

SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act to create and enact ~~section 20.1-02-33~~ chapter 20.1-18 of the North Dakota
2 Century Code, relating to a database identifying whether private land is open to hunters; to
3 amend and reenact sections 12.1-22-03, 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of
4 the North Dakota Century Code, relating to criminal trespass and hunting on private land; to
5 ~~repeal section 20.1-01-17 of the North Dakota Century Code, relating to posting land~~ provide a
6 statement of legislative intent; to provide for a legislative management study; and to provide a
7 penalty.

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

9 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **12.1-22-03. Criminal trespass – ~~Noncriminal offense on posted property.~~**

- 12 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
13 or privileged to do so, the individual enters or remains in a dwelling or in highly
14 secured premises.
- 15 2. An individual is guilty of a class A misdemeanor if, knowing that ~~that~~ the individual is
16 not licensed or privileged to do so, the individual:
- 17 a. ~~Enters~~ enters or remains in or on any building, occupied structure, ~~or~~ storage
18 structure, ~~or~~ separately secured or occupied portion thereof; ~~or~~
- 19 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~
20 building or structure, or any other place the individual is not licensed or privileged
21 to be, except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and
22 20.1-18-03.
- 23 3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is
24 not licensed or privileged to do so, the individual enters or remains in any place

1 as to which notice against trespass is given by actual communication to the actor
2 by the individual in charge of the premises or other authorized individual or by
3 posting in a manner reasonably likely to come to the attention of intruders. The
4 name of the person posting the premises must appear on each sign in legible
5 characters.

6 b. Even if the conduct of the owner, tenant, or individual authorized by the owner
7 varies from the provisions of subdivision a, an individual may be found guilty of
8 violating subdivision a if the owner, tenant, or individual authorized by the owner
9 substantially complied with subdivision a and notice against trespass is clear
10 from the circumstances.

11 e. An individual who violates subdivision a is guilty of a class A misdemeanor for the
12 second or subsequent offense within a two-year period.

13 4. a. An individual, knowing the individual is not licensed or privileged to do so, may
14 not enter or remain in a place as to which notice against trespass is given by
15 posting in a manner reasonably likely to come to the attention of intruders. A
16 violation of this subdivision is a noncriminal offense.

17 b. A peace officer shall cite an individual who violates subdivision a with a fine of
18 two hundred fifty dollars for each violation.

19 e. The peace officer citing the individual shall:

20 (1) Take the name and address of the individual; and

21 (2) Notify the individual of the right to request a hearing if posting bond by mail.

22 d. The peace officer may not take the individual into custody or require the
23 individual to proceed with the peace officer to any other location for the purpose
24 of posting bond. The officer shall provide the individual with an envelope for use
25 in mailing the bond.

26 e. An individual cited may appear before the designated official and pay the
27 statutory fine for the violation at or before the time scheduled for hearing.

28 f. If the individual has posted bond, the individual may forfeit bond by not appearing
29 at the designated time.

30 g. If the individual posts bond by mail, the bond must be submitted within fourteen
31 days of the date of the citation and the individual cited shall indicate on the

1 envelope or citation whether a hearing is requested. If the individual does not
2 request a hearing within fourteen days of the date of the citation, the bond is
3 deemed forfeited and the individual is deemed to have admitted to the violation
4 and to have waived the right to a hearing on the issue of commission of the
5 violation. If the individual requests a hearing, the court for the county in which the
6 citation is issued shall issue a summons to the individual requesting the hearing
7 notifying the individual of the date of the hearing before the designated official.

8 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
9 at the individual's request, the individual may make a statement in explanation of
10 the individual's action. The official may at that time waive or suspend the statutory
11 fine or bond.

12 i. A citing peace officer may not receive the statutory fine or bond.

13 j. The bond required to secure appearance before the judge must be identical to
14 the statutory fine established in subdivision b.

15 5. An individual is guilty of a class B misdemeanor if that individual remains upon the
16 property of another after being requested to leave the property by a duly authorized
17 individual. An individual who violates this subsection is guilty of a class A
18 misdemeanor for the second or subsequent offense within a two-year period.

19 6.4. This section does not apply to a peace officer in the course of discharging the peace
20 officer's official duties.

21 **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **20.1-01-18. Hunting on posted land and trapping on private land without permission**
24 **unlawful -- Penalty.**

25 ~~No person~~An individual may ~~not~~ hunt or pursue game, or enter for those purposes, upon
26 legally posted land belonging to another without first obtaining the permission of the person
27 legally entitled to grant the same permission, ~~or verifying the land is open to hunters by~~
28 ~~complying with subsection 3 of section 20.1-02-03.~~ No personAn individual may not enter upon
29 privately owned land for the purpose of trapping protected fur-bearing animals without first
30 gaining the written permission of the owner or operator of that land. A personAn individual who
31 violates this section is guilty of a class B misdemeanor for the first offense and a class A

1 ~~misdemeanor for a subsequent offense within a two-year period~~unless the land is designated as
2 closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is
3 legally posted in accordance with section 20.1-01-17.

4 **SECTION 3. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **20.1-01-19. When ~~posted~~private land may be entered.**

7 Any person~~An individual~~ may enter upon legally ~~posted~~private land to recover game shot or
8 killed on land where the person~~individual~~ had a lawful right to hunt.

9 **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm**
12 **prima facie evidence of intent to hunt game.**

13 Proof that a person~~an individual~~ ~~having~~an individual had a firearm, or other weapon
14 declared legal by governor's proclamation, ~~in the person's~~individual's possession and a valid
15 license to hunt game in the relevant area when the individual entered upon the legally-
16 ~~posted~~private premises of another without permission of the owner or tenant is prima facie
17 evidence the person~~individual~~ entered to hunt or pursue game.

18 ~~SECTION 5. Section 20.1-02-33 of the North Dakota Century Code is created and enacted~~
19 ~~as follows:~~

20 ~~**20.1-02-33. Private land open to hunters - Publicly accessible database - Penalty.**~~

21 ~~1. If a person legally entitled to give permission to enter private land wants to make the~~
22 ~~land open to hunters, the person shall notify the director on a form prescribed by the~~
23 ~~director. The notification must include information the director deems necessary to~~
24 ~~identify the boundaries of the private land open to hunters.~~

25 ~~2. The director shall make the information identifying the private land made open to~~
26 ~~hunters under subsection 1 accessible to the public, including in an electronic format~~
27 ~~available on the department's website. The information must be made available in a~~
28 ~~format that allows hunters to identify easily which private land is open to hunters.~~

29 ~~3. Before entering private land to hunt or pursue game, an individual shall verify the~~
30 ~~publicly available information under subsection 2 indicates the land is open to hunters.~~
31 ~~Unless the individual has permission to hunt or pursue game on the land from a~~

~~person legally entitled to give the permission, an individual is guilty of a class B misdemeanor if the individual hunts or pursues game on private land, or enters private land to hunt or pursue game, when the land is not identified as open to hunters in the publicly available information under subsection 2.~~

SECTION 5. AMENDMENT. Section 20.1-03-42 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-42. Guiding on prohibited lands.

1. A person may not act as a hunting guide or hunting outfitter on land the person knows is owned by the state unless the appropriate state agency permits or authorizes the guiding or outfitting, on private land enrolled by the department for purposes of hunting, on land in which the department pays in lieu of taxes, or on federal lands without being authorized or permitted as required by the appropriate federal agency, ~~or.~~

2. A person may not act as a hunting guide or outfitter on private lands that are posted against hunting or trespassing under section 20.1-01-17 or private lands that are designated as closed to hunters or open to hunters with permission under section 20.1-18-02, without first informing and obtaining permission from the landowner to conduct guiding or outfitting on the land. If the landowner did not grant the permission in writing, there is a presumption that the permission did not exist.

~~**SECTION 7. REPEAL.** Section 20.1-01-17 of the North Dakota Century Code is repealed.~~

SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as follows:

20.1-18-01. Hunters access advisory group.

1. The hunters access advisory group consists of:
 - a. The agriculture commissioner or the commissioner's designee;
 - b. The director or the director's designee;
 - c. The chief information officer or the officer's designee;
 - d. A representative of the North Dakota association of counties;
 - e. Two members of agriculture organizations; and
 - f. Two members of sportsmen organizations.

1 2. The hunters access advisory group shall oversee the development of the hunters
2 access database identifying private land in the state as open to hunters, closed to
3 hunters, or open to hunters with permission from the owner or lawful occupant.

4 3. The hunters access advisory group shall establish guidelines for the development of
5 the database and acceptance criteria for county data used to develop the database.

6 **20.1-18-02. Hunters access database.**

7 1. The hunters access database must use color coding or other clear indicators to
8 designate private land in the state as open to hunters, closed to hunters, or open to
9 hunters with permission from the owner or lawful occupant.

10 2. A landowner or lawful occupant may designate which of the three categories in
11 subsection 1 applies to the landowner's or occupant's land. Land for which a
12 landowner or lawful occupant does not designate a category must be indicated in the
13 database as open to hunters if the county in which the land is located is included in the
14 database.

15 3. If a landowner or lawful occupant designates land as open to hunters with permission,
16 the landowner or lawful occupant shall provide contact information to be included in
17 the database for hunters to request permission to hunt on the land.

18 4. The database must be accessible electronically to the public and may be made
19 available to the public through other means, including smartphone applications.

20 5. To be included in the database, a county shall provide geographic information system
21 data or other data to the information technology department which meets the criteria
22 established by the hunters access advisory group.

23 **20.1-18-03. Noncompliance with database and posting - Penalty.**

24 1. Until the county in which private land is located is included in the hunters access
25 database, the land is deemed open unless posted in accordance with section
26 20.1-01-17.

27 2. After a county is included in the database:

28 a. A hunter may not enter land in the county which is designated in the database as
29 closed to hunters or open to hunters with permission unless the hunter has
30 permission to enter the land or otherwise is entitled to enter the land. A hunter is

1 guilty of an infraction for a first knowing violation and a class B misdemeanor for
2 a second and subsequent knowing violation of this subdivision; and

3 b. A hunter without permission may enter land in the county which is not designated
4 in the database as closed to hunters or open to hunters with permission, unless
5 the land is posted in accordance with section 20.1-01-17.

6 3. A hunter may not enter land that is posted in accordance with section 20.1-01-17
7 unless the hunter has permission to enter the land or otherwise is entitled to enter the
8 land, regardless of the designation of the land in the database. A hunter is guilty of an
9 infraction for a first knowing violation and a class B misdemeanor for a second and
10 subsequent knowing violation of this subsection.

11 **SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is
12 the intent of the legislative assembly that several counties will be included in an operational
13 hunters access database by the fall hunting season of 2020, and the operational database will
14 include all counties whose data meet the specifications of the hunters access database
15 advisory group by September 1, 2022.

16 **SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR**
17 **HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall
18 consider studying access to public and private lands for hunting, trapping, and related issues.
19 The legislative management shall report its findings and recommendations, together with any
20 legislation required to implement the recommendations, to the sixty-seventh legislative
21 assembly.