous

1 weapons at a public gathering. An enacted ordinance supersedes this section within  
2 the jurisdiction of the political subdivision.

3 ~~SECTION 5. A new section to chapter 62.1-02 of the North Dakota Century Code is created~~  
4 ~~and enacted as follows:~~

5 ~~**Medical worker prohibited from firearms inquiry - Penalty.**~~

6 ~~A person providing medical or health care services for which that person is licensed or~~  
7 ~~another person providing services for that person may not inquire of a patient about the~~  
8 ~~patient's ownership or possession of firearms that are not in the present and immediate~~  
9 ~~possession of the patient. A violation of this section is an infraction.~~

10 **SECTION 6. AMENDMENT.** Section 62.1-02-10 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **62.1-02-10. Carrying loaded firearm in vehicle - Penalty - Exceptions.**

13 An individual may not keep or carry a loaded firearm in or on any motor vehicle in this state.  
14 An individual violating this section is guilty of a class B misdemeanor. This prohibition does not  
15 apply to:

- 16 1. A member of the armed forces of the United States or national guard, organized  
17 reserves, state defense forces, or state guard organizations while possessing the  
18 firearm issued to the member by the organization and while on official duty.
- 19 2. A law enforcement officer, except while the officer is engaged in hunting or trapping  
20 activities with a rifle or shotgun.
- 21 3. An individual possessing a valid ~~North Dakota~~ concealed weapons license from this  
22 state or a valid license issued by another state authorizing the individual to carry a  
23 firearm or dangerous weapon concealed if that state permits a holder of a valid North  
24 Dakota concealed weapons license to carry a firearm or dangerous weapon concealed  
25 in that state without obtaining a similar license from that state, except while that  
26 individual is in the field engaged in hunting or trapping activities who has reciprocity  
27 under section 62.1-04-03.1 with a handgun, or with a rifle or shotgun if not in the field  
28 hunting or trapping.
- 29 4. An individual in the field engaged in lawful hunting or trapping of nongame species or  
30 fur-bearing animals with a rifle or shotgun.
- 31 5. A security guard or private investigator properly licensed to carry firearms.

6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

**SECTION 7. AMENDMENT.** Section 62.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~An unloaded~~ A handgun may not be carried unless by an individual not otherwise prohibited and if:
  - a. Between the hours of one hour before sunrise and one hour after sunset, the handgun is unloaded and either in plain view or ~~is~~ secured.
  - b. Between the hours of one hour after sunset and one hour before sunrise, the handgun is unloaded and secured.
2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:
  - a. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1.
  - b. An individual on that person's land, or in that individual's permanent or temporary residence, or fixed place of business.
  - c. An individual while lawfully engaged in target shooting.
  - d. An individual 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. An individual permitted by law to possess a firearm 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 of another state if on official duty within this state.
  - h. Any armed security guard or investigator as authorized by law 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.

- 1 k. Any officer or employee of the United States duly authorized to carry a handgun.  
2 l. An individual engaged in manufacturing, repairing, or dealing in handguns or the  
3 agent or representative of that individual possessing, using, or carrying a  
4 handgun in the usual or ordinary course of the business.  
5 m. Any common carrier, but only when carrying the handgun as part of the cargo in  
6 the usual cargo carrying portion of the vehicle.  
7 ~~n. An individual in or on a motor vehicle if that individual is lawfully present in or on~~  
8 ~~the motor vehicle.~~

9 **SECTION 8. AMENDMENT.** Subsection 5 of section 62.1-04-01 of the North Dakota  
10 Century Code is amended and reenacted as follows:

- 11 5. A bow and arrow, ~~an unloaded rifle or~~ shotgun, handgun, or ~~an unloaded~~ weapon  
12 that will expel, or is readily capable of expelling, a projectile by the action of a spring,  
13 compressed air, or compressed gas including any such weapon commonly referred to  
14 as a BB gun, air rifle, or CO<sub>2</sub> gun, while carried in a motor vehicle.

15 **SECTION 9. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **62.1-04-02. Carrying concealed firearms or dangerous weapons prohibited.**

18 An individual, other than a law enforcement officer, may not carry any firearm or dangerous  
19 weapon concealed unless the individual is licensed to do so or exempted under this chapter.  
20 For purposes of this chapter, the term "dangerous weapon" does not include a spray or aerosol  
21 containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone) or other irritating  
22 agent intended for use in the defense of an individual, nor does the term include any ~~stun gun~~  
23 ~~or device that uses direct contact to deliver~~ voltage for the defense of an individual.

24 **SECTION 10. AMENDMENT.** Section 62.1-05-01 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and**  
27 **bombs - Penalty - Forfeiture.**

- 28 1. ~~No~~A person may not purchase, sell, have, or possess a machine gun, fully automatic  
29 rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or  
30 any other federally licensed firearm or dangerous weapon unless that person has  
31 complied with the National Firearms Act [26 U.S.C. 5801-5872].

1     ~~Any federal licensee who purchases, sells, has, or possesses those items for the licensee's~~  
2     ~~protection or for sale must forward a copy of the licensee's federal license along with the~~  
3     ~~required weapons transfer form to the licensee's local county sheriff and to the chief of the~~  
4     ~~bureau of criminal investigation within five days of the receipt of those forms.~~

5     ~~A person who violates this section is guilty of a class C felony. Upon arrest of that person,~~  
6     ~~the firearm or dangerous weapon must be seized. Upon conviction of the person and motion to~~  
7     ~~the court in which the conviction occurred, the firearm or dangerous weapon must be forfeited~~  
8     ~~to the jurisdiction in which the arrest was made. The firearm or dangerous weapon may be sold~~  
9     ~~at public auction, retained for use, or destroyed pursuant to the court's order. If a qualified local~~  
10    ~~program as defined under section 12.1 32-02.2 has paid a reward for information that resulted~~  
11    ~~in forfeiture of the item and the item has been sold, the jurisdiction shall, after payment of~~  
12    ~~expenses for forfeiture and sale, repay the qualified local program for the reward that it has~~  
13    ~~paid.~~

14         2. If not prohibited by law, the chief law enforcement officer shall sign any document  
15             required by a person to comply with the National Firearms Act within fifteen days of  
16             receipt of the document.

17    ~~SECTION 9. REPEAL. Section 62.1 02-10 of the North Dakota Century Code is repealed.~~

Sixty-fourth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1241**

Introduced by

Representatives Streyle, Brabandt, Karls, B. Koppelman, Toman

Senators Armstrong, Larsen, Unruh

A BILL for an Act to ~~create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to medical workers and firearms; to~~ amend and reenact ~~sections~~section 20.1-01-36, subsection 1 of section 62.1-01-01, sections 62.1-02-04, 62.1-02-05, 62.1-02-10, 62.1-03-01, 62.1-04-01, and 62.1-05-01 of the North Dakota Century Code, relating to firearms and dangerous weapons; ~~to repeal section 62.1-02-10 of the North Dakota Century Code, relating to firearms in vehicles;~~ and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 20.1-01-36 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-36. Suppressor and short-barreled rifle allowed for hunting.**

1. An individual in lawful possession of a device that will silence or deaden the sound or natural report of a firearm when the firearm is discharged may hunt any game for which the individual is licensed and for which a firearm is allowed with that device for or attached to the firearm.
2. An individual in lawful possession of a short-barreled rifle may hunt any game for which the individual is licensed and for which a rifle is allowed.

**SECTION 2. AMENDMENT.** Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any 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

1 such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2  
2 gun; and any projector of a bomb or any object containing or capable of producing and  
3 emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include  
4 a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN,  
5 also known as alpha-chloroacetophenone; or other irritating agent intended for use in  
6 the defense of an individual, nor does the term include a device that uses ~~direct~~  
7 ~~contact to deliver~~ voltage for the defense of an individual, unless the device uses a  
8 projectile and voltage, then the term includes the device for an individual who is  
9 prohibited from possessing a firearm under this title.

10 **SECTION 3. AMENDMENT.** Section 62.1-02-04 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **62.1-02-04. Possession of firearm or dangerous weapon in liquor establishment**  
13 **prohibited - Penalty - Exceptions.**

- 14 1. An individual who enters or remains in that part of the establishment that is set aside  
15 for the retail sale and consumption of alcoholic beverages or used as a gaming site at  
16 which bingo is the primary gaming activity while in the possession of a firearm or  
17 dangerous weapon is guilty of a class A misdemeanor. In addition, an individual is  
18 guilty of an offense under this section for possession of a device that uses a projectile  
19 and voltage in the part of an establishment that is set aside for the retail sale and  
20 consumption of alcoholic beverages.
- 21 2. This section does not apply to:
- 22 a. A law enforcement officer.
- 23 b. ~~An individual possessing a concealed weapons license from this state or who has~~  
24 ~~reciprocity under section 62.1-04-03.1 for the weapon allowed by the license, if~~  
25 ~~the individual does not consume alcoholic beverages at the establishment or site~~  
26 ~~and is not under the influence of intoxicating liquor.~~
- 27 ~~e.~~ The proprietor.
- 28 c.d. The proprietor's employee.
- 29 d.e. A designee of the proprietor when the designee is displaying an unloaded firearm  
30 or dangerous weapon as a prize or sale item in a raffle or auction.

~~e.f.~~ Private security personnel while on duty for the purpose of delivering or receiving moneys used at the liquor establishment or at the gaming site at which bingo is the primary gaming activity.

~~f.g.~~ The restaurant part of an establishment if an individual under twenty-one years of age is not prohibited in that part of the establishment.

**SECTION 4. AMENDMENT.** Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering -  
Penalty - Application.**

1. An individual who possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" ~~includes~~means an athletic or sporting ~~events~~event, ~~schools or a school functions,~~ ~~churches or a church functions,~~ political rallies or functions, musical concerts, and ~~individuals in publicly owned parks where hunting is not allowed by proclamation and a~~ publicly owned or operated ~~buildings~~building.
2. This section does not apply to:
  - a. A law enforcement officer;
  - b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;
  - c. An individual possessing a concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 for the weapon allowed by the license;
  - ~~d.~~ A competitor participating in an organized sport shooting event;
  - ~~d.e.~~ A gun or antique show;
  - ~~e.f.~~ A participant using a blank cartridge firearm at a sporting or theatrical event;
  - ~~f.g.~~ A firearm or dangerous weapon carried in a temporary residence or motor vehicle;
  - ~~g.h.~~ A student and an instructor at a hunter safety class;
  - ~~h.i.~~ Private security personnel while on duty;
  - ~~i.j.~~ A state or federal park;
  - ~~j.k.~~ An instructor, a test administrator, an official, or a participant in educational, training, cultural, or competitive events involving the authorized use of a

1 dangerous weapon if the event occurs with permission of the person or entity  
2 with authority over the function or premises in question; ~~and~~

3 k. An individual possessing a valid class 1 concealed weapons license from this  
4 state or who has reciprocity under section 62.1-04-03.1 authorizing the individual  
5 to carry a dangerous weapon concealed if the individual is in a church building or  
6 other place of worship and has the approval to carry in the church building or  
7 other place of worship by a primary religious leader of the church or other place  
8 of worship or the governing body of the church or other place of worship. If a  
9 church or other place of worship authorizes an individual to carry a concealed  
10 weapon, local law enforcement must be informed of the name of the authorized  
11 individual; and

12 l. A municipal court judge, a district court judge, a staff member of the office of  
13 attorney general, and a retired North Dakota law enforcement officer, if the  
14 individual maintains the same level of firearms proficiency as is required by the  
15 peace officer standards and training board for law enforcement officers. A local  
16 law enforcement agency shall issue a certificate of compliance under this section  
17 to an individual who is proficient.

18 3. This section does not prevent any political subdivision from enacting an ordinance that  
19 is less restrictive than this section relating to the possession of firearms or dangerous  
20 weapons at a public gathering. An enacted ordinance supersedes this section within  
21 the jurisdiction of the political subdivision.

22 ~~SECTION 5. A new section to chapter 62.1-02 of the North Dakota Century Code is created~~  
23 ~~and enacted as follows:~~

24 ~~Medical worker prohibited from firearms inquiry - Penalty.~~

25 ~~A person providing medical or health care services for which that person is licensed or~~  
26 ~~another person providing services for that person may not inquire of a patient about the~~  
27 ~~patient's ownership or possession of firearms that are not in the present and immediate~~  
28 ~~possession of the patient. A violation of this section is an infraction.~~

29 **SECTION 5. AMENDMENT.** Section 62.1-02-10 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **62.1-02-10. Carrying loaded firearm in ~~vehicle~~certain vehicles prohibited - Penalty -**  
2       **Exceptions.**

3       An individual may not keep or carry a loaded firearm in or on any motor vehicle, including  
4       an off-highway vehicle or snowmobile in this state. An individual violating this section is guilty of  
5       a class B misdemeanor. This prohibition does not apply to:

- 6       1. A member of the armed forces of the United States or national guard, organized  
7       reserves, state defense forces, or state guard organizations while possessing the  
8       firearm issued to the member by the organization and while on official duty.
- 9       2. A law enforcement officer, ~~except while the officer is engaged in hunting or trapping~~  
10      ~~activities with a rifle or shotgun.~~
- 11      3. An individual possessing a valid ~~North Dakota~~ concealed weapons license from this  
12      state or ~~a valid license issued by another state authorizing the individual to carry a~~  
13      ~~firearm or dangerous weapon concealed if that state permits a holder of a valid North~~  
14      ~~Dakota concealed weapons license to carry a firearm or dangerous weapon concealed~~  
15      ~~in that state without obtaining a similar license from that state, except while that~~  
16      ~~individual is in the field engaged in hunting or trapping activities~~ who has reciprocity  
17      under section 62.1-04-03.1 with a handgun, or with a rifle or shotgun if not in the field  
18      hunting or trapping.
- 19      4. An individual in the field engaged in lawful hunting or trapping of nongame species or  
20      fur-bearing animals.
- 21      5. A security guard or private investigator properly licensed to carry firearms.
- 22      6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

23       **SECTION 6. AMENDMENT.** Section 62.1-03-01 of the North Dakota Century Code is  
24       amended and reenacted as follows:

- 25      1. ~~An unloaded~~ A handgun may not be carried unless by an individual not otherwise  
26      prohibited and if:
  - 27          a. Between the hours of one hour before sunrise and one hour after sunset, the  
28          handgun is unloaded and either in plain view or ~~is~~ secured.
  - 29          b. Between the hours of one hour after sunset and one hour before sunrise, the  
30          handgun is unloaded and secured.
- 31      2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:

- 1 a. An individual possessing a valid concealed weapons license from this state or
- 2 who has reciprocity under section 62.1-04-03.1.
- 3 b. An individual on that person's land, or in that individual's permanent or temporary
- 4 residence, or fixed place of business.
- 5 c. An individual while lawfully engaged in target shooting.
- 6 d. An individual while in the field engaging in the lawful pursuit of hunting or
- 7 trapping. **However, nothing in this exception authorizes the carrying of a loaded**
- 8 **handgun in a motor vehicle.**
- 9 e. An individual permitted by law to possess a firearm while carrying the handgun
- 10 unloaded and in a secure wrapper from the place of purchase to that person's
- 11 home or place of business, or to a place of repair or back from those locations.
- 12 f. Any North Dakota law enforcement officer.
- 13 g. Any law enforcement officer of any other state or political subdivision of another
- 14 state if on official duty within this state.
- 15 h. Any armed security guard or investigator as authorized by law when on duty or
- 16 going to or from duty.
- 17 i. Any member of the armed forces of the United States when on duty or going to or
- 18 from duty and when carrying the handgun issued to the member.
- 19 j. Any member of the national guard, organized reserves, state defense forces, or
- 20 state guard organizations, when on duty or going to or from duty and when
- 21 carrying the handgun issued to the member by the organization.
- 22 k. Any officer or employee of the United States duly authorized to carry a handgun.
- 23 l. An individual engaged in manufacturing, repairing, or dealing in handguns or the
- 24 agent or representative of that individual possessing, using, or carrying a
- 25 handgun in the usual or ordinary course of the business.
- 26 m. Any common carrier, but only when carrying the handgun as part of the cargo in
- 27 the usual cargo carrying portion of the vehicle.
- 28 ~~n. An individual in or on a motor vehicle if that individual is lawfully present in or on~~
- 29 ~~the motor vehicle.~~

30 **SECTION 7. AMENDMENT.** Subsection 5 of section 62.1-04-01 of the North Dakota  
31 Century Code is amended and reenacted as follows:

- 1        5. A bow and arrow, ~~an unloaded rifle or~~ shotgun, unloaded handgun, or ~~an unloaded~~  
2        weapon that will expel, or is readily capable of expelling, a projectile by the action of a  
3        spring, compressed air, or compressed gas including any such weapon commonly  
4        referred to as a BB gun, air rifle, or CO<sub>2</sub> gun, while carried in a motor vehicle.

5        **SECTION 8. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is  
6        amended and reenacted as follows:

7        **62.1-04-02. Carrying concealed firearms or dangerous weapons prohibited.**

8        An individual, other than a law enforcement officer, may not carry any firearm or dangerous  
9        weapon concealed unless the individual is licensed to do so or exempted under this chapter.  
10       For purposes of this chapter, the term "dangerous weapon" does not include a spray or aerosol  
11       containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone) or other irritating  
12       agent intended for use in the defense of an individual, nor does the term include any ~~stun gun~~  
13       ~~or device that uses direct contact to deliver~~ voltage for the defense of an individual, unless the  
14       device uses a projectile and voltage, then the term includes the device for an individual who is  
15       prohibited from possessing a firearm under this title.

16       **SECTION 8. AMENDMENT.** Section 62.1-05-01 of the North Dakota Century Code is  
17       amended and reenacted as follows:

18       **62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and**  
19       **bombs - Penalty - Forfeiture.**

- 20       1. ~~No~~A person may not purchase, sell, have, or possess a machine gun, fully automatic  
21       rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or  
22       any other federally licensed firearm or dangerous weapon unless that person has  
23       complied with the National Firearms Act [26 U.S.C. 5801-5872].

24       ~~Any federal licensee who purchases, sells, has, or possesses these items for the licensee's~~  
25       ~~protection or for sale must forward a copy of the licensee's federal license along with the~~  
26       ~~required weapons transfer form to the licensee's local county sheriff and to the chief of the~~  
27       ~~bureau of criminal investigation within five days of the receipt of those forms.~~

- 28       2. A person who violates this section is guilty of a class C felony. Upon arrest of that  
29       person, the firearm or dangerous weapon must be seized. Upon conviction of the  
30       person and motion to the court in which the conviction occurred, the firearm or  
31       dangerous weapon must be forfeited to the jurisdiction in which the arrest was made.

1           The firearm or dangerous weapon may be sold at public auction, retained for use, or  
2           destroyed pursuant to the court's order. If a qualified local program as defined under  
3           section 12.1-32-02.2 has paid a reward for information that resulted in forfeiture of the  
4           item and the item has been sold, the jurisdiction shall, after payment of expenses for  
5           forfeiture and sale, repay the qualified local program for the reward that it has paid.  
6       2.3.   If not prohibited by law, the chief law enforcement officer shall sign any document  
7           required by a person to comply with the National Firearms Act within ~~fifteen~~thirty days  
8           of receipt of the document.

9       ~~— SECTION 9. REPEAL. Section 62.1-02-10 of the North Dakota Century Code is repealed.~~

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1241

Page 1, line 1, remove "create and enact a new section to chapter 62.1-02 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to medical workers and firearms; to"

Page 1, line 2, replace "sections" with "section"

Page 1, line 3, after the first comma insert "subsection 1 of section 62.1-01-01, sections"

Page 1, line 3, after the third comma insert "62.1-02-10,"

Page 1, line 3, after the fourth comma insert "62.1-04-01,"

Page 1, line 4, after "firearms" insert "and dangerous weapons"

Page 1, line 4, remove "to repeal section 62.1-02-10 of the North Dakota Century Code,"

Page 1, line 5, remove "relating to firearms in vehicles;"

Page 1, after line 15, insert:

**"SECTION 2. AMENDMENT.** Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses direct contact to deliver voltage for the defense of an individual, unless the device uses a projectile and voltage, then the term includes the device for an individual who is prohibited from possessing a firearm under this title."

Page 1, line 21, after "sale" insert "and consumption"

Page 1, line 23, after the period insert "In addition, an individual is guilty of an offense under this section for possession of a device that uses a projectile and voltage in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages."

Page 2, line 2, remove "An individual possessing a concealed weapons license from this state or who has"

Page 2, remove lines 3 through 5

Page 2, line 6, remove "c."

Page 2, line 7, remove the overstrike over "e."

Page 2, line 7, remove "d."

Page 2, line 8, remove the overstrike over "d."

Page 2, line 8, remove "e."

Page 2, line 10, remove the overstrike over "e."

Page 2, line 10, remove "f."

Page 2, line 13, remove the overstrike over "f."

Page 2, line 13, remove "g."

Page 2, line 21, after "means" insert "an"

Page 2, line 21, overstrike "events" and insert immediately thereafter "event"

Page 2, line 21, overstrike "schools or" and insert immediately thereafter "a"

Page 2, line 21, overstrike "functions"

Page 2, line 21, after the second "or" insert "a"

Page 2, line 23, after "and" insert "a"

Page 2, line 24, overstrike "buildings" and insert immediately thereafter "building"

Page 2, line 29, remove "An individual possessing a concealed weapons license from this state or who has"

Page 2, remove line 30

Page 2, line 31, remove "d."

Page 3, line 1, remove the overstrike over "d."

Page 3, line 1, remove "e."

Page 3, line 2, remove the overstrike over "e."

Page 3, line 2, remove "f."

Page 3, line 3, remove the overstrike over "f."

Page 3, line 3, remove "g."

Page 3, line 5, remove the overstrike over "g."

Page 3, line 5, remove "h."

Page 3, line 6, remove the overstrike over "h."

Page 3, line 6, remove "i."

Page 3, line 7, remove the overstrike over "i."

Page 3, line 7, remove "j."

Page 3, line 8, remove the overstrike over "j."

Page 3, line 8, remove "k."

Page 3, line 11, remove "and"

Page 3, remove the overstrike over lines 12 through 20

Page 4, replace lines 1 through 7 with:

**"SECTION 5. 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 vehiclecertain vehicles prohibited -  
Penalty - Exceptions.**

An individual may not keep or carry a loaded firearm in or on any motor vehicle, including an off-highway vehicle or snowmobile in this state. 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. An individual possessing a valid ~~North Dakota~~ concealed weapons license from this state or a valid license issued by another state authorizing the individual to carry a firearm or dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a firearm or dangerous weapon concealed in that state without obtaining a similar license from that state, except while that individual is in the field engaged in hunting or trapping activities who has reciprocity under section 62.1-04-03.1 with a handgun, or with a rifle or shotgun if not in the field hunting or trapping.
4. 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 properly licensed to carry firearms.
6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05."

Page 4, line 23, remove the overstrike over "~~However, nothing in this exception authorizes the carrying of a loaded~~"

Page 4, remove the overstrike over line 24

Page 5, replace lines 14 and 15 with:

**"SECTION 7. AMENDMENT.** Subsection 5 of section 62.1-04-01 of the North Dakota Century Code is amended and reenacted as follows:

5. A bow and arrow, ~~an unloaded rifle or~~ shotgun, unloaded handgun, 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 CO<sub>2</sub> gun, while carried in a motor vehicle.

**SECTION 8. AMENDMENT.** Section 62.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

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

An individual, other than a law enforcement officer, may not carry any firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter. For purposes of this chapter, the term "dangerous weapon" does not include a spray or aerosol containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone) or other irritating agent intended for use in the defense of an individual, nor does the term include any ~~stun-gun or device that uses direct contact to deliver voltage for the defense of an individual, unless the device uses a projectile and voltage, then the term includes the device for an individual who is prohibited from~~ possessing a firearm under this title."

Page 5, after line 27 insert "2."

Page 5, line 28, remove the overstrike over "~~A person who violates this section is guilty of a class C felony. Upon arrest of that person,~~"

Page 5, remove the overstrike over lines 29 through 31

Page 6, remove the overstrike over lines 1 through 5

Page 6, line 6, replace "2." with "3."

Page 6, line 7, replace "fifteen" with "thirty"

Page 6, remove line 9

Renumber accordingly

Rep Stryle  
HB 1241  
3-19-15  
Attachment 1

## **Section 2:**

**62.1-01-01** – This change decriminalizes tasers and takes them out of dangerous weapons section of code. The term dangerous weapons, includes tasers as dangerous weapons for felons and others prohibited from having firearms still however.

## **Section 3:**

**62.1-02-04** – Allows a person to conceal carry into a bottle shop where alcoholic beverages are NOT served and also makes it so tasers can NOT be taken into bars.

## **Section 4:**

**62.1-02-05** – Possession of a firearm or dangerous weapon at a public gathering.

1. An individual who possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" includes means an athletic or sporting ~~churches or church functions, political rallies or functions, musical concerts, and individuals in publicly owned parks where hunting is not allowed by proclamation event, a school, a church,~~ and a publicly owned or operated building.

Cleaning up, clarifying, and simplifying the "public gathering" language in the century code is long overdue and these changes are reasonable. Why aren't we allowed to carry in parks? If we take our families to a public parks or political functions shouldn't we be able to protect our family?

## **Section 5:**

**62.1-02-10** – Allows coyotes to be shot from a fixed snowmobile, but it does NOT allow the chasing of animals. This clarifies a confusing area of the law as it relates to snowmobiles.

#2 This change was asked for by law enforcement in the House. It removes exception for law enforcement officers to have a concealed loaded firearm while engaged in hunting or trapping.

#3 Allows an CWP holder to have a loaded handgun in the vehicle when hunting

**Subsection 5 of section 62.1-04-01** – A rifle or shotgun cannot be loaded in a vehicle. This change allows a person to have a concealed weapon while hunting, currently it's a misdemeanor if a person is hunting and has a concealed weapon in the vehicle or on the body.

## **Section 6:**

**62.1-03-01** – Allows a person who doesn't have a concealed weapons permit to have a handgun in their vehicle if it's unloaded and either in plain view or secured in the vehicle, except one hour before and after sunrise and sunset. Technical correction: The law was clarified last session and the clarification turned out to confuse, this makes it clear. The intent was and is for no change through all the changes.

## **Section 7:**

**Subsection 5 of section 62.1-04-01** – A firearm or dangerous weapon is not concealed and a person does not need a concealed weapons permit to carry in a motor vehicle with:

A loaded or unloaded rifle or shotgun

An unloaded handgun

It is still illegal to have a loaded handgun in a motor vehicle without a CWP or a loaded rifle or shotgun while hunting. This prevents the piling on of charges and makes common sense in that a person with a loaded rifle or shotgun in a car should not be prosecuted for having a concealed weapon. In addition, an unloaded handgun under the seat and not technically secured should not be considered concealed because it is not a weapon if it is unloaded.

## **Section 8:**

**62.1-04-02** – Allows a taser to be carried legally without a concealed weapons permit. See section 2.

## **Section 9:**

**62.1-05-01** - Add a requirement for the Chief Law Enforcement Officer (CLEO) to sign the National Firearms Act (NFA) forms within 30 day unless otherwise prohibited.

~~No~~ A person may not purchase, sell, have, or possess a machine gun, fully automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or any other federally licensed firearm or dangerous weapon unless that person has complied with the National Firearms Act [26 U.S.C. 5801-5872].

~~Any federal licensee who purchases, sells, has, or possesses those items for the licensee's protection or for sale must forward a copy of the licensee's federal license along with the required weapons transfer form to the licensee's local county sheriff and to the chief of the bureau of criminal investigation within five days of the receipt of those forms.~~

This is state registration of NFA firearms. Individuals who own these firearms have been vetted by the BATF and are legally authorized to possess these items. Why does a citizen need to notify state and local law enforcement for an item they are legally allowed to own? Additionally these items require a tax stamp paid to the government. What right does ND have to demand tax documents paid not related to income? In 2011 ND passed a law specifically allowing the use of suppressors for hunting, how many of those ND residents who went out and purchased a suppressor are now in violation of a ND felony due to this section?

19 March 2015

Chairperson and Members,  
Senate Energy and Natural Resources Committee  
64<sup>th</sup> Legislative Assembly  
State of North Dakota

Good Morning,

My name is Paul Hamers. Let me touch on a few high points of my background. Both my wife and I were born and raised in North Dakota. I am a retired paratrooper of the U.S. Army. I have earned a Master's Degree in Military History, a Bachelor's Degree in Social Sciences Education, a Minor in Business Administration, and an Associate's Degree in Electronic Communications Technology. I am the current Municipal Court Judge for the City of Napoleon, the Technology Coordinator for Napoleon Public Schools, the President of the Napoleon Education Association, and the Lay leader of the Salem United Methodist Church. I have an extensive background in teaching the moral, ethical, and practical use of force to military personal, law enforcement, and civilians. I am currently certified as a North Dakota Concealed Weapons Permit Test Administrator.

I must start by telling a story. I retired from the U.S. Army in 1999 and was content to quietly lead my on life and pursuits within the shooting sports. I possess a Federal Firearms License and so I attended a gun show where my table was next a gentleman that was administering concealed weapons permits. I have carried a firearm concealed on my person every day since I was first issued a ND Concealed Carry Permit in 1988, even during my years of military service. The process by which the person operated and the advice he was giving seemed morally questionable at best. I thought that there must be a responsible person to guide individuals in the moral use of firearms and deadly force. I soon found myself troubled and I realized that I had the background to offer morally responsible firearms safety training. I conduct classes only when contacted because this brings morally responsible students and myself together.

Let me state that I am in support of HB1241 if for no other reason than that it represents a clarification of rights granted in the State Constitution of North Dakota, (Article 1, section 1), but more importantly it will clarify and correct ambiguities in firearms related portions of the Century Code.

I am not sure how this testimony should be presented. There are several amendments in HB1241, but I will just comment on each.

Section 1 of HB1241: Short barreled rifles have the same capabilities and shortcomings and the long barreled version. I foresee no issue with a legally possessed rifle of any sort being used for hunting as long as it complies with caliber restrictions place upon the type of game being persued.

Section 2 of HB1241: This amendment applies a generic definition to the trade name TASER™ (including a projectile and voltage). This amendment does not change the meaning of current NDCC, merely serves to avoid trade mark specific language. This clarification is necessary.

HB 1241

2.1

Section 3 of HB1241: Would authorize the carrying of concealed weapons in liquor stores, but not in bars. Since liquor stores represent a retail outlet and not generally a place where individuals would linger this amendment makes sense. Since it is widely understood that the more often firearm is handled outside of its holster or storage container, allowing citizens to continue to wear a firearm on their person while making a purchase in an off-sale establishment is reasonable. It may also be asserted that the immediate area around liquor establishments represent a higher risk of robbery and or violence. Notably nothing in this amendment authorizes an individual to carry a concealed weapon while under the influence of any substance.

Also the clarification upon existing NDCC concerning the possession of TASER <sup>TM</sup> like voltage producing devices in gaming and liquor establishmensts.

Section 4 of HB1241: Helps to remove ambiguity related to the definition of a "public gathering".

Section 5 of HB1241: Adds a clarification to the existing NDCC by extending the non-hunting carry of firearms to off-road vehicles. I believe that this is also a nessesary addition to aid law abiding citizens in understanding the legal aspects of firearms possession.

Section 6 of HB1241: Clarification of the day versus night carrying of handguns.

Section 7 of HB1241: Clarification of existing NDCC

Section 8 of HB1241: This amendment applies a generic definition to the trade name TASER <sup>TM</sup> (including a projectile and voltage). This amendment does not change the meaning of current NDCC, merely serves to avoid trade mark specific language. This clarification is necessary.

Section 9 of HB1241: Compliance with federal ownership requirements already makes portions of 62.1-05-01 totally unnecessary.

In closing, Chairperson and Members, I thank you for this opportunity to weigh in on HB1241. Feel free to contact me for further commentary at your convenience.

Sincerely,



Paul Hamers  
USA Retired  
Owner  
**RICOCHET GUN WORKS**  
701-400-0085  
ricochetgunworks@gmail.com

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1241

Page 1, line 3, replace "and sections" with "section"

Page 1, line 3, after "62.1-04-02" insert ", subsections 2 and 7 of section 62.1-04-03,"

Page 1, line 3, after the second "and" insert "section"

Page 2, line 7, after the underscored period insert "However, the term includes a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident."

Page 2, line 13, remove "and consumption"

Page 2, line 13, after "beverages" insert "and the consumption of purchased alcoholic beverages"

Page 2, line 14, overstrike "in the possession of" and insert immediately thereafter "that individual knowingly possesses"

Page 2, line 16, after "for" insert "the knowing"

Page 2, after line 29, insert:

"3. This section does not prevent a political subdivision from enacting an ordinance relating to the possession of firearms or dangerous weapons which is less restrictive than this section. An enacted ordinance supersedes this section within the jurisdiction of the political subdivision."

Page 3, line 3, after "who" insert "knowingly"

Page 3, line 25, overstrike "class 1"

Page 4, after line 8, insert:

"m. An individual in a publicly owned or operated rest area or restroom."

Page 6, overstrike lines 23 and 24

Page 6, line 25, overstrike "agent intended for use in the defense of an individual, nor does the term include any"

Page 6, line 26, overstrike "device that uses"

Page 6, line 26, overstrike "voltage for the defense of an individual"

Page 6, line 26, and remove ", unless the"

Page 6, replace lines 27 and 28 with:

**"SECTION 9. AMENDMENT.** Subsection 2 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous weapon licenses to carry a firearm or dangerous weapon concealed under the following requirements:

- a. An applicant for a class 1 firearm 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, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:
  - (1) Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor;
  - (2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;
  - (3) Possession of a license from another state to carry a firearm, 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.
- b. An applicant for a class 2 firearm and dangerous weapon license is required to successfully complete the open book test offered for the class 1 firearm license.
- c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. Class 1 and class 2 permits are equally valid in this state.
- d. Additional testing is not required to renew a class 2 firearm and dangerous weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within thirty days before submission of the application for renewal.

**SECTION 10. AMENDMENT.** Subsection 7 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

7. 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. The director of the bureau of criminal investigation may disclose to the applicant the specific reason for denial or revocation of the license."

Page 7, remove lines 20 through 22

Renumber accordingly