

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

HOUSE BILL NO. 1045  
(Legislative Council)  
(Natural Resources Committee)

AN ACT to amend and reenact section 47-05-01, subsection 1 of section 47-05-02, and section 47-05-17 of the North Dakota Century Code, relating to severance of the right of access for hunting access from the surface estate.

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

**SECTION 1. AMENDMENT.** Section 47-05-01 of the North Dakota Century Code is amended and reenacted as follows:

**47-05-01. Easements attached to other lands.** The following land burdens or servitudes upon lands may be attached to other land as incidents or appurtenances and then are called easements:

1. The right of pasturage.
2. The right of fishing.
3. ~~The right of taking game.~~
4. The right of way.
- ~~5.~~ 4. The right of taking water, wood, minerals, and other things.
- ~~6.~~ 5. The right of transacting business upon land.
- ~~7.~~ 6. The right of conducting lawful sports upon land.
- ~~8.~~ 7. The right of receiving air, light, or heat from or over, or discharging the same upon or over land.
- ~~9.~~ 8. The right of receiving water from or discharging the same upon land.
- ~~10.~~ 9. The right of flooding land.
- ~~11.~~ 10. The right of having water flow without diminution or disturbance of any kind.
- ~~12.~~ 11. The right of using a wall as a party wall.
- ~~13.~~ 12. The right of receiving more than natural support from adjacent land or things affixed thereto.
- ~~14.~~ 13. The right of having the whole of a division fence maintained by a coterminous owner.
- ~~15.~~ 14. The right of having public conveyances stopped or of stopping the same on land.
- ~~16.~~ 15. The right of a seat in church.
- ~~17.~~ 16. The right of burial.

**SECTION 2. AMENDMENT.** Subsection 1 of section 47-05-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The right to pasture, and of fishing ~~and taking game.~~

**SECTION 3. AMENDMENT.** Section 47-05-17 of the North Dakota Century Code is amended and reenacted as follows:

**47-05-17. ~~(Effective through July 31, 2009)~~ Severance of the right of access for hunting access prohibited.** The right of access to land to shoot, shoot at, pursue, take, attempt to take, or kill any game animals or game birds; search for or attempt to locate or flush any game animals and game birds; lure, call, or attempt to attract game animals or game birds; hide for the purpose of taking or attempting to take game animals or game birds; and walk, crawl, or advance toward wildlife while possessing implements or equipment useful in the taking of game animals or game birds may not be severed from the surface estate. This section does not apply to deeds, instruments, or interests in property recorded before August 1, 2007.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1045.

House Vote:      Yeas    69      Nays    21      Absent    4

Senate Vote:    Yeas    45      Nays    1      Absent    1

\_\_\_\_\_  
Chief Clerk of the House

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