

HB 1383

Problems created by HB 1383:

- Prohibits agency or political subdivision or law enforcement from assisting federal agencies in federal investigation of firearm violations. Also requires a federal agency who seeks assistance in such matters to go to state district court and first demonstrate a national security threat exists.
- There are not enough Federal Agents in North Dakota to enforce violations without the assistance of local and state law enforcement.
- This would negatively affect the local and state law enforcement for ND. This would include the Bureau of Criminal Investigation (BCI) as BCI has two current agents that are federally deputized with DEA and ATF. Also, the Bismarck Police Department has two officers is federally deputized with DEA. Other local law enforcement agencies have officers who are federally deputized as US Marshals.
- If new federal firearms laws would pass, this mean the deputized BCI agents and Bismarck PD detectives would be allowed to enforce the federal law, but remaining BCI agents and local law enforcement officers would not be allowed to assist their own coworker(s).
- There are also federal agents on multiple drug tasks forces around the state.
- Enactment of this would also have unintended consequences, and possibly fracture relationships between local and federal law enforcement who regularly work together on a multitude of criminal investigations. Those investigations may have firearms violations intertwined with other criminal offenses making it nearly impossible for law enforcement to discern when local officers could assist and when their assistance would cross into violation of this new statute.
- This bill also provides no language as to what happens if a local law enforcement officer were to act in violation of the statute. What is the remedy? Who seeks the remedy? Who is this new statute intended to protect, the alleged criminal?
- May also result in litigation regarding the need to divulge a national security threat in a state district court.

- Constitutional issues - Potential federal preemption/Supremacy Clause issues with respect to the national security threat/state district court provision, and with respect to potential conflicts with federal statutes, such as 21 U.S.C. § 873, 34 U.S.C. § 12541 that address joint law enforcement task forces, where investigation of firearm violations may be involved directly or indirectly. The Supremacy Clause is implicated in forcing federal authorities to seek a ND State District Court order to enforce a federal statute, order, rule, or regulation. It is hard to believe that a ND State District Court would be the proper venue to determine if a "national security threat exists".