

WEAPONS

CHAPTER 428

HOUSE BILL NO. 1395

(Representatives Karls, Porter, Streytle)
(Senators Armstrong, O. Larsen)

AN ACT to amend and reenact subsections 1 and 7 of section 62.1-01-01, subsection 1 of section 62.1-02-04, subdivision m of subsection 2 of section 62.1-02-05, and section 62.1-04-04 of the North Dakota Century Code, relating to dangerous weapons and retired law enforcement officers; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹² **SECTION 1. AMENDMENT.** Subsections 1 and 7 of section 62.1-01-01 of the North Dakota Century Code are amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses voltage for the defense of an individual, unless the device uses a projectile and voltage or the device uses a projectile and may be used to apply multiple applications of voltage during a single incident, then the term includes the device for an individual who is prohibited from possessing a firearm under this title. ~~However, the term includes a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident.~~
7. "Law enforcement officer" means a:
 - a. A public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law;

²¹² Section 62.1-01-01 was also amended by section 31 of Senate Bill No. 2042, chapter 97.

- b. A retired public servant in good standing who:
- (1) Was authorized by law or by a government agency or branch for at least ten years to enforce the law and to conduct or engage in investigations or prosecutions for violations of law;
 - (2) Maintains the same level of firearms proficiency as is required by the peace officers standards and training board for law enforcement officers, maintains the standards for qualifications in firearms training for active law enforcement officers as determined by the former agency of the individual in the state in which the individual resides, or maintains the standards used by a certified firearms instructor qualified to conduct a firearms qualification test for active duty officers in the state in which the individual resides;
 - (3) Has a photo identification card issued by a local law enforcement agency which identifies the individual as having been employed by a government agency or branch as a law enforcement officer and indicates the individual has passed the firearms proficiency test within twelve months from the date of issue; and
 - (4) Has not been found by a qualified medical professional to be unqualified for reasons relating to mental health or entered an agreement with a government agency or branch in which the public servant acknowledges a lack of qualifications for reasons relating to the mental health of the public servant; or
- c. A retired public servant in good standing who:
- (1) Was separated from service due to a service-related disability;
 - (2) Maintains the same level of firearms proficiency as is required by the peace officers standards and training board for law enforcement officers, maintains the standards for qualifications in firearms training for active law enforcement officers as determined by the former agency of the individual in the state in which the individual resides, or maintains the standards used by a certified firearms instructor qualified to conduct a firearms qualification test for active duty officers in the state in which the individual resides;
 - (3) Has a photo identification card issued by a local law enforcement agency which identifies the individual as having been employed by a government agency or branch as a law enforcement officer and indicates the individual has passed the firearms proficiency test within twelve months from the date of issue; and
 - (4) Has not been found by a qualified medical professional to be unqualified for reasons relating to mental health or entered an agreement with a government agency or branch in which the public servant acknowledges a lack of qualifications for reasons relating to the mental health of the public servant.

SECTION 2. AMENDMENT. Subsection 1 of section 62.1-02-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual who enters or remains in that part of the establishment that is set aside for the retail sale of alcoholic beverages and the consumption of purchased alcoholic beverages or used as a gaming site at which bingo is the primary gaming activity while that individual knowingly possesses a firearm or dangerous weapon is guilty of a class A misdemeanor. In addition, an individual is guilty of an offense under this section for the knowing possession of a device that uses a projectile and voltage or a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages.

²¹³ **SECTION 3. AMENDMENT.** Subdivision m of subsection 2 of section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

- m. A municipal court judge, a district court judge, and a staff member of the office of attorney general, ~~and a retired North Dakota law enforcement officer,~~ if the individual 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.

²¹⁴ **SECTION 4. AMENDMENT.** Section 62.1-04-04 of the North Dakota Century Code is amended and reenacted as follows:

62.1-04-04. Producing license on demand.

Every person while carrying a concealed firearm or dangerous weapon, for which a license to carry concealed is required, shall have on one's person the license issued by this or another state and shall give it to any active law enforcement officer for an inspection upon demand by the officer. The failure of any person to give the license to the officer is prima facie evidence that the person is illegally carrying a firearm or dangerous weapon concealed.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 11, 2017

Filed April 12, 2017

²¹³ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1279, chapter 430, section 1 of House Bill No. 1233, chapter 433, section 1 of House Bill No. 1273, chapter 429, section 4 of Senate Bill No. 2097, chapter 258, and section 1 of Senate Bill No. 2125, chapter 431.

²¹⁴ Section 62.1-04-04 was also amended by section 3 of House Bill No. 1169, chapter 432.

CHAPTER 429

HOUSE BILL NO. 1273

(Representatives B. Koppelman, Rick C. Becker, Karls, K. Koppelman, D. Ruby)
(Senator O. Larsen)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁵ **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 or dangerous weapon at a public gathering - Penalty - Application.

1. An individual who knowingly possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" means an athletic or sporting event, a school, a church, and a publicly owned or operated building.
2. This section does not apply to:
 - a. A law enforcement officer;
 - b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;
 - c. A competitor participating in an organized sport shooting event;
 - d. A gun or antique show;
 - e. A participant using a blank cartridge firearm at a sporting or theatrical event;
 - f. A firearm or dangerous weapon carried in a temporary residence or motor vehicle;
 - g. A student and an instructor at a hunter safety class;
 - h. Private security personnel while on duty;
 - i. A state or federal park;

²¹⁵ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1279, chapter 430, section 1 of House Bill No. 1233, chapter 433, section 3 of House Bill No. 1395, chapter 428, section 4 of Senate Bill No. 2097, chapter 258, and section 1 of Senate Bill No. 2125, chapter 431.

- j. An instructor, a test administrator, an official, or a participant in educational, training, cultural, or competitive events involving the authorized use of a dangerous weapon if the event occurs with permission of the person or entity with authority over the function or premises in question;
 - k. An individual in a publicly owned or operated rest area or restroom;
 - l. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry a dangerous weapon concealed if the individual is in a church building or other place of worship and has the approval to carry in the church building or other place of worship by a primary religious leader of the church or other place of worship or the governing body of the church or other place of worship. ~~If a church or other place of worship authorizes an individual to carry a concealed weapon, local law enforcement must be informed of the name of the authorized individual; and~~
 - m. A municipal court judge, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer, if the individual 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.
3. This section does not prevent any political subdivision from enacting an ordinance that is less restrictive than this section relating to the possession of firearms or dangerous weapons at a public gathering. An enacted ordinance supersedes this section within the jurisdiction of the political subdivision.
 4. Notwithstanding any other provision of law, a church or place of worship may not be held liable for any injury or death or damage to property caused by an individual permitted to carry a dangerous weapon concealed under this section.

Approved March 29, 2017

Filed March 30, 2017

CHAPTER 430

HOUSE BILL NO. 1279

(Representatives B. Koppelman, Rick C. Becker, Brabandt, D. Ruby)
(Senator O. Larsen)

AN ACT to create and enact a new subdivision to subsection 2 of section 62.1-02-05 of the North Dakota Century Code, relating to possession of a firearm; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁶ **SECTION 1.** A new subdivision to subsection 2 of section 62.1-02-05 of the North Dakota Century Code is created and enacted as follows:

An individual's storage of a firearm or dangerous weapon in a building that is owned or managed by the state or a political subdivision, provided:

- (1) The individual resides in the building;
- (2) The storage is inside the individual's assigned residential unit; and
- (3) The storage has been consented to by the state, the governing board, or a designee.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 11, 2017

Filed April 12, 2017

²¹⁶ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1233, chapter 433, section 1 of House Bill No. 1273, chapter 429, section 3 of House Bill No. 1395, chapter 428, section 4 of Senate Bill No. 2097, chapter 258, and section 1 of Senate Bill No. 2125, chapter 431.

CHAPTER 431

SENATE BILL NO. 2125

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 62.1-02-05 of the North Dakota Century Code, relating to possession of a firearm or dangerous weapon; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁷ **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 or dangerous weapon at a public gathering - Penalty - Application.

1. An individual who knowingly possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" means an athletic or sporting event, a school, a church, and a publicly owned or operated building.
2. This section does not apply to:
 - a. A law enforcement officer, or a correctional officer employed by the department of corrections and rehabilitation or by a correctional facility governed by chapter 12-44.1. A correctional officer employed by the department of corrections and rehabilitation may carry a firearm only as authorized in section 12-47-34. A correctional officer employed by a correctional facility governed by chapter 12-44.1 may carry a firearm or dangerous weapon only as authorized in section 12-44.1-30;
 - b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;
 - c. A competitor participating in an organized sport shooting event;
 - d. A gun or antique show;
 - e. A participant using a blank cartridge firearm at a sporting or theatrical event;
 - f. A firearm or dangerous weapon carried in a temporary residence or motor vehicle;

²¹⁷ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1279, chapter 430, section 1 of House Bill No. 1233, chapter 433, section 1 of House Bill No. 1273, chapter 429, section 3 of House Bill No. 1395, chapter 428, and section 4 of Senate Bill No. 2097, chapter 258.

- g. A student and an instructor at a hunter safety class;
 - h. Private security personnel while on duty;
 - i. A state or federal park;
 - j. An instructor, a test administrator, an official, or a participant in educational, training, cultural, or competitive events involving the authorized use of a dangerous weapon if the event occurs with permission of the person or entity with authority over the function or premises in question;
 - k. An individual in a publicly owned or operated rest area or restroom;
 - l. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry a dangerous weapon concealed if the individual is in a church building or other place of worship and has the approval to carry in the church building or other place of worship by a primary religious leader of the church or other place of worship or the governing body of the church or other place of worship. If a church or other place of worship authorizes an individual to carry a concealed weapon, local law enforcement must be informed of the name of the authorized individual; and
 - m. A municipal court judge, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer, if the individual 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.
3. This section does not prevent any political subdivision from enacting an ordinance that is less restrictive than this section relating to the possession of firearms or dangerous weapons at a public gathering. An enacted ordinance supersedes this section within the jurisdiction of the political subdivision.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 29, 2017

Filed March 30, 2017

CHAPTER 432

HOUSE BILL NO. 1169

(Representatives Rick C. Becker, B. Koppelman, Magrum, Olson, Paur, Porter, Simons)
(Senators O. Larsen, Luick, Myrdal, Vedaa)

AN ACT to create and enact a new subdivision to subsection 2 of section 62.1-03-01 of the North Dakota Century Code, relating to carrying a handgun; to amend and reenact sections 62.1-04-02 and 62.1-04-04 of the North Dakota Century Code, relating to carrying concealed firearms or dangerous weapons; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 62.1-03-01 of the North Dakota Century Code is created and enacted as follows:

An individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and has possessed for at least one year a valid driver's license or nondriver identification card issued by the department of transportation.

SECTION 2. AMENDMENT. Section 62.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. An individual, other than a law enforcement officer, may not carry ~~any~~ a firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter.
2. An individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under this chapter and who has possessed for at least one year a valid driver's license or nondriver identification card issued by the department of transportation may carry a firearm concealed under this chapter.

²¹⁸ **SECTION 3. AMENDMENT.** Section 62.1-04-04 of the North Dakota Century Code is amended and reenacted as follows:

62.1-04-04. Producing license on demand.

1. Every ~~person~~individual while carrying a concealed firearm or dangerous weapon, for which a license to carry concealed is required, shall have on one's person the license issued by this or another state and shall give it to any law enforcement officer for an inspection upon demand by the officer. The failure of any ~~person~~individual to give the license to the officer is prima facie

²¹⁸ Section 62.1-04-04 was also amended by section 4 of House Bill No. 1395, chapter 428.

evidence that the ~~person~~individual is illegally carrying a firearm or dangerous weapon concealed.

2. Every individual carrying a concealed firearm under the authority granted in subsection 2 of section 62.1-04-02 shall inform a law enforcement officer of the individual's possession of a concealed weapon upon the initiation of a traffic stop or any other in-person contact initiated by a law enforcement officer.
3. Every individual carrying a concealed firearm under the authority granted in subsection 2 of section 62.1-04-02 must have on one's person a valid driver's license or nondriver identification card issued by the department of transportation or a digital image of one's valid driver's license or nondriver identification card on a mobile device and shall provide the license or card to any law enforcement officer for inspection upon demand by the officer.

Approved March 23, 2017

Filed March 24, 2017

CHAPTER 433

HOUSE BILL NO. 1233

(Representatives K. Koppelman, Rick C. Becker, Ertelt, Heinert, Jones, Kasper, B. Koppelman, Marschall, McWilliams, Olson)
(Senators Armstrong, D. Larson)

AN ACT to create and enact a new subdivision to subsection 2 of section 62.1-04-03 of the North Dakota Century Code, relating to licenses to carry concealed weapons; to amend and reenact subdivision m of subsection 2 of section 62.1-02-05 of the North Dakota Century Code, relating to possessing a firearm or dangerous weapon at a public gathering; to provide for a legislative management study; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁹ **SECTION 1. AMENDMENT.** Subdivision m of subsection 2 of section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

- m. A state, federal, or municipal court judge, a ~~district court magistrate~~ judge or judicial referee, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer, if the individual 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.

SECTION 2. A new subdivision to subsection 2 of section 62.1-04-03 of the North Dakota Century Code is created and enacted as follows:

An individual who has a valid class 2 firearm license may apply to upgrade to a class 1 firearm license within five years from the date the class 2 firearm license was issued and upon successful completion of the requirements under this chapter. An individual who has a valid class 1 firearm license may request to convert the license to a class 2 firearm license before the expiration of the class 1 firearm license.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - FIREARMS AND WEAPONS LAWS. During the 2017-18 interim, the legislative management shall consider studying those provisions of the North Dakota Century Code that relate to firearms and weapons, for the purpose of eliminating provisions that are irrelevant or duplicative, clarifying provisions that are inconsistent or unclear in their intent and direction, and rearranging provisions in a logical order. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

²¹⁹ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1279, chapter 430, section 1 of House Bill No. 1273, chapter 429, section 3 of House Bill No. 1395, chapter 428, section 4 of Senate Bill No. 2097, chapter 258, and section 1 of Senate Bill No. 2125, chapter 431.

Approved April 17, 2017

Filed April 17, 2017