

**SENATE BILL NO. 2402**

Introduced by

Senator O'Connell

1 A BILL for an Act to amend and reenact section 12.1-23-05 of the North Dakota Century Code,  
2 relating to the theft of firearms; and to provide a penalty.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-23-05 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **12.1-23-05. Grading of theft offenses.**

- 7 1. Notwithstanding the provisions of subsection 2, theft under this chapter is a class B  
8 felony if the property or services stolen exceed ten thousand dollars in value ~~or~~, if  
9 the property or services stolen are acquired or retained by a threat to commit a  
10 class A or class B felony or to inflict serious bodily injury on the person threatened  
11 or on any other person, or if the property stolen is a firearm.
- 12 2. Theft under this chapter is a class C felony if:
- 13 a. The property or services stolen exceed five hundred dollars in value;
  - 14 b. The property or services stolen are acquired or retained by threat and (1) are  
15 acquired or retained by a public servant by a threat to take or withhold official  
16 action, or (2) exceed fifty dollars in value;
  - 17 c. The property or services stolen exceed fifty dollars in value and are acquired  
18 or retained by a public servant in the course of official duties;
  - 19 d. The property stolen is ~~a firearm~~, ammunition, an explosive or a destructive  
20 device, or an automobile, aircraft, or other motor-propelled vehicle;
  - 21 e. The property consists of any government file, record, document, or other  
22 government paper stolen from any government office or from any public  
23 servant;

- 1 f. The defendant is in the business of buying or selling stolen property and the  
2 defendant receives, retains, or disposes of the property in the course of that  
3 business;
- 4 g. The property stolen consists of any implement, paper, or other thing uniquely  
5 associated with the preparation of any money, stamp, bond, or other  
6 document, instrument, or obligation of this state;
- 7 h. The property stolen consists of livestock taken from the premises of the  
8 owner;
- 9 i. The property stolen consists of a key or other implement uniquely suited to  
10 provide access to property the theft of which would be a felony and it was  
11 stolen to gain such access; or
- 12 j. The property stolen is a card, plate, or other credit device existing for the  
13 purpose of obtaining money, property, labor, or services on credit, or is a debit  
14 card, electronic fund transfer card, code, or other means of access to an  
15 account for the purposes of initiating electronic fund transfers.
- 16 3. All other theft under this chapter is a class A misdemeanor, unless the  
17 requirements of subsection 4 are met.
- 18 4. Theft under this chapter of property or services of a value not exceeding two  
19 hundred fifty dollars ~~shall be~~ is a class B misdemeanor if:
- 20 a. The theft was not committed by threat;
- 21 b. The theft was not committed by deception by one who stood in a confidential  
22 or fiduciary relationship to the victim of the theft; and
- 23 c. The defendant was not a public servant or an officer or employee of a  
24 financial institution who committed the theft in the course of official duties.
- 25 The special classification provided in this subsection ~~shall apply~~ applies if the  
26 offense is classified under this subsection in the charge or if, at sentencing, the  
27 required factors are established by a preponderance of the evidence.
- 28 5. Notwithstanding ~~the provisions of~~ subsection 3 of section 12.1-06-01, an attempt to  
29 commit a theft under this chapter is punishable equally with the completed offense  
30 when the actor has completed all of the conduct which ~~he~~ the actor believes

- 1                    necessary on ~~his~~ the actor's part to complete the theft except receipt of the  
2                    property.
- 3                    6. For purposes of grading, the amount involved in a theft under this chapter ~~shall be~~  
4                    is the highest value by any reasonable standard, regardless of the actor's  
5                    knowledge of such value, of the property or services which were stolen by the  
6                    actor, or which the actor believed that the actor was stealing, or which the actor  
7                    could reasonably have anticipated to have been the property or services involved.  
8                    Thefts committed pursuant to one scheme or course of conduct, whether from the  
9                    same person or several persons, may be charged as one offense and the amounts  
10                    proved to have been stolen may be aggregated in determining the grade of the  
11                    offense.