

WEAPONS

CHAPTER 603

HOUSE BILL NO. 1351

(Representatives Porter, DeKrey)

(Senators Holmberg, Lyson, Nething, Wanzek)

AN ACT to amend and reenact section 62.1-02-05 of the North Dakota Century Code, relating to the carrying of a firearm at a public gathering.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁶ **SECTION 1. AMENDMENT.** Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A person who possesses a firearm at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" includes athletic or sporting events, schools or school functions, churches or church functions, political rallies or functions, musical concerts, and individuals in publicly owned parks where hunting is not allowed by proclamation and publicly owned or operated buildings.
2. This section does not apply to law enforcement officers; members of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty; competitors participating in organized sport shooting events; gun and antique shows; participants using blank cartridge firearms at sporting or theatrical events; any firearms carried in a temporary residence or motor vehicle; students and instructors at hunter safety classes; or private security personnel while on duty. In addition, a municipal court judge licensed to practice law in this state, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer are exempt from the prohibition and penalty in subsection 1 if the individual ~~is otherwise licensed to carry a firearm under section 62.1-04-03~~ and maintains the same level of firearms proficiency as is required by the peace officer standards and training board for law enforcement officers. A local law enforcement agency shall issue a certificate of compliance under this section to an individual who is proficient.

²⁸⁶ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1389, chapter 604.

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

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 604

HOUSE BILL NO. 1389

(Representatives Karls, Dahl, Damschen, DeKrey)
(Senators Nething, Triplett)

AN ACT to amend and reenact section 62.1-02-05 of the North Dakota Century Code, relating to the possession of a firearm in a park.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁷ **SECTION 1. AMENDMENT.** Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A person who possesses a firearm at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" includes athletic or sporting events, schools or school functions, churches or church functions, political rallies or functions, musical concerts, and individuals in publicly owned parks where hunting is not allowed by proclamation and publicly owned or operated buildings. The term "public gathering" does not apply to a state or federal park.
2. This section does not apply to law enforcement officers; members of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty; competitors participating in organized sport shooting events; gun and antique shows; participants using blank cartridge firearms at sporting or theatrical events; any firearms carried in a temporary residence or motor vehicle; students and instructors at hunter safety classes; or private security personnel while on duty. In addition, a municipal court judge licensed to practice law in this state, a district court judge, and a retired North Dakota law enforcement officer are exempt from the prohibition and penalty in subsection 1 if the individual is otherwise licensed to carry a firearm under section 62.1-04-03 and maintains the same level of firearms proficiency as is required by the peace officer standards and training board for law enforcement officers. A local law enforcement agency shall issue a certificate of compliance under this section to an individual who is proficient.

²⁸⁷ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1351, chapter 603.

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

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 605

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:

²⁸⁸ **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.~~

²⁸⁸ Section 62.1-04-03 was also amended by section 25 of House Bill No. 1015, chapter 15.

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 licenseholder, convert to a class 2 license upon renewal and no additional testing is required. No additional testing is required to renew a class 2 concealed weapons license. A class 1 license may be renewed upon successful completion of the class 1 requirements within one year before submission of the application for renewal. A license issued under this section before August 1, 2009, and a class 2 license may be upgraded to a class 1 license upon successful completion of the class 1 requirements and satisfaction of the age requirement.
3. The sheriff is required to process the application within thirty days after the completion of the testing portion unless the application is for renewal of a license and in such case the application must be processed within thirty days after its receipt by the sheriff, the chief of police is required to process the application within ten working days of receipt by the agency, and the bureau of criminal investigation is required to process the application and make a determination within thirty days of receipt from the forwarding agency.
- 3- 4. The license fee for a concealed weapons license is ~~twenty-five dollars. For 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.

Approved April 24, 2009
Filed April 29, 2009