

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2415
(Senators Triplett, J. Lee, Miller)
(Representatives Gruchalla, Porter)

AN ACT to amend and reenact section 62.1-04-03 of the North Dakota Century Code, relating to a reciprocal licensure and classification system to carry a firearm or dangerous weapon concealed; to provide an effective date; and to provide application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~chief~~ director of the bureau of criminal investigation shall issue a license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the ~~chief~~ director by a resident or nonresident citizen of the United States if the following criteria are met:
 - a. The applicant is at least twenty-one years of age for a class 1 license or at least eighteen years of age for a class 2 license.
 - b. The applicant has a valid reason for carrying the firearm or dangerous weapon concealed, including self-protection, protection of others, or work-related needs.
 - ~~b.~~ c. The applicant is not a person specified in section 62.1-02-01.
 - ~~c.~~ d. The applicant has the written approval for the issuance of a license from the sheriff of the applicant's county of residence, and, if the city has one, the chief of police or a designee of the city in which the applicant resides. The approval by the sheriff may not be given until the applicant has successfully completed a background investigation in that county and has ~~attended a~~ successfully completed the testing procedure conducted ~~pursuant to rules adopted by the attorney general by a certified~~ firearm or dangerous weapon instructor. The testing procedure for approval of a concealed weapons license must be an open book test to be given from a manual that sets forth weapon safety rules and the deadly force law of North Dakota, including judicial decisions and attorney general opinions. A weapons instructor certified by the attorney general shall conduct the testing procedure. The attorney general shall develop rules that ensure that this testing will be conducted. The person conducting the testing may assess a charge of up to twenty five dollars for conducting this testing. The testing procedure is not required for a renewal of a concealed weapons license may certify a firearm or dangerous weapon instructor based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation.
 - ~~d.~~ e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed a background investigation or criminal records check conducted by that agency. To pass a background investigation, an applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidents of domestic violence. The applicant shall provide the director of the bureau of criminal investigation written

authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records.

- e. f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that person's control.

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

- a. An applicant for a class 1 license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm or dangerous weapon, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm or dangerous weapon to be concealed may be satisfied by one of the following:

- (1) Certification of familiarity with a firearm or dangerous weapon by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous 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. The sheriff is required to process the application within thirty days after the completion of the testing portion unless the application is for renewal of a license and in such case the application must be processed within thirty days after its receipt by the sheriff, the chief of police is required to process the application within ten working days of receipt by the agency, and the bureau of criminal investigation is required to process the application and make a determination within thirty days of receipt from the forwarding agency.

- ~~3.~~ 4. The license fee for a concealed weapons license is ~~twenty-five dollars.~~ Ten forty-five dollars of this fee must be credited to the state general fund and fifteen dollars of this fee, which must be credited to the attorney general's operating fund up to a total of seventy five thousand dollars each biennium. Any collections from fifteen dollars of this fee in excess of the seventy five thousand dollars credited to the attorney general's operating fund each biennium must be credited to the state general fund. The license fee must be paid before the license is issued by the director of the bureau of criminal investigation.

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

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

SECTION 3. 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.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2415.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 90 Nays 2 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State