

# WEAPONS

## CHAPTER 494

### HOUSE BILL NO. 1248

(Representative B. Koppelman)

AN ACT to amend and reenact section 62.1-01-03 of the North Dakota Century Code, relating to the authority of a political subdivision regarding firearms.

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

**SECTION 1. AMENDMENT.** Section 62.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

**62.1-01-03. Limitation on authority of political subdivision regarding firearms - Civil action.**

1. A political subdivision, including home rule cities or counties, may not enact a zoning ordinance or any other ordinance relating to the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition which is more restrictive than state law. All such existing ordinances are void.
2. A person aggrieved under subsection 1 may bring a civil action against a political subdivision for damages as a result of an unlawful ordinance.

Approved April 21, 2021

Filed April 22, 2021

## CHAPTER 495

### HOUSE BILL NO. 1383

(Representatives Becker, Dockter, Kasper, Nehring, Rohr, M. Ruby, Steiner)  
(Senators Elkin, Kannianen, Meyer, Wobbema)

AN ACT to create and enact a new section to chapter 62.1-01 of the North Dakota Century Code, relating to the limitation on enforcing or providing assistance regarding violations of federal firearm laws; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 62.1-01 of the North Dakota Century Code is created and enacted as follows:

##### **Federal firearms laws - Limitations on enforcement.**

1. As used in this section, "firearm accessory" means an item used in conjunction with or mounted on a firearm but is not essential to the basic function of a firearm. The term includes a detachable firearm magazine.
2. An agency or political subdivision of the state and a law enforcement officer or individual employed by an agency or political subdivision of the state may not provide assistance to a federal agency or official or act independently with respect to the investigation, prosecution, or enforcement of a violation of a federal statute, order, rule, or regulation purporting to regulate a firearm, firearm accessory, or firearm ammunition enacted after January 1, 2021, if the federal statute, order, rule, or regulation is more restrictive than state law, unless:
  - a. The federal agency appeals to the federal district court of the federal district in which the violation or possible violation occurred or would occur and the court finds probable cause that a national security threat exists;
  - b. The violation also is a violation under this title; or
  - c. The violation also is a violation of chapter 12.1-16, 12.1-17, 12.1-18, 12.1-20, 12.1-41, or 19-03.1.
3. This section does not prohibit an agency or political subdivision of the state or a law enforcement officer or individual employed by an agency or political subdivision of the state from providing assistance to a federal agency or official for an offense not related to firearms or an offense to which firearms are incidental, including a drug offense, homicide, assault, kidnapping, sex offense, or human trafficking.
4. This section does not prohibit law enforcement from providing assistance to a federal agency or official if the investigation also pertains to a felony violation of state law.

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

Approved April 22, 2021

Filed April 23, 2021

## CHAPTER 496

### HOUSE BILL NO. 1297

(Representative B. Koppelman)

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

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

<sup>346</sup> **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 an infraction. For the purpose of this section, "public gathering" means a~~ may not possess a firearm or dangerous weapon at:
  - a. ~~athletic or sporting~~ A school or school-sponsored event on school property;
    - a;
  - b. ~~school, a~~ A church or other place of worship, and a; or
  - c. 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;

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<sup>346</sup> Section 62.1-02-05 was also amended by section 2 of House Bill No. 1463, chapter 497.

- 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 and public 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~~who is authorized under section 62.1-04-02 to carry a firearm or dangerous weapon concealed or who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry a firearm or 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 primary religious leader or the governing body of the church or other place of worship~~approves the individual or group of individuals to carry a firearm or dangerous weapon through a policy or any other means;
  - m. A state, federal, or municipal court judge, a district court magistrate judge or judicial referee, and a staff member of the office of attorney general 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;
  - n. 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; and
  - o. An individual authorized to carry a concealed weapon on school property under section 62.1-02-14.
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.
5. This section does not prevent the governing body of a school or the entity exercising control over a publicly owned or operated building or property from authorizing the use of a less than lethal weapon as part of the security plan for the school, building, or property.
6. An individual who knowingly violates this section is guilty of an infraction.

Approved April 22, 2021

Filed April 23, 2021

## CHAPTER 497

### HOUSE BILL NO. 1463

(Representatives Heinert, Howe, Meier, Pyle, M. Ruby)  
(Senators Larson, Myrdal, Bell)

AN ACT to create and enact a new subsection to section 43-30-16 and a new subdivision to subsection 2 of section 62.1-02-05 of the North Dakota Century Code, relating to application and renewal fees for armed first responder course instructor certification and possession of a concealed firearm or dangerous weapon; and to amend and reenact subsection 7 of section 62.1-02-14 of the North Dakota Century Code, relating to licensing of instructors of armed first responders in schools.

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

<sup>347</sup> **SECTION 1.** A new subsection to section 43-30-16 of the North Dakota Century Code is created and enacted as follows:

The initial application fee for a certified course instructor for an armed first responder training certification may not exceed four hundred dollars. A fee for renewal of a course instructor certification for an armed first responder program may not exceed three hundred dollars.

<sup>348</sup> **SECTION 2.** 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 who is on an ambulance or firefighter crew while the individual is on duty if:

- (1) The individual has written permission from the governing body or owner of the fire department or ambulance service;
- (2) The individual possesses a valid class 1 concealed weapons license;
- (3) The individual has successfully completed a weapons training course developed by the North Dakota private investigative and security board; and
- (4) The governing body or owner of the fire department or ambulance crew provides written notice to the bureau of criminal investigation of the individuals authorized or no longer authorized to carry a firearm or dangerous weapon under this section, including that all training and certification requirements have been satisfied.

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<sup>347</sup> Section 43-30-16 was also amended by section 4 of Senate Bill No. 2095, chapter 321, and section 1 of Senate Bill No. 2096, chapter 319.

<sup>348</sup> Section 62.1-02-05 was also amended by section 1 of House Bill No. 1297, chapter 496.

<sup>349</sup> **SECTION 3. AMENDMENT.** Subsection 7 of section 62.1-02-14 of the North Dakota Century Code is amended and reenacted as follows:

7. The plan submitted by the school to the superintendent of public instruction must require the selected individual to complete ~~training equivalent to the South Dakota school sentinel program as established on August 1, 2019, or complete the course established by the private investigative and security board.~~ The private investigative and security board shall establish standards equivalent to the South Dakota school sentinel program and may license and certify course instructors, audit the course, and set administrative fees for licensure and certification.

Approved April 19, 2021

Filed April 20, 2021

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<sup>349</sup> Section 62.1-02-14 was also amended by section 2 of Senate Bill No. 2096, chapter 321.

## CHAPTER 498

### HOUSE BILL NO. 1293

(Representatives Becker, Kasper, M. Ruby, Simons)

AN ACT to amend and reenact sections 62.1-02-10, 62.1-03-01, and 62.1-04-02 of the North Dakota Century Code, relating to handguns and carrying firearms or dangerous weapons concealed.

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

**SECTION 1. AMENDMENT.** Section 62.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

#### **62.1-02-10. Carrying loaded firearm in certain vehicles prohibited - Penalty - Exceptions.**

An individual may not keep or carry a loaded firearm in or on any motor vehicle, including an off-highway vehicle or snowmobile in this state. An individual violating this section is guilty of an infraction. This prohibition does not apply to:

1. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations while possessing the firearm issued to the member by the organization and while on official duty.
2. A law enforcement officer.
3. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 with a handgun, ~~or with a rifle or shotgun if not in the field hunting or trapping.~~
4. An individual who possesses a rifle or shotgun, is not in the field hunting or trapping, and possesses a valid concealed weapons license from this state or has reciprocity under section 62.1-04-03.1.
5. An individual in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.
- ~~5-6.~~ A security guard or private investigator properly licensed to carry firearms.
- ~~6-7.~~ An individual possessing a valid special permit issued pursuant to section 20.1-02-05.
- ~~7-8.~~ An individual with a handgun who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and who has possessed for at least ~~one year~~thirty days a valid driver's license or nondriver identification card issued by the department of transportation.
9. An individual who possesses a rifle or shotgun, is not in the field hunting or trapping, and 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 thirty days a valid driver's license or nondriver identification card issued by the department of transportation.

**SECTION 2. AMENDMENT.** Section 62.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

**62.1-03-01. Carrying handgun - Limitations - Exceptions.**

1. Unless otherwise prohibited by law, an individual may carry a handgun if:
  - a. ~~The the handgun is unloaded, and in plain view or secured, ~~and between the hours of one hour before sunrise and one hour after sunset.~~~~
  - b. ~~The handgun is unloaded and secured and between the hours of one hour after sunset and one hour before sunrise.~~
2. A limitation under ~~subdivision a or b~~ of subsection 1 does not apply to:
  - a. An individual possessing a valid concealed weapons license from this state, an individual not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and who has possessed for at least ~~one year~~ thirty days a valid driver's license or nondriver identification card issued by the department of transportation, or an individual who has reciprocity under section 62.1-04-03.1.
  - b. An individual on that person's land, or in that individual's permanent or temporary residence, or fixed place of business.
  - c. An individual while lawfully engaged in target shooting.
  - d. An individual while in the field engaging in the lawful pursuit of hunting or trapping. However, nothing in this exception authorizes the carrying of a loaded handgun in a motor vehicle.
  - e. An individual permitted by law to possess a firearm while carrying the handgun unloaded and in a secure wrapper from the place of purchase to that person's home or place of business, or to a place of repair or back from those locations.
  - f. Any North Dakota law enforcement officer.
  - g. Any law enforcement officer of any other state or political subdivision of another state ~~if on official duty within this state~~ who possesses active law enforcement credentials.
  - h. Any armed security guard or investigator as authorized by law when on duty or going to or from duty.
  - i. Any member of the armed forces of the United States when on duty or going to or from duty and when carrying the handgun issued to the member.
  - j. Any member of the national guard, organized reserves, state defense forces, or state guard organizations, when on duty or going to or from duty and when carrying the handgun issued to the member by the organization.

- k. Any officer or employee of the United States duly authorized to carry a handgun.
- l. An individual engaged in manufacturing, repairing, or dealing in handguns or the agent or representative of that individual possessing, using, or carrying a handgun in the usual or ordinary course of the business.
- m. Any common carrier, but only when carrying the handgun as part of the cargo in the usual cargo carrying portion of the vehicle.

**SECTION 3. 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 - License distinctions.**

1. An individual, other than a law enforcement officer, may not carry 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~~ thirty days a valid driver's license or nondriver identification card issued by the department of transportation may carry a firearm concealed under this chapter.
3. An individual may carry a firearm concealed under this chapter if the individual qualifies for reciprocity under section 62.1-04-03.1 and the individual has the equivalent of a class 2 firearm and dangerous weapon license from the state in which the individual is a resident.
4. For purposes of this chapter, the difference between a class 1 and class 2 firearm and dangerous weapon license is only the extent to which a holder of either license may be eligible to receive reciprocal rights in other jurisdictions. A class 1 firearm and dangerous weapon licenseholder is eligible to receive reciprocal rights in more jurisdictions than a class 2 firearm and dangerous weapon licenseholder. The rights and privileges conveyed by a class 1 or class 2 firearm and dangerous weapon license within the state are identical.

Approved April 21, 2021

Filed April 22, 2021

## CHAPTER 499

### HOUSE BILL NO. 1450

(Representative B. Koppelman)

AN ACT to amend and reenact subsection 1 of section 62.1-04-03 of the North Dakota Century Code, relating to a license to carry a firearm or dangerous weapon concealed; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The 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 director if the following criteria are met:
  - a. The applicant is at least twenty-one years of age for a class 1 firearm license or at least eighteen years of age for a class 2 firearm and dangerous weapon license;
  - b. The applicant can demonstrate that the applicant is a resident of this state by providing a copy of a valid driver's license or state-issued identification card from this state that establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or the applicant possesses a valid driver's license from the applicant's state of residence that establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which state has reciprocity with this state under section 62.1-04-03.1;
  - c. The applicant is not an individual specified in section 62.1-02-01 and for a class 1 firearm license the applicant:
    - (1) Has not been convicted of a felony;
    - (2) Has not been convicted of a crime of violence;
    - (3) Has not been convicted of an offense involving the use of alcohol within ~~ten~~three years prior to the date of application;
    - (4) Has not been convicted of a misdemeanor offense involving the unlawful use of narcotics or other controlled substances within ten years prior to the date of application;
    - (5) Has not been convicted of an offense involving moral turpitude;
    - (6) Has not been convicted of an offense involving domestic violence;

- (7) Has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
- (8) Is qualified to purchase and possess a firearm under federal law;
- d. The applicant has successfully completed the testing procedure conducted by a certified test administrator. The person conducting the testing may assess a charge of up to fifty dollars for conducting this testing. The attorney general may certify a test administrator based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation;
- e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed the criminal history records check conducted by the bureau of criminal investigation and the federal bureau of investigation. The applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or ~~alcohol~~ or substance abuse. 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. The bureau may deny approval for a license if the bureau has reasonable cause to believe that the applicant or licenseholder has been or is a danger to self or others as demonstrated by evidence, including past pattern of behavior involving unlawful violence or threats of unlawful violence; past participation in incidents involving unlawful violence or threats of unlawful violence; or conviction of a weapons offense. In determining whether the applicant or licenseholder has been or is a danger to self or others, the bureau may inspect expunged or sealed records of arrests and convictions of adults and juvenile court records; and
- f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that individual's control.

**SECTION 2. EXPIRATION DATE.** This Act is effective until the date the attorney general certifies to the legislative council that the enactment of section 1 impacts the reciprocity of class 1 firearm and dangerous weapons licenseholders carrying a concealed firearm or dangerous weapon in the state of Minnesota, and after that date is ineffective.

Approved April 19, 2021

Filed April 20, 2021