

2009 SENATE JUDICIARY

SB 2415

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2415

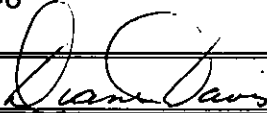
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 2/2/09

Recorder Job Number: 8348

Committee Clerk Signature



Minutes: **Senator D. Nething, Chairman**

**Senator Connie Triplett** – District 18 - Introduces the bill –This bill is to correct a problem that was inadvertently created when the law was revised a couple sessions ago by removing some of the testing requirements and the problem is that ND lost reciprocity with a number of states regarding concealed weapons permits. This bill is intended to fix the problem by providing an alternate test mechanism so those people who want only to have a concealed weapons permit to use only within ND wouldn't have to do anything different but someone who wants reciprocity with as many states as possible could use the alternate testing method.

**Senator Nething** – Asks how does this relate alternative license relate to reciprocity.

**Triplett** – She said some states won't give reciprocity unless there is this kind of testing.

**Senator Nething** – Asks if she knows of any other states has this type of dual licensing.

**Triplett** – Not that she is aware of.

**Senator Fiebiger** – Asks how many people would be affected by this.

**Triplett** – She does not know.

**Senator Lyson** – Asks if we have to have a bill so that other states can come here and ask to apply for a license before we get reciprocity with that state. Is that what this bill is for?

**Triplett** – No, this is for people who live in ND but want their concealed weapons permit to be given reciprocity when they are out in the world traveling. To benefit ND.

**Senator Lyson** – The bill says the rule must apply to residents of another state to apply for a license in this state.

**Triplett** – Yes it goes both ways, her intention is for the benefit it gives ND residents.

**Senator Lyson** – Doesn't like the way the bill is worded.

**Senator Olafson** – How many other states do we have reciprocity with?

**Triplett** – Some will answer that question.

**Senator Nething** – Would like a couple of examples of who would carry a concealed weapon in another state.

**Triplett** – People who travel in RV's.

**Senator Schneider** – Asks what kind of testing is it in order to have reciprocity.

**Triplett** – Responds, pretty basic, like knowing which end of the gun the bullet comes out of.

**Representative Todd Porter** – District 34 – Talks about how we lost reciprocity with a few states. Our residents are taking the Utah test because it has more reciprocity than the ND license. He says we probably won't ever have reciprocity with Minnesota because of their requirements of 24/7 information being made available to their law enforcement community. We don't have those capabilities yet, plus they have pretty much locked down their state and said they aren't going to have reciprocity with anyone else. So those living on the border have to go to MN and take the test. They also have the option of taking the Utah test and Utah does have MN reciprocity. There is 24 states that ND has reciprocity with and 25 that we don't.

**Senator Nelson** – Asks how the Utah license works.

**Porter** – Explains there is Minnesota requirement that we cannot meet.

**Senator Lyson** – Explains why the written test was canceled and the shooting test meant nothing. If we make a new plan who is going to make these things and what is it going to look like.

**Porter** – Said 4 years ago when they changed the practical test and took it out it did not have a \$230,000 positive fiscal note back to the state. He is interested to see why it is needed. In the development of this test, the written test and the shooting test, the attorney general has to develop it in a manner that would increase the number of states that would recognize that as a valid test and increase our reciprocity with those states. It shouldn't go back to an open book test or a 7 yard shooting test because there are states that say that is not enough.

**Senator Lyson** – Asks if would be better off throwing this out and come up with a better plan to say that people who want a permit just for the Brady Bill, have one for people who just want to carry one in their vehicle, and another for those that want to carry it on their person. His worry is that the tests are not working.

**Porter** – Thinks this does that, the basic conceal and carry cover under tier one. Tier two test would be a written and practical test that still gives you the NCIC information but would be a higher standard to achieve and to allow you to get reciprocity in other states.

**Senator Schneider** – Asks if there is any merit in adopting Utah's standards.

**Porter** – Said that would probably be the first place the attorney general looks at to see what the standard is.

**Senator Fiebiger** – Asks how many people possess a license in ND.

**Porter** – Responds a little over 10,000.

**Senator Fiebiger** – About changing the time license is valid, changing from 3 years to 10 years.

He wonders why the change.

**Porter** – The thought was if someone does something that would require them to turn it in they under the responsibility as a permit holder to turn it back in if they have been convicted of a revocation type crime. Attorney General's office says that is too long and they will talk about that.

**Jerry Kemmet** – ND BCI – Neutral – He would like to point out a couple things to consider. One is the tenure. The other is the bill says out of state people can appeal to district court and you should consider making that ND district court. He said they would lose revenue if it were extended to 10 years. They have 10,300 permit holders, 9,776 are ND resident and 614 are out of state residents holding permits. He said the problem with Minnesota is that they require 40 hours in classroom instruction and a proficiency test.

**Senator Lyson** – Asks what the proficiency test is in Mn.

**Kemmet** – Believes it is 16 hours of using the weapon, not sure.

**Kathy Roll** – Attorney General's office – will provide a 5 year fiscal note.

Close the hearing on 2415

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2415

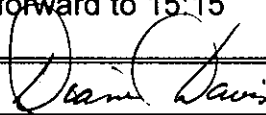
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 2/4/09

Recorder Job Number: 8637 forward to 15:15

Committee Clerk Signature



Minutes: **Senator D. Nething, Chairman**

Committee work

Senator Lyson – He talked with the Attorney General's office and at this point they do not think we should make any additions to it. What worries him is a little bit of the wording; it is very broad and gives the attorney general a lot of authority. Real strong regulations is what should be done.

Senator Nething – Asked if we still want a study on this.

Senator Lyson – He thought a study would be good but has decided to work on it till next session.

Senator Olafson – Points out that we were going to change the 10 years to 5 years.

Senator Lyson – moves the motion do pass on the amendments

Senator Olafson – seconds

Verbal vote – all yea on amendments

Senator Lyson moves do pass as amended

Senator Olafson seconds

Discussion – This will be re-referred to appropriations. This should strengthen what we have.

No matter what we do it will be an improvement on what we have.

Senator Nelson asks about a renewal permit. Will those people have to go through training?

Senator Lyson – Said a renewal is the same as a regular, they can deny anybody. He is not sure they could do this without us putting it there. In the existing law the procedure is the same for getting the renewal.

Vote – 6-0

Senator Lyson will carry

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/19/2009

Amendment to: Reengrossed  
SB 2415

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	(\$82,764)	\$340,956	(\$82,764)	\$170,478
<b>Expenditures</b>	\$0	\$0	\$0	\$246,205	\$0	\$238,447
<b>Appropriations</b>	\$0	\$0	\$0	\$246,205	\$0	\$238,447

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendment adds a new concealed weapons permit class which requires training and proficiency testing to obtain reciprocity with as many states as possible. The amendment increases the permit fee from \$25 to \$45 to provide self-funding for its implementation.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 4 of Section 1 changes the permit fee cost to self-fund the program. It also eliminates the \$10 portion of the \$25 fee which is currently deposited in the general fund.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The amendment results in an increase in the special fund estimated permit revenues to \$340,956 in the 2009-11 biennium and a reduction in general fund revenue of (\$82,764).

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Each class permit license will have different requirements for approval, and the class I system will require the office to:

Develop administrative rules,  
Develop training/testing programs,  
Analyze and certify individuals to provide classroom and proficiency training,  
Process the applications,  
Remain current on all state permit system requirements in order to keep the requirements for the alternate permit accurate, and  
Require staff to testify in district regarding permit denials.

This work will require an additional .5 concealed weapon permit administrator FTE and associated expenses.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency*



*and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Executive Recommendation for appropriations and revenues anticipated no change in estimated revenues or expenditures from current law.

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	03/19/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/18/2009

Amendment to:           Engrossed  
                              SB 2415

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	(\$72,896)	(\$108,647)	(\$56,600)	(\$67,464)
<b>Expenditures</b>	\$0	\$0	\$230,706	(\$59,500)	\$163,279	(\$5,903)
<b>Appropriations</b>	\$0	\$0	\$230,706	(\$59,500)	\$163,279	(\$5,903)

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adds a new concealed weapons permit category which requires training and testing to obtain the permit. The amendment changes the current permit holder renewal period from 10 to 5 years and changes the alternative permit renewal period from 3 to 5 years.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 9 of Section 1 provides for an alternative license which will be renewed every 5 years. In addition, current permit renewals will be changed from every 3 to every 5 years, resulting in general fund and special funds revenues reductions.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The reflected revenue estimates 95% of current concealed weapon permits holders will retain their concealed weapons permits at the current level, resulting in a loss in general fund and special funds revenues. An estimated 5% of current concealed weapon permit holders will choose to go through the training and testing.

The amendment results in an increase in the estimated permit revenues in the 2011-13 biennium, reducing the general fund revenue loss of (\$91,040) to (\$56,600) and reducing the special funds revenue loss of (\$119,124) to (\$67,464).

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

With the loss of special funds revenue the current concealed weapons permit administrator position and related expenses will need to be funded from the general fund. Each system will have different requirements for approval, and the alternate system will require the agency to develop administrative rules, research all states' permit requirements, determine what is required for reciprocity, develop training/testing programs to incorporate as many states as possible, process the applications, and remain current on all state permit system requirements in order to keep the requirements for the alternate permit accurate. It will also require staff to travel to any district court to testify regarding permit denials. This work will require an additional .5 concealed weapon permit administrator FTE.

The special fund expenditure and appropriation amounts for the 2011-13 biennium are reduced since the amendment provides for current permit holder renewals every 5 rather than every 10 years. The National Instant Check System check is good for 5 years.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Executive Recommendation for appropriations and revenues anticipated no change in estimated revenues or expenditures from current law.

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	02/18/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/06/2009

Amendment to: SB 2415

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$72,896)	(\$108,647)	(\$56,600)	(\$67,464)
Expenditures	\$0	\$0	\$230,706	(\$59,500)	\$163,279	(\$5,903)
Appropriations	\$0	\$0	\$230,706	(\$59,500)	\$163,279	(\$5,903)

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adds a new concealed weapons permit category which requires training and testing to obtain the permit. The amendment changes the current permit holder renewal period from 10 to 5 years and changes the alternative permit renewal period from 3 to 5 years.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 9 of Section 1 provides for an alternative license which will be renewed every 5 years. In addition, current permit renewals will be changed from every 3 to every 5 years, resulting in general fund and special funds revenues reductions.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The reflected revenue estimates 95% of current concealed weapon permits holders will retain their concealed weapons permits at the current level, resulting in a loss in general fund and special funds revenues. An estimated 5% of current concealed weapon permit holders will choose to go through the training and testing.

The amendment results in an increase in the estimated permit revenues in the 2011-13 biennium, reducing the general fund revenue loss of (\$91,040) to (\$56,600) and reducing the special funds revenue loss of (\$119,124) to (\$67,464).

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

With the loss of special funds revenue the current concealed weapons permit administrator position and related expenses will need to be funded from the general fund. Each system will have different requirements for approval, and the alternate system will require the agency to develop administrative rules, research all states' permit requirements, determine what is required for reciprocity, develop training/testing programs to incorporate as many states as possible, process the applications, and remain current on all state permit system requirements in order to keep the requirements for the alternate permit accurate. It will also require staff to travel to any district court to testify regarding permit denials. This work will require an additional .5 concealed weapon permit administrator FTE.

The special fund expenditure and appropriation amounts for the 2011-13 biennium are reduced since the amendment

provides for current permit holder renewals every 5 rather than every 10 years. The National Instant Check System check is good for 5 years.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Executive Recommendation for appropriations and revenues anticipated no change in estimated revenues or expenditures from current law.

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	02/09/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/27/2009

Bill/Resolution No.: SB 2415

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$72,896)	(\$108,647)	(\$91,040)	(\$119,124)
Expenditures	\$0	\$0	\$230,706	(\$59,500)	\$216,196	(\$59,500)
Appropriations	\$0	\$0	\$230,706	(\$59,500)	\$216,196	(\$59,500)

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adds a new concealed weapons permit category which requires training and testing to obtain the permit. It also changes the permit renewal period for current permit holders from every 3 to every 10 years.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 9 of Section 1 provides for an alternative license which will be renewed every 3 years. In addition, current permit renewals will be changed from every 3 to every 10 years, resulting in general fund and special funds revenues decreases.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The reflected revenue estimates 95% of current concealed weapon permits holders will retain their concealed weapons permits at the current level, resulting in a loss in general fund and special funds revenues. An estimated 5% of current concealed weapon permit holders will choose to go through the training and testing.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

With the loss of special funds revenue the current concealed weapons permit administrator position and related expenses will need to be funded from the general fund. Each system will have different requirements for approval, and the alternate system will require the agency to develop administrative rules, research all states' permit requirements, determine what is required for reciprocity, develop training/testing programs to incorporate as many states as possible, process the applications, and remain current on all state permit system requirements in order to keep the requirements for the alternate permit accurate. It will also require staff to travel to any district court to testify regarding permit denials. This work will require an additional .5 concealed weapon permit administrator FTE.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Executive Recommendation for appropriations and revenues incorporated no change in estimated revenues or expenditures from current law.

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	01/30/2009

Date: 2/4/09  
Roll Call Vote #: 1

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

2415

Senate JUDICIARY Committee

☐ Check here for Conference Committee

*Amendment*

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

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By *Lyson* Seconded By *Olafson*

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething – Chairman			Sen. Tom Flebiger		
Sen. Curtis Olafson – V. Chair.			Sen. Carolyn Nelson		
Sen. Stanley W. Lyson			Sen. Mac Schneider		

Total (Yes) \_\_\_\_\_ (N) \_\_\_\_\_

Absent \_\_\_\_\_

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

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

*Verbal pass*



Date: 2/4/09  
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2415

Senate JUDICIARY Committee

☐ Check here for Conference Committee

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

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Sen. Lyson Seconded By Sen. Olafson

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething – Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson – V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) 0

Absent \_\_\_\_\_

Floor Assignment Sen. Lyson

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

**REPORT OF STANDING COMMITTEE**

**SB 2415: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2415 was placed on the Sixth order on the calendar.**

Page 2, line 31, replace "ten" with "five"

Page 3, line 25, replace "three" with "five"

Renumber accordingly

2009 SENATE APPROPRIATIONS

SB 2415

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2415

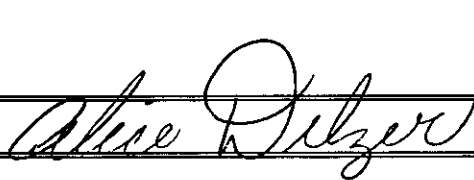
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9422 and 9424

Committee Clerk Signature



Minutes:

**Chairman Holmberg** called the committee hearing to order at 10:15 AM in regards to SB 2415 relating to a reciprocal licensure to carry a firearm or dangerous weapon concealed.

**Chairman Holmberg:** This bill sets up a process regarding reciprocal licenses. As you recall, the amendment to the bill reduced the authority of the Attorney General to do the initial reciprocal agreement with other states, but then the power reverts back to the legislature.

(Waiting for **Sen. Triplett**, District 18)

**Senator Christmann** asked about the fiscal note.

**Kathy Roll, Attorney General Office** The reason the fiscal not is there is because right now all concealed weapons permit holders are required to renew every three years. This would change those to every 5 years.

**V. Chair Bowman** asked if there is a fee increase to cover costs and there would be none at this point.

**Chairman Holmberg** closed hearing, but opened a few minutes later when **Sen. Joe Miller**.

**Chairman Holmberg:** We have a bill dealing with reciprocal license to carry a firearm or dangerous weapon. The committee put together the amendments and these are the amendments that have the blessing of the committee.

**Senator Joe Miller, District 16:** The amendments simply make right what has already been said in law. What we did with the bill, we were trying to deal with the Attorney General's authorization to make necessary changes to an agreement of reciprocity with other states regarding concealed weapons laws. What we mistakenly did is give the Attorney General too much power, and we can't do that, so this amendment will correct that.

**Chairman Holmberg:** At the end of that time, any further changes would revert back to the legislature. It's just that they're in the process of having to negotiate, and it's very difficult to negotiate through statute. So you gave him a window and then we have the opportunity, with these amendments, to have that power back. We will continue our hearing on 2415. Welcome to Senator Triplett.

**Senator Triplett, District 18, Grand Forks,** I am the prime sponsor of the bill. The point of the bill is to provide an alternate form of testing to get a concealed weapons permit to try to get back some of the reciprocity that was lost when the rule was changed a couple of sessions ago to remove some of the testing. There were a couple of states who used to give North Dakota reciprocity and then they decided not to give it because of the testing. That is the only point of it. That reciprocity for some people they want a concealed weapons permit for the ability to move around the state of North Dakota while carrying it. For other people it's an issue they want to give to carry concealed weapons while traveling across the country and so it is important to them to have reciprocity in as many states as possible. That was the point. After our committee passed this out, Senator Lysen prepared some policy amendments. I do not object to those. Reviewing his amendments one word on page 3, line 3, the word "alternative" is in there I am not sure that needs to be in there anymore. The fiscal note suggests there might be few applications for licensing. The state might take a little less in fees.

**Senator Warner** would you have an objection to us raising the fees?

**Sen Tripplet**, Not at all . You can do whatever you want with it.

**Chairman Holmberg** closed the hearing on 2415.

**Job #9424 the record of a DO PASS AS AMENDED ON 02-12-09**

**Chairman Holmberg** reopened the hearing on SB 2415.

**Senator Wardner** moved the amendments 0201. Seconded by V. Chair Bowman

**Chairman Holmberg** stated those are the ones for Senator Lyson. He was told that is correct.

All in favor of the amendments say aye.

Further discussion followed regarding the budget, the rules regarding bearing of arms, and the statement was made the intention of the bill is to work together with other states.

**Senator Fischer** moved Do Pass. Seconded by Senator Wardner Roll call was taken.

**13 yeas, 0 nays, 1 absent. Senator Lyson from Judiciary will carry the bill.**

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2415

Page 1, line 2, after "concealed" insert "; and to provide application"

Page 1, line 20, overstrike "The testing procedure for approval of a concealed weapons license"

Page 1, overstrike lines 21 and 22

Page 1, line 23, overstrike "decisions and attorney general opinions."

Page 1, line 24, overstrike "The attorney"

Page 2, overstrike lines 1 and 2

Page 2, line 3, overstrike "dollars for conducting this testing."

Page 3, line 22, overstrike "may" and insert immediately thereafter "shall" and overstrike "rules to carry out this title" and insert immediately thereafter "by rule written and practical training and testing for a license so that the license is offered reciprocity or is otherwise valid in as many states as possible"

Page 3, remove lines 23 through 25

Page 3, remove line 27

Page 3, line 28, remove "apply to this subsection." and remove "testing, approval of license, and"

*after the first "of" insert "a" and*  
Page 3, line 29, remove the underscored comma

Page 4, line 1, after the underscored period insert:

**"9. After December 31, 2010, the attorney general may not change or adopt rules to implement this section, but shall recommend legislation to the legislative assembly."**

Page 4, after line 3, insert:

**"SECTION 2. APPLICATION. A license issued before the effective date of this Act is valid until the license must be renewed or upon issuance of a license to a licensee under this Act."**

Renumber accordingly

Date: 2/12/09

Roll Call Vote # 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2415

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 0201

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Wardner Seconded By Bowman

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Ch			Sen. Tim Mathern		
Sen. Tony S. Grindberg, VCh			Sen. Aaron Krauter		
Sen. Bill Bowman, VCh			Sen. Larry J. Robinson		
Sen. Randel Christmann			Sen. John Warner		
Sen. Rich Wardner			Sen. Elroy N. Lindaas		
Sen. Ralph L. Kilzer			Sen. Tom Seymour		
Sen. Tom Fischer					
Sen. Karen K. Krebsbach					

Total Yes voice Vote all No

Absent

Floor Assignment

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



Date: 2/10/09

Roll Call Vote # 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2415

Senate \_\_\_\_\_ **Senate Appropriations** \_\_\_\_\_ Committee

☐ Check here for Conference Committee

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

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Fischer Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Ch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Tim Mathern	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Tony S. Grindberg, VCh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Aaron Krauter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bill Bowman, VCh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Larry J. Robinson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Randel Christmann	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. John Warner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Rich Wardner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Elroy N. Lindaas	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ralph L. Kilzer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Tom Seymour	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Tom Fischer	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Sen. Karen K. Krebsbach	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

Total Yes 13 No \_\_\_\_\_

Absent 1

Floor Assignment Back to Judiciary

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

**REPORT OF STANDING COMMITTEE**

SB 2415, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2415 was placed on the Sixth order on the calendar.

Page 1, line 2, after "concealed" insert "; and to provide application"

Page 1, line 20, overstrike "The testing procedure for approval of a concealed weapons license"

Page 1, overstrike lines 21 and 22

Page 1, line 23, overstrike "decisions and attorney general opinions."

Page 1, line 24, overstrike "The attorney"

Page 2, overstrike lines 1 and 2

Page 2, line 3, overstrike "dollars for conducting this testing."

Page 3, line 22, overstrike "may" and insert immediately thereafter "shall" and overstrike "rules to carry out this title" and insert immediately thereafter "by rule written and practical training and testing for a license so that the license is offered reciprocity or is otherwise valid in as many states as possible"

Page 3, remove lines 23 through 25

Page 3, remove line 27

Page 3, line 28, remove "apply to this subsection." and remove "testing, approval of license, and"

Page 3, line 29, after the first "of" insert "a" and remove the underscored comma

Page 4, line 1, after the underscored period insert:

"9. After December 31, 2010, the attorney general may not change or adopt rules to implement this section, but shall recommend legislation to the legislative assembly."

Page 4, after line 3, insert:

**"SECTION 2. APPLICATION.** A license issued before the effective date of this Act is valid until the license must be renewed or upon issuance of a license to a licensee under this Act."

Renumber accordingly

2009 HOUSE JUDICIARY

SB 2415

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2415

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/10/09

Recorder Job Number: 10543

Committee Clerk Signature



Minutes:

**Chairman DeKrey:** We will open the hearing on SB 2415.

**Rep. Todd Porter:** Sponsor, support. Explained the bill. Originally intended to put into place a two-tier system for concealed weapons permits. A few sessions ago, we took out the shooting part of the test and made it a written test; so an individual had to go through the background checks and take the written test. In that process we lost approx. six or seven states in the reciprocity. One of the lost states was Wyoming. Over the last couple of sessions, I've been looking and trying to work with the AG's office to come up with a method to have a license that would be recognized or enable more reciprocity. As many of you are aware of the Utah license which has a very large number of reciprocity with about 30 states, including MN. ND has never had reciprocity with MN. MT has 40 states that they have reciprocity with, including MN. We intend to create this second tier for those individuals who really want it; a concealed weapons permit that had a high level of reciprocity. There was an email that listed the amount of dollars that are actually flowing from ND and going to UT, because ND has reciprocity with UT and so ND residents won't have a ND concealed weapons permit, they'll go and get a UT concealed weapons permit; spend the money, send the fee and be licensed in UT and have reciprocity in ND, but also have reciprocity with MN, WY and some

of the other states. The test in UT does not include a shooting test. It is not about the removal of the shooting test. There are different levels, there is a classroom component to the UT test and that's all it is. They require a written test with a classroom component, but there isn't a shooting component. So that isn't the problem. As we put this together, we did have quite a fiscal note on it, and we addressed that by removing the two tier system, because of concerns by the AG's office that the two tiered system would take more work. I don't know that has necessarily changed. I do know that we are continuing to work with the AG's office to try to hone this down to the point where we have something that will work for both tiers. The real reason for that single tier is that you can't go in and buy a gun without having the concealed weapons permit and take the test immediately. That's a big deal to a lot of North Dakotans. A lot of North Dakotans have that concealed weapons permit for that specific reason. If we change it so that they don't have reciprocity and change it for those few that want to travel, then we are going to punish the ones that want it just for in-state use. I think we need to do just a little more work on it and we can come up with something that's going to work for everybody.

**Rep. Delmore:** I understand what you're talking about. How many perceive the rules that work, are you attempting to model after UT laws.

**Rep. Porter:** A couple of things I think as far as the rules go. I think that in this particular provision we need to be open to the fact that they don't need to bring them to the administrative rules committee, so we can get this done as soon as possible. I think the other thing is that they need the flexibility to implement whichever system is works for them.

Personally, I would pick MT's standard for the second tier, because they have the ultimate in reciprocity. You're never going to 50 states, but they have 40, UT has 30. I definitely think MT has done it right rather than UT.

**Rep. Koppelman:** If it was the removal of the shooting requirement that lost us reciprocity and yet you're saying that the other states that have reciprocity with these states that we lost reciprocity with, I don't understand that.

**Rep. Porter:** That falls back to the classroom component. Those states have a classroom component which we've never had. We had an open book written test, a background check, fingerprints, and approval at the local level from the sheriff, chief of police or both, and then the shooting test. We've never had a classroom component. UT has a classroom component that consists of 4-8 hours (not sure which) of instruction. The instructor goes through basic firearms for that number of classroom hours and then they take a written test, and then you're licensed in UT.

**Rep. Koppelman:** So apparently it is just the fact that they saw it as less stringent, not any particular component being present or missing.

**Rep. Porter:** Yes. I think there may have been a little bit of a misnomer out there that the instructor, or the person doing the test on the firing side was actually doing some kind of firearms training at the same time, which wasn't necessarily part of the test, but it's not to say that in some cases it was or wasn't happening. I think it was the educational component, not the shooting part that actually lost us those six states or so.

**Rep. Koppelman:** I am sort of concerned and you can certainly respond. Rep. Delmore talked about just leaving it open so that the AG can adopt whatever he decides. I know we all have great confidence in the AG, but when we draft legislation you kind of wonder about that and I'm even more concerned when you say it's not going to go to administrative rules to look at it, but that is how legislative oversight happens, and something this important we would want to look at it. If you're worried about the time concerns, we have tightened up the rule-making

procedures and lessened the number of days. We've also allow for emergency rules, so I would hope that we don't go down that road. Do you have a comment on that?

**Rep. Klemin:** I guess I'm looking at this application section. Maybe you can explain what happens to people that currently have a concealed weapons permit and what will happen when it comes time for those permits to be renewed.

**Rep. Porter:** It is my understanding that in discussions with the AG's office; they will just be grandfathered in at the level of their proficiency. If you have a previous concealed weapons permit where you took the shooting portion of it, you would be grandfathered into that second tier. If you have the basic license, and you didn't take the shooting test, you would be brought in as a level one, with the ability to go back and get that up to the second tier if you so desire.

**Rep. Klemin:** So in this level 2, if you are grandfathered in at what now becomes the level 1, which is previously the only option, then if you wanted to go to the level 2, you would have to take the classroom, take the test, and do everything all over again. Do you have to go through the process of getting the background check, fingerprints, etc. if you've already done that?

**Rep. Porter:** No, you would have to do those things that you didn't do in obtaining that level 1 certification. If it comes down to adopting UT's standards, and it came down to a 6 hour classroom component, and you've already been through the written test, and been through the background check and fingerprinting, then all you would have to do is make arrangements to pay for and take the classroom component to move up to the next level.

**Rep. Klemin:** You just have to take the class and that would be it.

**Rep. Porter:** Whatever that new requirement is, yes. I'm not very familiar with MT's requirements, and they have the most reciprocity, which I would think we would want to obtain.

**Rep. Klemin:** So what we're doing here is just leaving it up to the AG to decide what the requirements should be.

**Rep. Porter:** Yes, well in this bill, the way it is written right now, the Senate moved it back to the tier 2 license, so there wouldn't be a basic license any more. So everything would become the second tier license.

**Rep. Klemin:** Then on the bill the way it is right now, are the existing permit holders still grandfathered in.

**Rep. Porter:** Yes.

**Rep. Klemin:** So they would not have to comply with any other kind of requirements to maintain the license they have.

**Rep. Porter:** They would not.

**Rep. Klemin:** One concern that I would have, it seems like everywhere you go to get something done for this, and somebody else charges you a fee. The AG charges a fee, the sheriff charges a fee, the police department charges a fee, and so you end up spending more than you really knew you were going to, because we don't talk about those other fees in this statute. We only talk about the state's fee.

**Rep. Porter:** I think that there is a portion in there for a fee to both the law enforcement and the fingerprints. The only thing that I think gets charged is the fingerprints.

**Rep. Klemin:** Then you better talk to the Bismarck Police Department, because they charge a fee for doing their own local background check.

**Rep. Porter:** I certainly would not argue with the fact that going through this process might nickel and dime you all the way up. There is no doubt about it. But if you go to UT to get the 30 states that UT has, there fees are not that inexpensive to get to that licensing level either.

**Rep. Klemin:** You don't see too happy with this 2<sup>nd</sup> engrossment, what are you looking for?

**Rep. Porter:** I'm looking for a two-tiered system so that the individual who doesn't care about the reciprocity can still have the fingerprints and still take the written test and go through the



background check and still get the concealed weapons permit for the state of ND, that is good for approximately 16 states, but also have that firearms number on, so that they can use that permit to go down and buy a shotgun that they want to go hunting with over the weekend, and avoid the mandatory waiting period. Then to allow those individuals who travel, go to MN to hike for the weekend, or that drive down to UT through Wyoming, to be able to still maintain their concealed weapons so that those individuals that want that extra tier, that wants those extra states can obtain that through North Dakota, rather than spending their money in UT. The other thing that is coming up is that there are a lot of states now that are looking at not allowing the UT situation to exist. I have heard rumblings about that. Some states are looking at cancelling their reciprocity, unless that person is a resident of the state where the permit is issued. To deal with from a ND standpoint, even if we have a couple hundred residents that have UT permits, and we can get a permit out there that means reciprocity, I think that would be better for us.

**Rep. Delmore:** What does it cost in MT; and if you have two tiers, will there be two different costs here in ND. I would think that to get reciprocity with 30 states would cost more than just having a permit in ND.

**Rep. Porter:** I am not aware of what the costs are. I will follow up with MT and MN to see what they are charging.

**Rep. Koppelman:** Tell me again the numbers, I think you said we have reciprocity with 16 states now; what was it before you lost some and what you hope it will be when we are done with this.

**Rep. Porter:** Those are ballpark numbers. Someone from the AG's office has it. I think there were approx. 22 states prior to losing reciprocity, we lost about 6 when we made the change; UT is about 30 and MT is around 40.

**Rep. Koppelman:** Is it your hope that we can get up to 30 with these changes.

**Rep. Porter:** No, I hope to get to 40.

**Rep. Vig:** In subsection here, how many people are going to come to ND to get their permit, rather than going through MT or MN, how many out-of-state residents are going to come here.

**Rep. Porter:** I don't know.

**Sen. Connie Triplett:** Sponsor, support. I was on the Judiciary Committee when they changed it and reduced the testing. I wanted to say that it was inadvertent that by making those changes we were going to lose reciprocity. I was disappointed to hear that had happened as a result of those changes. I agree with the two tier levels, and hope that will fix the reciprocity issue. I do believe though that we need to have administrative rules.

**Rep. Delmore:** Why are we going from a three year license to five years?

**Rep. Porter:** The current level of reciprocity for federal government, for the purchase of a weapon uses a number, a nox number, and it is for five years, and we felt that we should match that. That is the most you can have, is a five year license.

**Rep. Klemin:** This is kind of an interesting bill; we're just saying that we're not providing anything in statute here for reciprocity. We're just leaving it up to the AG to solve our problem.

**Sen. Triplett:** That's not the way the bill was written originally. Rep. Porter and I did not choose to make those changes; they were done in committee on the Senate side. More details were in the original bill.

**Rep. Klemin:** I think this is an unusual bill in that we say there is a problem; AG will fix it by rule. Then we go on and say that after December 31, 2010, you can't do that anymore, you have to come back to the legislature with legislation if you want to change the fees in the rule.

**Sen. Triplett:** Yes, it is confusing.

**Rep. Klemin:** It's getting confusing to me, first, we're telling the AG to adopt rules to get reciprocity, and then secondly, at a certain point in time he can't change those rules, he's got to come back to the legislature; and then thirdly, this grandfather clause that I was talking about earlier, I'm sure that would be a concern of everybody that has a permit or license now. It says the license issued before the effective date of this act is valid until the license must be renewed. That means to me that you're only temporarily grandfathered. After that, you have to comply with whatever additional requirements there are. Is that how you read this?

**Sen. Triplett:** Yes, we could certainly look at that, and I think the bill still needs work.

**Rep. Klemin:** I think if the current license holders were aware that once their current license term expires, which may be tomorrow or could be three years from now, that they will have to go through this process again, because it's not going to be valid after that license expires. I think we would have another problem here that being all the people who have licenses now that aren't here today who finds out later that oops, that's the end. You have to do a new process.

**Sen. Triplett:** That's a very good question; I think that is why we need the 2 tier system.

**Rep. Klemin:** Or some expansion of the grandfathering clause.

**Sen. Triplett:** That would be a possibility also.

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

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2415

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/16/09

Recorder Job Number: 11021

Committee Clerk Signature



Minutes:

**Chairman DeKrey:** We will take a look at SB 2415.

**Rep. Klemin:** The reason that we have these amendments is that we are trying to get the highest number of states in the reciprocity agreement that we can out of this bill. We think we have it written now so that, potentially, we can get reciprocity in 40 states. The way it is with our current license, I think it is 24 states.

**Matt Sagsveen, AG's office:** Neutral capacity to explain the amendments (attached). The most important part of the amendment is that we are taking the classification system for concealed weapons licensure to a two tiered structure. The current license is an open book test and the amendment will bring that over so that the open book test continues but also creates a class 1 license which would mean a class, open book test and require the applicant to then state an area of firearms and would also be a shooting test. This would be used to create the ability of an applicant to have reciprocity in as many states allowed. There are a few reasons why we don't have reciprocity, a large one being our testing process, the applicant can be 18 to apply for this permit and MN's age is 21; and the requirement for classroom time. The other primary changes are the fees, which go from \$25 to \$45. The renewal time would be increased from 3 years to 5 years.

**Rep. Delmore:** On page 2, line 8, why doesn't it include domestic violence in there.

**Matt Sagsveen:** I believe that if a person has a felony conviction, they are prohibited from obtaining a firearm for 5-10 years.

**Rep. Delmore:** I understand that, but this doesn't preclude it out. I would assume if someone had a problem with alcohol, that this would preclude them. But if we're coming up with a new portion of law, I assume if you did a background check that would be one thing that you would want to make sure that wasn't missed along the way.

**Matt Sagsveen:** I would assume that's correct. I would ask that you hold off on your question about the director of BCI comes.

**Rep. Klemin:** One of the things we are trying to do is to get reciprocity with MN, which has been very difficult to do for those people who live along the eastern part of the state who would like that reciprocity with MN. We think this will do it? Is that right?

**Matt Sagsveen:** We have contacted MN, and they have said, as the amendment are written, there is a good chance that we can get reciprocity with ND. It's hard to say exactly who is in charge of what there; but we tried to incorporate UT, MN and MT law into this bill in an attempt to get the most reciprocity as possible.

**Rep. Klemin:** One other comment, the current concealed weapons license that we have is going to be called the class 2 license under this new system. For those people who are satisfied with that class 2 license, which is equivalent to what we have now, they won't have to do anything extra.

**Matt Sagsveen:** Correct. If you have a class 2 license now, you can continue to apply for that class 2 license. If you want to have that additional reciprocity, you can take the additional step and go through the procedure for the class 1 license.

**Rep. Koppelman:** With regard to both of Rep. Klemin's questions, who is it in MN that determines reciprocity and can we not talk to that person and find out, instead of waiting two years and coming back and say we tried and now we have to do something else.

**Matt Sagsveen:** BCI can answer that.

**Jerry Kemmet, BCI:** It is handled by the Bureau over in MN and he did contact their attorneys over there. We asked them to have it looked over quickly and get back to us with any glaring mistakes that jump out to you, that would say we wouldn't have reciprocity with MN. There were some changes that we did have to make and the amendments will take care of those.

**Rep. Koppelman:** But no guarantees?

**Jerry Kemmet:** No guarantees.

**Rep. Koppelman:** Regarding the class 1 and class 2 licenses. Is this going to become an economic difference, are we going to end up with fee structure where the class 1 is more expensive or more hoops to jump through, or pretty much the same except for whatever extra certification would be necessary.

**Matt Sagsveen:** The fees will be the same for both licenses; however the procedures will be different.

**Rep. Delmore:** On page 2, we talked about medical health, alcohol, etc. is there a reason why we don't put in domestic violence. I would think that should be included.

**Jerry Kemmet:** We could put it in, right now we do have the ability to find those charges of domestic violence when we review the records and the FBI check.

**Rep. Delmore:** I would like to see it included in the bill. With the new fees, will the fiscal note go away.

**Kathy Roll, AG's Office:** I'm handing out an analysis that shows what would be revenues and expenditures over the next few years. If you look at the very bottom of the form, under the

Fiscal Note Mock-up, under the current biennium there will be a general fund revenue loss because it will all go to special fund revenue.

**Rep. Klemin:** I move the AG's amendments.

**Rep. Dahl:** Second.

**Ch. DeKrey:** Voice vote, motion carried.

**Rep. Delmore:** I move to further amend the bill, at the top of page 2 of the amendments, insert incidents of domestic violence – or evidence of incidents of domestic violence.

**Rep. Wolf:** Second.

**Chairman DeKrey:** Voice vote. Motion carried. We now have the bill before us as amended. What are the committee's wishes in regard to SB 2415.

**Rep. Koppelman:** I have another question. It seems to me that the testimony that we heard earlier on this bill was that when we took out the requirement for the shooting test last time, we lost reciprocity with several states, and that was the impetus for the legislation. Yet, what we're doing here is a lot more complex and involved than our previous requirement before we dropped the shooting test requirement. Do we really need to go this far in order to get the kind of reciprocity back that we lost.

**Matt Sagsveen:** I think we are setting the foundation. I don't think we are making it more complicated or more detailed.

**Rep. Hatlestad:** Can you tell me why the fee is the same for both classes; yet one carries a significantly greater ability to carry your weapon.

**Kathy Roll:** There wasn't any discussion about two rates.

**Rep. Klemin:** This is intended to be revenue neutral based on the cost of the license per year.

So since we're extending the term of the license from 3 to 5 years, the fee went up a little.

**Rep. Hatlestad:** You say revenue neutral, but it's losing money every year, at least the general fund is losing.

**Rep. Klemin:** In the year 2013, there may be a need to increase the fee as I understood it.

**Rep. Dahl:** I move a Do Pass as amended with a rereferral to Appropriations.

**Rep. Delmore:** Second.

**13 YES 0 NO 0 ABSENT**

**DO PASS AS AMENDED WITH A REREFERRAL TO APPROPRIATIONS**

**CARRIER: Rep. Klemin**



VR  
3/17/09  
103

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2415

Page 1, line 2, after "licensure" insert "and classification system" and after the semicolon insert "to provide an effective date;"

Page 1, line 8, overstrike "chief" and insert immediately thereafter "director"

Page 1, line 10, overstrike "chief" and insert immediately thereafter "director by a resident or nonresident citizen of the United States"

Page 1, line 11, after "a." insert "The applicant is at least twenty-one years of age for a class 1 license or at least eighteen years of age for a class 2 license."

b."

Page 1, line 14, overstrike "b." and insert immediately thereafter "c."

Page 1, line 15, overstrike "c." and insert immediately thereafter "d."

Page 1, line 19, overstrike "attended a" and insert immediately thereafter "successfully completed the"

Page 1, line 20, overstrike "pursuant to rules adopted by the attorney"

Page 1, line 21, overstrike "general" and insert immediately thereafter "by a certified firearm or dangerous weapon instructor"

Page 1, line 24, overstrike "A weapons instructor certified by"

Page 2, line 1, overstrike "the attorney general shall conduct the testing procedure." and remove the overstrike over "~~The attorney~~"

Page 2, line 2, remove the overstrike over "~~general~~"

Page 2, line 4, overstrike "The testing procedure is not required for a"

Page 2, line 5, overstrike "renewal of a concealed weapons license" and insert immediately thereafter "may certify a firearm or dangerous weapon instructor based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation"

Page 2, line 6, overstrike "d." and insert immediately thereafter "e."

Page 2, line 8, after the period insert "To pass a background investigation, an applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidents of domestic violence. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records."

Page 2, line 9, overstrike "e." and insert immediately thereafter "f."

Page 2, line 11, after "2." insert "The attorney general shall offer class 1 and class 2 licenses to carry a firearm or dangerous weapon concealed pursuant to the following requirements:"

- 208<sup>3</sup>
- a. An applicant for a class 1 license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm or dangerous weapon, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm or dangerous weapon to be concealed may be satisfied by one of the following:
- (1) Certification of familiarity with a firearm or dangerous weapon by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous weapons instructor;
  - (2) Evidence of equivalent experience with a firearm or dangerous weapon through participation in an organized shooting competition, law enforcement, military service, or dangerous weapon course of training;
  - (3) Possession of a license from another state to carry a firearm or dangerous weapon, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
  - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm or dangerous weapon.
- b. An applicant for a class 2 license is required to successfully complete the open book test offered for the class 1 license.
- c. Licenses issued before August 1, 2009, regardless of the age of the license holder, convert to a class 2 license upon renewal and no additional testing is required. No additional testing is required to renew a class 2 concealed weapons license. A class 1 license may be renewed upon successful completion of the class 1 requirements within one year before submission of the application for renewal. A license issued under this section before August 1, 2009, and a class 2 license may be upgraded to a class 1 license upon successful completion of the class 1 requirements and satisfaction of the age requirement.

3."

Page 2, line 18, overstrike "3." and insert immediately thereafter "4." and overstrike "twenty-five dollars. Ten" and insert immediately thereafter "forty-five"

Page 2, overstrike line 19 and insert immediately thereafter ", which"

Page 2, line 20, overstrike "up to a total of"

Page 2, line 21, overstrike "seventy-five thousand dollars each biennium" and overstrike "Any collections from fifteen dollars"

Page 2, overstrike lines 22 and 23

Page 2, line 26, overstrike "4." and insert immediately thereafter "5." and overstrike "chief" and insert immediately thereafter "director"

Page 3, line 4, overstrike "chief" and insert immediately thereafter "director"

Page 3, line 7, overstrike "chief" and insert immediately thereafter "director"

Page 3, line 10, overstrike "5." and insert immediately thereafter "6." and overstrike "chief" and insert immediately thereafter "director"

Page 3, line 13, overstrike "6." and insert immediately thereafter "7."

Page 3, line 14, overstrike "of the applicant's county of residence" and insert immediately thereafter "of Burleigh County"

Page 3, line 15, overstrike "7." and insert immediately thereafter "8."

Page 3, line 23, overstrike "8." and insert immediately thereafter "9.", remove the overstrike over "may", remove "shall", after "adopt" insert "any", remove the overstrike over "rules" and insert immediately thereafter "necessary", remove the overstrike over "~~to carry out this title~~", and remove "by rule written and"

Page 3, remove line 24

Page 3, line 25, remove "or is otherwise valid in as many states as possible" and remove "The rules must allow a"

Page 3, remove lines 26 through 30

Page 4, replace lines 1 through 5 with:

**"SECTION 2. EFFECTIVE DATE.** Subsection 5 of section 1 of this Act becomes effective on July 1, 2011."

Renumber accordingly

Date: 3/16/01

Roll Call Vote #: 1

## 2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2415

### HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee      LC Amendment # \_\_\_\_\_

Action:    ☐ DP      ☒ DP / As Amended      ☒ & Rerefer to Approp.  
              ☐ DNP      ☐ DNP / As Amended

Motion Made By Rep. Dahl      Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser	✓	
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 13      (No) 0      (Absent) 0

Floor Carrier: Rep. Klemin

☐ Vote is amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

SB 2415, as reengrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2415 was placed on the Sixth order on the calendar.

Page 1, line 2, after "licensure" insert "and classification system" and after the semicolon insert "to provide an effective date;"

Page 1, line 8, overstrike "chief" and insert immediately thereafter "director"

Page 1, line 10, overstrike "chief" and insert immediately thereafter "director by a resident or nonresident citizen of the United States"

Page 1, line 11, after "a." insert "The applicant is at least twenty-one years of age for a class 1 license or at least eighteen years of age for a class 2 license.

b."

Page 1, line 14, overstrike "b." and insert immediately thereafter "c."

Page 1, line 15, overstrike "c." and insert immediately thereafter "d."

Page 1, line 19, overstrike "attended a" and insert immediately thereafter "successfully completed the"

Page 1, line 20, overstrike "pursuant to rules adopted by the attorney"

Page 1, line 21, overstrike "general" and insert immediately thereafter "by a certified firearm or dangerous weapon instructor"

Page 1, line 24, overstrike "A weapons instructor certified by"

Page 2, line 1, overstrike "the attorney general shall conduct the testing procedure." and remove the overstrike over "~~The attorney~~"

Page 2, line 2, remove the overstrike over "~~general~~"

Page 2, line 4, overstrike "The testing procedure is not required for a"

Page 2, line 5, overstrike "renewal of a concealed weapons license" and insert immediately thereafter "may certify a firearm or dangerous weapon instructor based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation"

Page 2, line 6, overstrike "d." and insert immediately thereafter "e."

Page 2, line 8, after the period insert "To pass a background investigation, an applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidents of domestic violence. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records."

Page 2, line 9, overstrike "e." and insert immediately thereafter "f."

Page 2, line 11, after "2." insert "The attorney general shall offer class 1 and class 2 licenses to carry a firearm or dangerous weapon concealed pursuant to the following requirements:

- a. An applicant for a class 1 license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm or dangerous weapon, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm or dangerous weapon to be concealed may be satisfied by one of the following:
  - (1) Certification of familiarity with a firearm or dangerous weapon by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous weapons instructor;
  - (2) Evidence of equivalent experience with a firearm or dangerous weapon through participation in an organized shooting competition, law enforcement, military service, or dangerous weapon course of training;
  - (3) Possession of a license from another state to carry a firearm or dangerous weapon, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
  - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm or dangerous weapon.
- b. An applicant for a class 2 license is required to successfully complete the open book test offered for the class 1 license.
- c. Licenses issued before August 1, 2009, regardless of the age of the license holder, convert to a class 2 license upon renewal and no additional testing is required. No additional testing is required to renew a class 2 concealed weapons license. A class 1 license may be renewed upon successful completion of the class 1 requirements within one year before submission of the application for renewal. A license issued under this section before August 1, 2009, and a class 2 license may be upgraded to a class 1 license upon successful completion of the class 1 requirements and satisfaction of the age requirement.

3."

Page 2, line 18, overstrike "3." and insert immediately thereafter "4." and overstrike "twenty-five dollars. Ten" and insert immediately thereafter "forty-five"

Page 2, overstrike line 19 and insert immediately thereafter ", which"

Page 2, line 20, overstrike "up to a total of"

Page 2, line 21, overstrike "seventy-five thousand dollars each biennium" and overstrike "Any collections from fifteen dollars"

Page 2, overstrike lines 22 and 23

Page 2, line 26, overstrike "4." and insert immediately thereafter "5." and overstrike "chief" and insert immediately thereafter "director"

Page 3, line 4, overstrike "chief" and insert immediately thereafter "director"

Page 3, line 7, overstrike "chief" and insert immediately thereafter "director"

Page 3, line 10, overstrike "5." and insert immediately thereafter "6." and overstrike "chief" and insert immediately thereafter "director"

Page 3, line 13, overstrike "6." and insert immediately thereafter "7."

Page 3, line 14, overstrike "of the applicant's county of residence" and insert immediately thereafter "of Burleigh County"

Page 3, line 15, overstrike "7." and insert immediately thereafter "8."

Page 3, line 23, overstrike "8." and insert immediately thereafter "9.", remove the overstrike over "~~may~~", remove "~~shall~~", after "adopt" insert "any", remove the overstrike over "~~rules~~" and insert immediately thereafter "necessary", remove the overstrike over "~~to carry out this title~~", and remove "~~by rule written and~~"

Page 3, remove line 24

Page 3, line 25, remove "or is otherwise valid in as many states as possible" and remove "The rules must allow a"

Page 3, remove lines 26 through 30

Page 4, replace lines 1 through 5 with:

**"SECTION 2. EFFECTIVE DATE.** Subsection 5 of section 1 of this Act becomes effective on July 1, 2011."

Renumber accordingly

2009 HOUSE APPROPRIATIONS

SB 2415



## 2009 HOUSE STANDING COMMITTEE MINUTES

### Bill No. SB 2415

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 3/23/09

Recorder Job Number: 11446

Committee Clerk Signature



Minutes:

**Chairman Svedjan** opened the discussion on Senate Bill 2415.

**Representative DeKrey** explained the bill. Last session we removed the testing on a concealed carry weapon and that caused states to drop their reciprocity with ND. So your license to conceal and carry a dangerous weapon, the number of states you could do that in dropped so this session we came in to recertify that because there were many citizens who wanted to conceal carry into Minnesota also and to do that in the committee we came up with a two tier system where the license you have now would automatically be in the second tier and then you could move up to the top tier if you wanted to with the possibility of having reciprocity with up to 40 states. Right now the concealed carry permit is \$25. \$10 goes into the general fund. With this new system that we passed out of Judiciary it would go to \$45 and be a self funded program. Tier one and tier two licenses would be the same at \$45. That is why you show a loss of \$82,764 every biennium to the general fund. Because they are taking that \$10 per permit and putting it into the special fund that would self fund and pay for these permits.

**Rep. Delzer:** Did I hear you right to say that every concealed weapon will fall to the lower level?

**Rep. DeKrey:** No. every concealed weapon we have not is automatically grandfathered into the tier two license so your license will basically be the same as it is now. The next time that you renew your license, instead of being good for three years, it is going to be good for five years and it is going to cost you \$45 whether you do the tier one or tier two.

**Rep. Delzer:** Which one carries the reciprocity?

**Rep. DeKrey:** They all carry it. The second tier license doesn't carry as many states as the top tier does.

**Rep. Delzer:** Even if we tested when the test was required, we still drop to the lower level instead of staying at the top.

**Rep. DeKrey:** That is where you are now. The only thing this does is gets us reciprocity back on the second tier.

**Chairman Sevdjan:** Why would this require another half FTE?

**Rep. DeKrey:** that I don't know. We did not ask that question.

**Chairman Svedjan:** It is on the fiscal note that it requires another half FTE.

**Rep. Berg:** You are generating \$340,000 of income. They must have given you some explanation on why they need the additional revenue; why we are going from \$25 to \$45 or is it because we are going to 5 year vs. 3 year?

**Rep. DeKrey:** Yes. That is added cost.

**Chm .Svedjan:** What about the money that used to go into the general fund.

**Rep. DeKrey:** that was just accounting decision.

**Rep. Williams:** I realize its existing language, could you give me some example of Lines 9 and 12 can you give me some examples including self protection?

**Rep. DeKrey:** In the statue it is just listing what is in the statues for a concealed carry and self protection is one of them

**Rep. Kaldor:** What was the rationale for not retaining the \$10 portion that was going into the General Fund?

**Rep. DeKrey:** I couldn't tell you. We looked at the policy we were trying to do and the policy committee was get a system where those who already have a license in ND would still qualify for as many states as they have already before we dropped their testing requirements.

Individuals wanted to conceal-carry in as many states as possible so that means our language it had to have to be similar to Minnesota's language to get the 40 states possible. We still don't know that Minnesota will accept it.

**Rep. Kaldor:** The General Fund will be kicking in. That \$82,000 is now the money that was in the General Fund will now be in the Special Funds.

**Rep. DeKrey:** I think it was to have the whole program paid for with special funds.

**Chm. Svedjan:** They want to self-fund the program. They are asking for .5 FTE and the Fiscal Note outlines what they need to do here so I presume it is going to take \$246,000 against revenue of \$340,000? That is the way it looks to me.

**Kathy Roll, Office of Attorney General:** There will be some bienniums when we will not receive any revenue because it will be permits that will not come due for renewal. In the 11-13 biennium there will only be one renewal period so we will only received \$170,000. Obviously the program costs more than that. It costs the \$246,000 plus I assume some inflation amount. That's the reason that the rate is increased. The rate is increased for the 09-11 biennium but the renewal period changed from three to five years doesn't take effect until the 11-13 bienniums to allow us to collect those fees so that we can pay those expenses in the 9-11 bienniums.

**Rep. Nelson:** What is the difference between the criteria in Tier 1 and Tier 2 licensure?

**Rep. DeKrey:** Tier II you have to pass an open book test. Tier 1 is an open book test and show familiarization and a shooting test. So they will be writing rules for what the tier I will be.

**Rep. Nelson:** Is this meant to be done in one day for the commitment for Tier 1?

**Rep. DeKrey:** It depends how well you can shoot.

**Rep. Wald:** You didn't discuss the .5 FTE?

**Rep. DeKrey:** No we didn't. Not in the policy committee it didn't.

**Do Pass Motion Made By Rep. Berg; Seconded by Rep. Meyer**

Discussion: None

**Vote: 17 Yes 7 No 1 Absent Carrier: Rep. Klemin**

Hearing closed.

Date: 3/23/09  
Roll Call Vote #: \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2415

**Full House Appropriations Committee**

☐ Check here for Conference Committee

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

Action Taken

Remove .5 FTE

Motion Made By \_\_\_\_\_

Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

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

Absent \_\_\_\_\_

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

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

Date: 3/23/09  
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2915

**Full House Appropriations Committee**

☐ Check here for Conference Committee

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

Action Taken

Do Pass

Motion Made By

Berg

Seconded By

Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan		✓			
Vice Chairman Kempenich	✓				
Rep. Skarphol		✓	Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer		✓	Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert		✓	Rep. Ekstrom		
Rep. Bellew		✓	Rep. Kerzman	✓	
Rep. Kreidt		✓	Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland		✓			

Total (Yes) 17 No 7

Absent 1

Floor Assignment Klein

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

**REPORT OF STANDING COMMITTEE (410)**  
March 24, 2009 2:40 p.m.

**Module No: HR-52-5710**  
**Carrier: Kieimin**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2415, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman)**  
**recommends DO PASS (17 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING).**  
Reengrossed SB 2415 was placed on the Fourteenth order on the calendar.

2009 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2415



## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB2415

Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 4/17/09

Recorder Job Number: 11956

Committee Clerk Signature



Minutes:

**Senator Lyson, Chairman**

**Representative Klemin**

**Senator Olafson**

**Representative Koppelman**

**Senator Schneider**

**Representative Delmore**

Senator Lyson asks Representative Klemin to explain the bill and Rep. Klemin asks Matt

Sagsveen from the Attorney General's Office to come up and speak on the bill. Mr. Sagsveen says they tried to draft something that would increase the license holder's ability to gain reciprocity in as many states as possible. The goal was to do that by creating a two class license system. Senator Lyson asks him to start with the amendments and explain them from the top. He explains some language changes and an age change to 21 years to get reciprocity in Minnesota, you only have to be 18 yrs. for a Class 2 which is the way it currently is in ND.

Senator Lyson asks if a Class 2 license is like a Brady Bill type. Sagsveen said Class 2 is an open book test like we have in ND now. He said a weapons instructor still has to be approved by the Attorney General. Also if you have had any court ordered treatment or commitment for mental health or alcohol or substance abuse you must provide documentation to BCI. To get reciprocity in some other states you must do these steps. Mr. Sagsveen continues with

explaining what is required such as classroom, open book tests, and demonstrating familiarity

with firearm or dangerous weapon. Mr. Sagsveen asks Kathy Roll, Financial Administrator from the Attorney General's office to discuss the fee structure. She says the intent of the change in the fee was to self fund the program. She states right now there is one position that handles this and they would need an additional half time FTE. The cost reflected in the fiscal note of \$246,000 will cover the entire cost of the program including the changes that come about with a two tiered system. To fund that the fee was increased from \$25 to \$45. Mr. Sagsveen then talked of the term of the license which was changed from 3 to 5 years. He said if an applicant wants to appeal a denial all appeals are made in Burleigh County.

Representative Koppelman asks Mr. Sagsveen if the Class 2 license is unchanged from the one we currently have. Mr. Sagsveen responds correct. Senator Schneider asks about how many permits are denied a year. Chief Agent Lonnie Grabowska with BCI, responds, he said most of the time there on average on 3 or 4 a year that are denied. He states most individuals that do not get a license is because of a previous disqualifier at the Federal or State level because of an offense. Rep. Koppelman asks him if he would anticipate with the new class of licenses there would be more denials or would they be just disqualified in the same fashion because of stricter criteria. Grabowska responds they would be disqualified and it would be the same, because they go through the same background check. The only thing that will be different will be the shooting test on the new tier. Probably no real change. Rep. Klemin said the goal here is if your satisfied with what you have and you're not concerned with reciprocity what we now have will become the Class 2 license and that will all stay the same. We will have reciprocity in about 40 states with the new Class 1 license. Senator Lyson that is what we were asked to do, get as many states as we could. Senator Schneider motions the Senate accede to House amendments, seconded by Senator Olafson.

Roll call vote 6 yes, 0 no      Senator Schneider will carry

Date: 4/17/09Roll Call Vote #: 1

## 2009 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. **SB2415** as (re) engrossed

Senate \_\_\_\_\_ Judiciary \_\_\_\_\_ Committee \_\_\_\_\_

☒ Check here for **Conference Committee**

- Action Taken ☒ SENATE accede to House Amendments  
☐ SENATE accede to House Amendments and further amend  
☐ HOUSE recede from House Amendments  
☐ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ pages(s) 975 -- 977☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

Motion Made By Sen. Schneider Seconded By Sen. Olafson

Senators				Representatives			
	Attend	Y	N		Attend	Y	N
		e	o			e	o
		s				s	
Senator Lyson-Chair	X	X		Rep. Klemin	X	X	
Senator Olafson	X	X		Rep. Koppelman	X	X	
Senator Schneider	X	X		Rep. Delmore	X	X	

Vote Count 6 Yes 0 No \_\_\_\_\_ AbsentSenate Carrier S. Schneider House Carrier \_\_\_\_\_

LC NO. \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

**REPORT OF CONFERENCE COMMITTEE**

**SB 2415, as reengrossed:** Your conference committee (Sens. Lyson, Olafson, Schneider and Reps. Klemin, Koppelman, Delmore) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 975-977 and place SB 2415 on the Seventh order.

Reengrossed SB 2415 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

SB 2415



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### 624.714, Minnesota Statutes 2007

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#### 624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES.

Subdivision 1.[Repealed, 2003 c 28 art 2 s 35; 2005 c 83 s 1]

Subd. 1a. **Permit required; penalty.** A person, other than a peace officer, as defined in section [626.84, subdivision 1](#), who carries, holds, or possesses a pistol in a motor vehicle, snowmobile, or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place, as defined in section [624.7181, subdivision 1, paragraph \(c\)](#), without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time is guilty of a felony.

Subd. 1b. **Display of permit; penalty.** (a) The holder of a permit to carry must have the permit card and a driver's license, state identification card, or other government-issued photo identification in immediate possession at all times when carrying a pistol and must display the permit card and identification document upon lawful demand by a peace officer, as defined in section [626.84, subdivision 1](#). A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section [609.531](#), a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to carry the pistol at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

(d) Upon the request of a peace officer, a permit holder shall disclose to the officer whether or not the permit holder is currently carrying a firearm.

Subd. 2. **Where application made; authority to issue permit; criteria; scope.** (a) Applications by Minnesota residents for permits to carry shall be made to the county sheriff where the applicant resides. Nonresidents, as defined in section [171.01, subdivision 42](#), may apply to any sheriff.

(b) Unless a sheriff denies a permit under the exception set forth in subdivision 6, paragraph (a), clause (3), a sheriff must issue a permit to an applicant if the person:

- (1) has training in the safe use of a pistol;
- (2) is at least 21 years old and a citizen or a permanent resident of the United States;
- (3) completes an application for a permit;
- (4) is not prohibited from possessing a firearm under the following sections:
  - (i) [518B.01, subdivision 14](#);
  - (ii) [609.224, subdivision 3](#);
  - (iii) [609.2242, subdivision 3](#);
  - (iv) [609.749, subdivision 8](#);

- (v) 624.713;
  - (vi) 624.719;
  - (vii) 629.715, subdivision 2;
  - (viii) 629.72, subdivision 2; or
  - (ix) any federal law; and
- (5) is not listed in the criminal gang investigative data system under section 299C.091.
- (c) A permit to carry a pistol issued or recognized under this section is a state permit and is effective throughout the state.
- (d) A sheriff may contract with a police chief to process permit applications under this section. If a sheriff contracts with a police chief, the sheriff remains the issuing authority and the police chief acts as the sheriff's agent. If a sheriff contracts with a police chief, all of the provisions of this section will apply.

Subd. 2a. **Training in the safe use of a pistol.** (a) An applicant must present evidence that the applicant received training in the safe use of a pistol within one year of the date of an original or renewal application. Training may be demonstrated by:

- (1) employment as a peace officer in the state of Minnesota within the past year; or
- (2) completion of a firearms safety or training course providing basic training in the safe use of a pistol and conducted by a certified instructor.

(b) Basic training must include:

- (1) instruction in the fundamentals of pistol use;
- (2) successful completion of an actual shooting qualification exercise; and
- (3) instruction in the fundamental legal aspects of pistol possession, carry, and use, including self-defense and the restrictions on the use of deadly force.

(c) The certified instructor must issue a certificate to a person who has completed a firearms safety or training course described in paragraph (b). The certificate must be signed by the instructor and attest that the person attended and completed the course.

(d) A person qualifies as a certified instructor if the person is certified as a firearms instructor within the past five years by an organization or government entity that has been approved by the Department of Public Safety in accordance with the department's standards.

(e) A sheriff must accept the training described in this subdivision as meeting the requirement in subdivision 2, paragraph (b), for training in the safe use of a pistol. A sheriff may also accept other satisfactory evidence of training in the safe use of a pistol.

Subd. 3. **Form and contents of application.** (a) Applications for permits to carry must be an official, standardized application form, adopted under section 624.7151, and must set forth in writing only the following information:

- (1) the applicant's name, residence, telephone number, if any, and driver's license number or state identification card number;
- (2) the applicant's sex, date of birth, height, weight, and color of eyes and hair, and distinguishing physical characteristics, if any;
- (3) the township or statutory city or home rule charter city, and county, of all Minnesota residences of the applicant in the last five years, though not including specific addresses;
- (4) the township or city, county, and state of all non-Minnesota residences of the applicant in the last five years, though not including specific addresses;
- (5) a statement that the applicant authorizes the release to the sheriff of commitment information about the applicant maintained by the commissioner of human services or any similar

agency or department of another state where the applicant has resided, to the extent that the information relates to the applicant's eligibility to possess a firearm; and

(6) a statement by the applicant that, to the best of the applicant's knowledge and belief, the applicant is not prohibited by law from possessing a firearm.

(b) The statement under paragraph (a), clause (5), must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

(c) An applicant must submit to the sheriff an application packet consisting only of the following items:

(1) a completed application form, signed and dated by the applicant;

(2) an accurate photocopy of the certificate described in subdivision 2a, paragraph (c), that is submitted as the applicant's evidence of training in the safe use of a pistol; and

(3) an accurate photocopy of the applicant's current driver's license, state identification card, or the photo page of the applicant's passport.

(d) In addition to the other application materials, a person who is otherwise ineligible for a permit due to a criminal conviction but who has obtained a pardon or expungement setting aside the conviction, sealing the conviction, or otherwise restoring applicable rights, must submit a copy of the relevant order.

(e) Applications must be submitted in person.

(f) The sheriff may charge a new application processing fee in an amount not to exceed the actual and reasonable direct cost of processing the application or \$100, whichever is less. Of this amount, \$10 must be submitted to the commissioner and deposited into the general fund.

(g) This subdivision prescribes the complete and exclusive set of items an applicant is required to submit in order to apply for a new or renewal permit to carry. The applicant must not be asked or required to submit, voluntarily or involuntarily, any information, fees, or documentation beyond that specifically required by this subdivision. This paragraph does not apply to alternate training evidence accepted by the sheriff under subdivision 2a, paragraph (d).

(h) Forms for new and renewal applications must be available at all sheriffs' offices and the commissioner must make the forms available on the Internet.

(i) Application forms must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder is or becomes prohibited by law from possessing a firearm. The notice must list the applicable state criminal offenses and civil categories that prohibit a person from possessing a firearm.

(j) Upon receipt of an application packet and any required fee, the sheriff must provide a signed receipt indicating the date of submission.

Subd. 4. **Investigation.** (a) The sheriff must check, by means of electronic data transfer, criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System and, to the extent necessary, the National Instant Check System. The sheriff shall also make a reasonable effort to check other available and relevant federal, state, or local record-keeping systems. The sheriff must obtain commitment information from the commissioner of human services as provided in section 245.041 or, if the information is reasonably available, as provided by a similar statute from another state.

(b) When an application for a permit is filed under this section, the sheriff must notify the chief of police, if any, of the municipality where the applicant resides. The police chief may provide the sheriff with any information relevant to the issuance of the permit.



(c) The sheriff must conduct a background check by means of electronic data transfer on a permit holder through the Minnesota Crime Information System and, to the extent necessary, the National Instant Check System at least yearly to ensure continuing eligibility. The sheriff may conduct additional background checks by means of electronic data transfer on a permit holder at any time during the period that a permit is in effect.

Subd. 5. [Repealed, 2003 c 28 art 2 s 35; 2005 c 83 s 1]

Subd. 6. **Granting and denial of permits.** (a) The sheriff must, within 30 days after the date of receipt of the application packet described in subdivision 3:

(1) issue the permit to carry;

(2) deny the application for a permit to carry solely on the grounds that the applicant failed to qualify under the criteria described in subdivision 2, paragraph (b); or

(3) deny the application on the grounds that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit.

(b) Failure of the sheriff to notify the applicant of the denial of the application within 30 days after the date of receipt of the application packet constitutes issuance of the permit to carry and the sheriff must promptly fulfill the requirements under paragraph (c). To deny the application, the sheriff must provide the applicant with written notification and the specific factual basis justifying the denial under paragraph (a), clause (2) or (3), including the source of the factual basis. The sheriff must inform the applicant of the applicant's right to submit, within 20 business days, any additional documentation relating to the propriety of the denial. Upon receiving any additional documentation, the sheriff must reconsider the denial and inform the applicant within 15 business days of the result of the reconsideration. Any denial after reconsideration must be in the same form and substance as the original denial and must specifically address any continued deficiencies in light of the additional documentation submitted by the applicant. The applicant must be informed of the right to seek de novo review of the denial as provided in subdivision 12.

(c) Upon issuing a permit to carry, the sheriff must provide a laminated permit card to the applicant by first class mail unless personal delivery has been made. Within five business days, the sheriff must submit the information specified in subdivision 7, paragraph (a), to the commissioner for inclusion solely in the database required under subdivision 15, paragraph (a). The sheriff must transmit the information in a manner and format prescribed by the commissioner.

(d) Within five business days of learning that a permit to carry has been suspended or revoked, the sheriff must submit information to the commissioner regarding the suspension or revocation for inclusion solely in the databases required or permitted under subdivision 15.

(e) Notwithstanding paragraphs (a) and (b), the sheriff may suspend the application process if a charge is pending against the applicant that, if resulting in conviction, will prohibit the applicant from possessing a firearm.

Subd. 7. **Permit card contents; expiration; renewal.** (a) Permits to carry must be on an official, standardized permit card adopted by the commissioner, containing only the name, residence, and driver's license number or state identification card number of the permit holder, if any.

(b) The permit card must also identify the issuing sheriff and state the expiration date of the permit. The permit card must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder becomes prohibited by law from possessing a firearm.

(c) A permit to carry a pistol issued under this section expires five years after the date of

issue. It may be renewed in the same manner and under the same criteria which the original permit was obtained, subject to the following procedures:

- (1) no earlier than 90 days prior to the expiration date on the permit, the permit holder may renew the permit by submitting to the appropriate sheriff the application packet described in subdivision 3 and a renewal processing fee not to exceed the actual and reasonable direct cost of processing the application or \$75, whichever is less. Of this amount, \$5 must be submitted to the commissioner and deposited into the general fund. The sheriff must process the renewal application in accordance with subdivisions 4 and 6; and
- (2) a permit holder who submits a renewal application packet after the expiration date of the permit, but within 30 days after expiration, may renew the permit as provided in clause (1) by paying an additional late fee of \$10.
- (d) The renewal permit is effective beginning on the expiration date of the prior permit to carry.

Subd. 7a. **Change of address; loss or destruction of permit.** (a) Within 30 days after changing permanent address, or within 30 days of having lost or destroyed the permit card, the permit holder must notify the issuing sheriff of the change, loss, or destruction. Failure to provide notification as required by this subdivision is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) After notice is given under paragraph (a), a permit holder may obtain a replacement permit card by paying \$10 to the sheriff. The request for a replacement permit card must be made on an official, standardized application adopted for this purpose under section 624.7151, and, except in the case of an address change, must include a notarized statement that the permit card has been lost or destroyed.

Subd. 8. **Permit to carry voided.** (a) The permit to carry is void at the time that the holder becomes prohibited by law from possessing a firearm, in which event the holder must return the permit card to the issuing sheriff within five business days after the holder knows or should know that the holder is a prohibited person. If the sheriff has knowledge that a permit is void under this paragraph, the sheriff must give notice to the permit holder in writing in the same manner as a denial. Failure of the holder to return the permit within the five days is a gross misdemeanor unless the court finds that the circumstances or the physical or mental condition of the permit holder prevented the holder from complying with the return requirement.

(b) When a permit holder is convicted of an offense that prohibits the permit holder from possessing a firearm, the court must take possession of the permit, if it is available, and send it to the issuing sheriff.

(c) The sheriff of the county where the application was submitted, or of the county of the permit holder's current residence, may file a petition with the district court therein, for an order revoking a permit to carry on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall be issued only if the sheriff meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses, including attorney fees.

(d) A permit revocation must be promptly reported to the issuing sheriff.

Subd. 8a. **Prosecutor's duty.** Whenever a person is charged with an offense that would, upon conviction, prohibit the person from possessing a firearm, the prosecuting attorney must ascertain whether the person is a permit holder under this section. If the person is a permit holder,

the prosecutor must notify the issuing sheriff that the person has been charged with a prohibiting offense. The prosecutor must also notify the sheriff of the final disposition of the case.

**Subd. 9. Carrying pistols about one's premises or for purposes of repair, target practice.**

A permit to carry is not required of a person:

- (a) to keep or carry about the person's place of business, dwelling house, premises or on land possessed by the person a pistol;
- (b) to carry a pistol from a place of purchase to the person's dwelling house or place of business, or from the person's dwelling house or place of business to or from a place where repairing is done, to have the pistol repaired;
- (c) to carry a pistol between the person's dwelling house and place of business;
- (d) to carry a pistol in the woods or fields or upon the waters of this state for the purpose of hunting or of target shooting in a safe area; or
- (e) to transport a pistol in a motor vehicle, snowmobile or boat if the pistol is unloaded, contained in a closed and fastened case, gunbox, or securely tied package.

**Subd. 10. False representations.** A person who gives or causes to be given any false material information in applying for a permit to carry, knowing or having reason to know the information is false, is guilty of a gross misdemeanor.

**Subd. 11. No limit on number of pistols.** A person shall not be restricted as to the number of pistols the person may carry.

**Subd. 11a. Emergency issuance of permits.** A sheriff may immediately issue an emergency permit to a person if the sheriff determines that the person is in an emergency situation that may constitute an immediate risk to the safety of the person or someone residing in the person's household. A person seeking an emergency permit must complete an application form and must sign an affidavit describing the emergency situation. An emergency permit applicant does not need to provide evidence of training. An emergency permit is valid for 30 days, may not be renewed, and may be revoked without a hearing. No fee may be charged for an emergency permit. An emergency permit holder may seek a regular permit under subdivision 3 and is subject to the other applicable provisions of this section.

**Subd. 12. Hearing upon denial or revocation.** (a) Any person aggrieved by denial or revocation of a permit to carry may appeal by petition to the district court having jurisdiction over the county or municipality where the application was submitted. The petition must list the sheriff as the respondent. The district court must hold a hearing at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review. The court may not grant or deny any relief before the completion of the hearing. The record of the hearing must be sealed. The matter must be heard de novo without a jury.

(b) The court must issue written findings of fact and conclusions of law regarding the issues submitted by the parties. The court must issue its writ of mandamus directing that the permit be issued and order other appropriate relief unless the sheriff establishes by clear and convincing evidence:

- (1) that the applicant is disqualified under the criteria described in subdivision 2, paragraph (b); or
  - (2) that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit. Incidents of alleged criminal misconduct that are not investigated and documented may not be considered.
- (c) If an applicant is denied a permit on the grounds that the applicant is listed in the criminal

gang investigative data system under section 299C.091, the person may challenge the denial, after disclosure under court supervision of the reason for that listing, based on grounds that the person:

- (1) was erroneously identified as a person in the data system;
  - (2) was improperly included in the data system according to the criteria outlined in section 299C.091, subdivision 2, paragraph (b); or
  - (3) has demonstrably withdrawn from the activities and associations that led to inclusion in the data system.
- (d) If the court grants a petition brought under paragraph (a), the court must award the applicant or permit holder reasonable costs and expenses including attorney fees.

Subd. 12a. **Suspension as condition of release.** The district court may order suspension of the application process for a permit or suspend the permit of a permit holder as a condition of release pursuant to the same criteria as the surrender of firearms under section 629.715. A permit suspension must be promptly reported to the issuing sheriff. If the permit holder has an out-of-state permit recognized under subdivision 16, the court must promptly report the suspension to the commissioner for inclusion solely in the database under subdivision 15, paragraph (a).

Subd. 13. **Exemptions; adult correctional facility officers.** A permit to carry a pistol is not required of any officer of a state adult correctional facility when on guard duty or otherwise engaged in an assigned duty.

Subd. 14. **Records.** (a) A sheriff must not maintain records or data collected, made, or held under this section concerning any applicant or permit holder that are not necessary under this section to support a permit that is outstanding or eligible for renewal under subdivision 7, paragraph (b). Notwithstanding section 138.163, sheriffs must completely purge all files and databases by March 1 of each year to delete all information collected under this section concerning all persons who are no longer current permit holders or currently eligible to renew their permit. (b) Paragraph (a) does not apply to records or data concerning an applicant or permit holder who has had a permit denied or revoked under the criteria established in subdivision 2, paragraph (b), clause (1), or subdivision 6, paragraph (a), clause (3), for a period of six years from the date of the denial or revocation.

Subd. 15. **Commissioner; contracts; database.** (a) The commissioner must maintain an automated database of persons authorized to carry pistols under this section that is available 24 hours a day, seven days a week, only to law enforcement agencies, including prosecutors carrying out their duties under subdivision 8a, to verify the validity of a permit.

(b) The commissioner may maintain a separate automated database of denied applications for permits to carry and of revoked permits that is available only to sheriffs performing their duties under this section containing the date of, the statutory basis for, and the initiating agency for any permit application denied or permit revoked for a period of six years from the date of the denial or revocation.

(c) The commissioner may contract with one or more vendors to implement the commissioner's duties under this section.

Subd. 16. **Recognition of permits from other states.** (a) The commissioner must annually establish and publish a list of other states that have laws governing the issuance of permits to carry weapons that are not substantially similar to this section. The list must be available on the Internet. A person holding a carry permit from a state not on the list may use the license or permit in this state subject to the rights, privileges, and requirements of this section.

(b) Notwithstanding paragraph (a), no license or permit from another state is valid in this

state if the holder is or becomes prohibited by law from possessing a firearm.

(c) Any sheriff or police chief may file a petition under subdivision 12 seeking an order suspending or revoking an out-of-state permit holder's authority to carry a pistol in this state on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall only be issued if the petitioner meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses including attorney fees. The petition may be filed in any county in the state where a person holding a license or permit from another state can be found.

(d) The commissioner must, when necessary, execute reciprocity agreements regarding carry permits with jurisdictions whose carry permits are recognized under paragraph (a).

Subd. 17. **Posting; trespass.** (a) A person carrying a firearm on or about his or her person or clothes under a permit or otherwise who remains at a private establishment knowing that the operator of the establishment or its agent has made a reasonable request that firearms not be brought into the establishment may be ordered to leave the premises. A person who fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this subdivision is not subject to forfeiture.

(b) As used in this subdivision, the terms in this paragraph have the meanings given.

(1) "Reasonable request" means a request made under the following circumstances:

(i) the requester has prominently posted a conspicuous sign at every entrance to the establishment containing the following language: "(INDICATE IDENTITY OF OPERATOR) BANS GUNS IN THESE PREMISES."; or

(ii) the requester or the requester's agent personally informs the person that guns are prohibited in the premises and demands compliance.

(2) "Prominently" means readily visible and within four feet laterally of the entrance with the bottom of the sign at a height of four to six feet above the floor.

(3) "Conspicuous" means lettering in black arial typeface at least 1-1/2 inches in height against a bright contrasting background that is at least 187 square inches in area.

(4) "Private establishment" means a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose.

(c) The owner or operator of a private establishment may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

(d) This subdivision does not apply to private residences. The lawful possessor of a private residence may prohibit firearms, and provide notice thereof, in any lawful manner.

(e) A landlord may not restrict the lawful carry or possession of firearms by tenants or their guests.

(f) Notwithstanding any inconsistent provisions in section 609.605, this subdivision sets forth the exclusive criteria to notify a permit holder when otherwise lawful firearm possession is not allowed in a private establishment and sets forth the exclusive penalty for such activity.

(g) This subdivision does not apply to:

(1) an active licensed peace officer; or

(2) a security guard acting in the course and scope of employment.

Subd. 18. **Employers; public colleges and universities.** (a) An employer, whether public or private, may establish policies that restrict the carry or possession of firearms by its employees while acting in the course and scope of employment. Employment related civil sanctions may

be invoked for a violation.

(b) A public postsecondary institution regulated under chapter 136F or 137 may establish policies that restrict the carry or possession of firearms by its students while on the institution's property. Academic sanctions may be invoked for a violation.

(c) Notwithstanding paragraphs (a) and (b), an employer or a postsecondary institution may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

Subd. 19. **Immunity.** Neither a sheriff, police chief, any employee of a sheriff or police chief involved in the permit issuing process, nor any certified instructor is liable for damages resulting or arising from acts with a firearm committed by a permit holder, unless the person had actual knowledge at the time the permit was issued or the instruction was given that the applicant was prohibited by law from possessing a firearm.

Subd. 20. **Monitoring.** (a) By March 1, 2004, and each year thereafter, the commissioner must report to the legislature on:

- (1) the number of permits applied for, issued, suspended, revoked, and denied, further categorized by the age, sex, and zip code of the applicant or permit holder, since the previous submission, and in total;
  - (2) the number of permits currently valid;
  - (3) the specific reasons for each suspension, revocation, and denial and the number of reversed, canceled, or corrected actions;
  - (4) without expressly identifying an applicant, the number of denials or revocations based on the grounds under subdivision 6, paragraph (a), clause (3), the factual basis for each denial or revocation, and the result of an appeal, if any, including the court's findings of fact, conclusions of law, and order;
  - (5) the number of convictions and types of crimes committed since the previous submission, and in total, by individuals with permits including data as to whether a firearm lawfully carried solely by virtue of a permit was actually used in furtherance of the crime;
  - (6) to the extent known or determinable, data on the lawful and justifiable use of firearms by permit holders; and
  - (7) the status of the segregated funds reported to the commissioner under subdivision 21.
- (b) Sheriffs and police chiefs must supply the Department of Public Safety with the basic data the department requires to complete the report under paragraph (a). Sheriffs and police chiefs may submit data classified as private to the Department of Public Safety under this paragraph.
- (c) Copies of the report under paragraph (a) must be made available to the public at the actual cost of duplication.
- (d) Nothing contained in any provision of this section or any other law requires or authorizes the registration, documentation, collection, or providing of serial numbers or other data on firearms or on firearms' owners.

Subd. 21. **Use of fees.** Fees collected by sheriffs under this section and not forwarded to the commissioner must be used only to pay the direct costs of administering this section. Fee money may be used to pay the costs of appeals of prevailing applicants or permit holders under subdivision 8, paragraph (c); subdivision 12, paragraph (e); and subdivision 16, paragraph (c). Fee money may also be used to pay the reasonable costs of the county attorney to represent the sheriff in proceedings under this section. The revenues must be maintained in a segregated fund. Fund balances must be carried over from year to year and do not revert to any other fund. As part of the information supplied under subdivision 20, paragraph (b), by January 31 of each year,

a sheriff must report to the commissioner on the sheriff's segregated fund for the preceding calendar year, including information regarding:

- (1) nature and amount of revenues;
- (2) nature and amount of expenditures; and
- (3) nature and amount of balances.

Subd. 22. **Short title; construction; severability.** This section may be cited as the Minnesota Citizens' Personal Protection Act of 2003. The legislature of the state of Minnesota recognizes and declares that the second amendment of the United States Constitution guarantees the fundamental, individual right to keep and bear arms. The provisions of this section are declared to be necessary to accomplish compelling state interests in regulation of those rights. The terms of this section must be construed according to the compelling state interest test. The invalidation of any provision of this section shall not invalidate any other provision.

Subd. 23. **Exclusivity.** This section sets forth the complete and exclusive criteria and procedures for the issuance of permits to carry and establishes their nature and scope. No sheriff, police chief, governmental unit, government official, government employee, or other person or body acting under color of law or governmental authority may change, modify, or supplement these criteria or procedures, or limit the exercise of a permit to carry.

Subd. 24. **Predatory offenders.** Except when acting under the authority of other law, it is a misdemeanor for a person required to register by section 243.166 to carry a pistol whether or not the carrier possesses a permit to carry issued under this section. If an action prohibited by this subdivision is also a violation of another law, the violation may be prosecuted under either law.

**History:** 1975 c 378 s 4; 1976 c 269 s 1; 1977 c 349 s 3; 1983 c 264 s 10; 1986 c 444; 1992 c 571 art 15 s 8,9; 1993 c 326 art 1 s 32; 1994 c 618 art 1 s 45,46; 1994 c 636 art 3 s 38-40; 1998 c 254 art 2 s 69; 2003 c 28 art 2 s 4-28,34; 2005 c 83 s 1,3-10

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### Concealed Firearm Law and Administrative Rule Referer

The following links will direct you to the State and Federal Codes that BCI uses in regulating the Firearms program.

Utah State Criminal Code - <http://www.le.state.ut.us/~code/code.htm>

"Concealed Weapon Act" Chapter 5 Part 7 (53-5-701 through 53-5-711) - [http://www.le.state.ut.us/~code/TITLE53/53\\_05.htm](http://www.le.state.ut.us/~code/TITLE53/53_05.htm)

"Weapons" Chapter 10 Part 5 (76-10-501 through 76-10-530) - <http://le.utah.gov/~code/TITLE76/>

Secure/Prohibited Areas - Items Prohibited - Penalty (76-8-311.1) - [http://le.utah.gov/~code/TITLE76/htm/76\\_08\\_031101.htm](http://le.utah.gov/~code/TITLE76/htm/76_08_031101.htm)

Secure/Prohibited Areas - Items Prohibited in correctional and mental health facilities - Penalties - [http://le.utah.gov/~code/TITLE76/htm/76\\_08\\_031103.htm](http://le.utah.gov/~code/TITLE76/htm/76_08_031103.htm)

Justification Excluding Criminal Responsibility Title 76 Chapter 2 Part 4 (76-2-401 through 76-2-404) - [http://www.le.state.ut.us/~code/TITLE76/76\\_02.htm](http://www.le.state.ut.us/~code/TITLE76/76_02.htm)

Federal Firearms Regulations - [http://www.atf.treas.gov/pub/fire-explo\\_pub/2000\\_ref.htm](http://www.atf.treas.gov/pub/fire-explo_pub/2000_ref.htm)

ATF Online Learning Center - <http://www.atf.treas.gov/firearms/ffrg/index.htm>

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## Utah Code -- Title 53 -- Chapter 05 -- Regulation of Weapons

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[53-5-705](#)   **Temporary permit to carry concealed firearm -- Denial, suspension, or revocation -- Appeal.**

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[53-5-707](#)   **Permit -- Fees -- Disposition.**

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[53-5-708](#)   **Permit -- Names private.**

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[53-5-710](#)   **Cross-references to concealed firearm permit restrictions.**

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*Last revised: 12 December 2008*

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**53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.**

(1) (a) The division or its designated agent shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days after receiving an application, unless during the 60-day period the division finds proof that the applicant is not of good character.

(b) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section **53-5-710**.

(2) (a) An applicant satisfactorily demonstrates good character if the applicant:

- (i) has not been convicted of a felony;
- (ii) has not been convicted of a crime of violence;
- (iii) has not been convicted of an offense involving the use of alcohol;
- (iv) has not been convicted of an offense involving the unlawful use of narcotics or other controlled substances;
- (v) has not been convicted of an offense involving moral turpitude;
- (vi) has not been convicted of an offense involving domestic violence;
- (vii) has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
- (viii) is qualified to purchase and possess a firearm pursuant to Section **76-10-503** and federal law.

(b) In assessing good character under Subsection (2)(a), the licensing authority shall consider mitigating circumstances.

(3) (a) The division may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant has been or is a danger to self or others as demonstrated by evidence, including:

- (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
- (ii) past participation in incidents involving unlawful violence or threats of unlawful violence;

or

- (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The division may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant has been or is a danger to self or others, the division may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section **77-18-15**; and

- (ii) juvenile court records as provided in Section **78A-6-209**.

(d) (i) If a person granted a permit under this part has been charged with a crime of violence in any state, the division shall suspend the permit.

(ii) Upon notice of the acquittal of the person charged, or notice of the charges having been dropped, the division shall immediately reinstate the suspended permit.

(4) A former peace officer who departs full-time employment as a peace officer, in an honorable manner, shall be issued a concealed firearm permit within five years of that departure if the officer meets the requirements of this section.

(5) Except as provided in Subsection (6), the licensing authority shall also require the

applicant to provide:

- (a) the address of the applicant's permanent residence;

(b) one recent dated photograph;  
(c) one set of fingerprints; and  
(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (7).

(6) An applicant who is a law enforcement officer under Section **53-13-103** may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (5)(d).

(7) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) Evidence of general familiarity with the types of firearms to be concealed may be satisfied by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the division;

(ii) certification of general familiarity by a person who has been certified by the division, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under Subsection (7)(b) shall be in person and not through electronic means.

(8) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years of age;

(ii) be currently eligible to possess a firearm under Section **76-10-503** and federal law;

(iii) have a current National Rifle Association certification or its equivalent as determined by the division; and

(iv) for certificates issued beginning July 1, 2006, have taken a course of instruction and passed a certification test as described in Subsection (8)(c).

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the division.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the division.

(ii) (A) Beginning May 1, 2006, the division shall provide or contract to provide the course referred to in Subsection (8)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of \$50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is \$25.

(iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the division as a

dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (8).

(9) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the division.

(10) (a) (i) A concealed firearms instructor is required to provide a signed certificate to a person successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the division under Subsection (8).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other person.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (8).

(C) The division shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the division in compliance with Subsection (5)(d).

(11) The division may deny, suspend, or revoke the certification of a concealed firearms instructor if it has reason to believe the applicant has:

(a) become ineligible to possess a firearm under Section **76-10-503** or federal law; or

(b) knowingly and willfully provided false information to the division.

(12) A concealed firearms instructor has the same appeal rights as set forth in Subsection (15).

(13) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the licensing authority are not vicariously liable for damages caused by the permit holder.

(14) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(15) (a) In the event of a denial, suspension, or revocation of a permit, the applicant may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant by certified mail, return receipt requested.

(b) The denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant appeals the denial to the review board, the applicant may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the agency has the burden of proof by a preponderance of the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the division shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection **63G-4-203(1)(i)**.

(iii) The final order is final agency action for purposes of judicial review under Section **63G-4-402**.

(16) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

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*Last revised: Friday, December 12, 2008*

## CHAPTER 14-10 MINORS

**14-10-01. Minors defined.** Minors are persons under eighteen years of age. In this code, unless otherwise specified, the term "child" means "minor". Age must be calculated from the first minute of the day on which persons are born to the same minute of the corresponding day completing the period of minority.

**14-10-02. Adults defined.** All persons eighteen years of age and over are adults.

**14-10-03. Minor or person of unsound mind liable for wrongs.** A minor or a person of unsound mind of whatever degree is liable civilly for a wrong done by the minor or person of unsound mind in like manner as any other person.

**14-10-04. Minor's rights of action.** A minor may enforce the minor's rights by civil action or other legal proceedings in the same manner as an adult, except that a guardian ad litem must be appointed to conduct the same.

**14-10-05. Assignment of children prohibited - Penalty.** No person, other than the parents, may assume the permanent care and custody of a child, unless authorized so to do by an order or decree of a court having jurisdiction, except that a parent, upon giving written notice to the department of human services, may place that person's own child in the home of the child's grandparent, uncle, or aunt for adoption or guardianship by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. No parent may assign or otherwise transfer the parent's rights or duties with respect to the care and custody of the parent's child. Any such transfer or assignment, written or otherwise, is void. This section does not affect the right of the parent to consent in writing to the legal adoption of the parent's child, but such written consent does not operate to transfer any right in the child in the absence of a decree by a court having jurisdiction. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

**14-10-06. Unlawful to encourage or contribute to the deprivation or delinquency of minor - Penalty.**

1. Any individual who by any act willfully encourages, causes, or contributes to the delinquency or deprivation of any minor is guilty of a class A misdemeanor.
2. Any individual who by any act willfully encourages, causes, or contributes to the deprivation of a child less than sixteen years of age by causing that child to engage in sexual conduct as defined under section 12.1-27.2-01, in any play, motion picture, photograph, dance, or other visual representation is guilty of a class C felony.
3. If an individual is convicted of this section for encouraging, causing, or contributing to the consumption or possession of alcoholic beverages by an individual under twenty-one years of age, the court shall consider the following in mitigation:
  - a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
  - b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.

**14-10-07. Marriage of minors under supervision of juvenile court may be annulled - Penalty.** A minor, while under the supervision or custody of the juvenile court or the superintendent of the North Dakota youth correctional center, may not marry without the order of

the juvenile court or of the superintendent of the North Dakota youth correctional center, as the case may be. Any such marriage made without such order is subject to annulment in a proceeding brought in district court by the state's attorney or by any person authorized by law to bring such annulment action. A person knowingly aiding, abetting, or encouraging such marriage is guilty of a class A misdemeanor.

**14-10-08. Person to whom child confided substituting other child - Penalty.** Every person to whom an infant has been confided for nursing, education, or any other purpose, who, with intent to deceive any parent or guardian of such child, substitutes or produces to such parent or guardian another child in the place of the one so confided, is guilty of a class C felony.

**14-10-09. Minor's disability to delegate power and to contract relating to real property.** A minor cannot give a delegation of power. A person under the age of eighteen may not make a contract relating to real property or any interest therein or relating to any personal property not in that person's immediate possession or control.

**14-10-10. Contracts of minor.** Unless otherwise provided by the laws of this state, a minor may make any contract other than contracts specified in section 14-10-09 in the same manner as an adult, subject only to the minor's power of disaffirmance.

**14-10-11. Minor's contracts - Disaffirmation.** In all cases other than those specified in sections 14-10-12 and 14-10-13, the contract of a minor may be disaffirmed by the minor personally, either before the minor's majority or within one year's time afterwards, or in case of the minor's death within that period, by the minor's heirs or personal representatives.

**14-10-12. Minor cannot disaffirm contracts for necessities.** A minor cannot disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary for the minor's support or that of the minor's family, if such contract is entered into by the minor when not under the care of a parent, guardian, or conservator able to provide for such minor or the minor's family.

**14-10-13. Minor may not disaffirm statutory contracts.** A minor cannot disaffirm an obligation, otherwise valid, entered into by the minor under the express authority or direction of a statute.

**14-10-14. Undertaking by minors for release on bail.** A minor is capable of entering a binding undertaking for the purpose of securing the minor's release on bail in the same manner and with the same effect as if the minor were an adult.

**14-10-15. Unborn child - When deemed existing person.** A child conceived but not born is to be deemed an existing person so far as may be necessary for its interests in the event of its subsequent birth.

**14-10-16. Identification cards - Application - Misrepresentation of age - Falsifying cards - Penalty.** Repealed by S.L. 1977, ch. 342, § 2.

**14-10-17. Minors - Treatment for sexually transmitted disease - Drug abuse - Alcoholism.** Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for sexually transmitted disease, alcoholism, or drug abuse without permission, authority, or consent of a parent or guardian.

**14-10-17.1. Minor's emergency care.** A minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without the consent of the minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. This section does not authorize a minor to withhold consent to emergency examination, care, or treatment.

**14-10-18. Blood donations by minors.** Repealed by S.L. 1983, ch. 82, § 154.

Kathy Roll

3/16/2009 10:10 AM

**DELAY 5 YEAR RENEWAL UNTIL 2011-13 BIENNIUM, INCREASE RATE TO \$45 IN 2009-11 BIENNIUM**

	<u>2009-11 Biennium</u>		<u>2011-13 Biennium</u>		<u>2013-15 Biennium</u>		<u>2015-17 Biennium</u>				
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
# of permits to renew	3,444	3,444	3,444	3,444	3,444	3,444			3,788	3,788	3,788
Projected 10% increase			3,788	3,788	3,788	3,788			4,167	4,167	4,167
Permit fee			\$ 25	\$ 45	\$ 45	\$ 45	\$ 45	\$ 45	\$ 45	\$ 45	\$ 45
Total estimated revenue				170,478	170,478	170,478	0	0	187,526	187,526	187,526
Biennium special fund revenue				340,956		170,478		187,526		375,052	
Estimated budget amounts				246,205		238,447		262,291		288,520	
SF - Revenues vs. expenditures				94,751		(67,969)		(74,765)		86,531	
Estimated carryover				94,751		26,783		(47,983)		38,548	
<b>General Fund revenue loss with House amendments</b>											<b>(82,764)</b>

**Fiscal Note Mock-up**

	<u>2009-11 Biennium</u>		<u>2011-13 Biennium</u>	
	GF	SF	GF	SF
Revenue	(82,764)	340,956	(82,764)	170,478
Appropriations		246,205		238,447
Expenditures		246,205		238,447