

Office of Attorney General

NORTH DAKOTA CONCEALED WEAPON LICENSE



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NOTICE

IT IS THE RESPONSIBILITY OF THE APPLICANT/RENEWAL APPLICANT TO COMPLY FULLY WITH ALL RULES, REGULATIONS, AND PROCESSES RELATING TO APPLYING FOR A LICENSE TO CARRY A CONCEALED WEAPON.

IT IS THE CONCEALED WEAPON LICENSE HOLDER'S DUTY AND RESPONSIBILITY TO KNOW, UNDERSTAND, AND COMPLY WITH ALL APPLICABLE STATE AND FEDERAL LAWS.

A LICENSE HOLDER MAY NOT CARRY CONCEALED IF THE LICENSE HAS EXPIRED, EVEN IF THE RENEWAL APPLICATION IS BEING PROCESSED. TIMELY RENEWAL IS THE RESPONSIBILITY OF THE LICENSE HOLDER.

THE OFFICE OF ATTORNEY GENERAL AND THE BCI ARE PROHIBITED BY LAW FROM PROVIDING LEGAL ADVICE OR ASSISTANCE TO THE PUBLIC. FOR AN INTERPRETATION OF STATE OR FEDERAL LAWS AND THEIR APPLICABILITY, CONTACT AN ATTORNEY IN PRIVATE PRACTICE.

THE CONCEALED WEAPONS WEBSITE

It is *extremely important* that all initial and renewal applicants review the information on the Concealed Weapon License pages of the Attorney General's website:

www.ag.nd.gov.

Why?

Because ... your license is good for five years BUT the legislature meets every two years. If, during a legislative session, any of the laws that affect possession of weapons or concealed weapons are changed ...

- **AS A LICENSE HOLDER, YOU HAVE AN OBLIGATION TO BE AWARE OF, AND COMPLY WITH, THE LAWS, EVEN IF THEY HAVE CHANGED SINCE YOUR LICENSE WAS ISSUED.**

That means between the time you get your license and the time to renew it, the laws may have been changed twice or even three times – and the application and renewal process may have changed, too.

As a service to our license holders, the information on our website is **always** current. When the laws, forms, procedures or rules change, we update the information on our website. If you have a question about the application or renewal process - what you need to do, where to do it, or how long it takes - go to the website. **The answers are there!**

- Go to www.ag.nd.gov then click on the "Concealed Weapon Licenses" link.

Please do not call the BCI to inquire about the status of your application – we are prohibited by law from providing status information, even to the applicant.

GENERAL INFORMATION

APPLICATION FORMS

The BCI does not provide hard copies of the form. You can COMPLETE the application form ONLINE by going to the Concealed Weapon License page of the Attorney General's website, at www.ag.nd.gov.

If you are a new applicant, once you have completed the application form and printed it off, you will need to take the test. A list of certified test administrators is online at <http://www.ag.nd.gov/BCI/CW/CW.htm>. **TAKE THE COMPLETED APPLICATION FORM WITH YOU.**

The same form (07/2015) is used for both NEW applications and RENEWAL applications.

APPLICATION STATUS

An applicant must be a **lawful resident of the United States**.

TYPE OF LICENSE

There are two types of licenses: **Class 1** and **Class 2**. The licenses cost the same and are equally valid within North Dakota, but because of the additional testing requirements, the holders of a Class 1 license have reciprocity in many more states than those who hold a Class 2 license.

MINIMUM AGE

An applicant must be at least 21 years old to apply for a Class 1 License, or at least 18 years old to apply for a Class 2 License.

PROHIBITED APPLICANTS

Concealed weapon licenses may only be issued to those who legally may possess a firearm or dangerous weapon. Individuals may be prohibited by state or federal law from owning, possessing, or having a firearm under their control.

ADDRESS CHANGE

License holders are **required** to submit a change of address in writing via regular mail to the BCI within 30 days after an address change. The notification must include license holder's name, license number, old address and new address.

Upon request of the license holder, the BCI will issue an updated license. There is no charge for an updated license, but the old license must be **returned** to the BCI before the updated one can

be issued. Generally it takes about 2 – 3 weeks for a license to be reissued. For security reasons, the BCI will not accept change of address notification by e-mail or telephone.

- Instructions are on the Concealed Weapons License page at www.ag.nd.gov.

LOST OR DESTROYED LICENSES

If a license is lost or destroyed, a replacement may be obtained from BCI. Send a written request to the BCI indicating the license holder's name, address, date of birth, and the reason a replacement is needed. There is no charge for a replacement license. It generally takes 2 – 3 weeks for the replacement license to be issued.

- Instructions are on the Concealed Weapons License page at www.ag.nd.gov.

RESTORATION OF FIREARM PRIVILEGES

An individual who has been convicted of a non-violent felony offense or a misdemeanor offense may be eligible to petition the court for restoration of firearm privileges.

The Office of Attorney General and the BCI are prohibited from providing legal advice or assistance to the public and therefore we cannot provide any further information about this process. For more information, or to initiate a petition, contact an attorney in private practice.

LEAVING NORTH DAKOTA?

If you have a ND-resident concealed weapon license and you move out of state, the ND license will become invalid – you will need to have it reissued as a non-resident license (there is no charge).

- Instructions are on the concealed weapon license page of the website, www.ag.nd.gov.

RECIPROCITY

North Dakota has “reciprocity” with many, but not all, other states. This means that a North Dakota concealed weapon license is valid while in those states, and licenses from those states are recognized as valid in North Dakota.

- BCI maintains a list of states with which North Dakota has reciprocity on the Concealed Weapon License page online at www.ag.nd.gov.

Reciprocity with another state may be conditional; for example, if the other state has a residency requirement, then it may allow reciprocity for ND licenses held by ND residents but not those held by non-ND residents. Many states limit reciprocity to only ND Class 1 licenses, not the Class 2 license. **It is the responsibility of the license holder to review the laws of both the issuing state and reciprocal state to ensure full compliance.**

TESTING

The concealed weapon testing may only be administered by a law enforcement officer who has registered as an instructor with the BCI or a certified civilian test administrator. A list of instructors is available online at www.ag.nd.gov, on the Concealed Weapons License link.

- All classroom instruction and testing must be completed within the State of North Dakota and cannot be held in conjunction with any other state's concealed weapons laws or procedures.
- Testing requirements cannot be waived for any applicant other than ND POST Board certified active duty officers. Holders of a valid license/permit from another state are not exempt from the testing required for a ND license.
- Applicants are allowed a maximum of 1 hour to complete the written test.

TESTING FEE

A test administrator may charge a maximum of \$50.00 (plus range fees, if applicable). The fee *includes* a complete copy of the current ND Concealed Weapon License Manual for the applicant to keep.

- Range fees may not be paid directly to the test administrator.

TESTING REQUIREMENTS – CLASS 1 LICENSE

An applicant for a Class 1 license must:

1. Participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota;
2. Successfully complete an open book test based on information contained in this manual;
3. Demonstrate familiarity with a firearm;* and
4. Successfully complete a certified proficiency (shooting) exercise.

* EVIDENCE OF FAMILIARITY

Evidence of familiarity with a firearm (one of four requirements of the Class 1 test) may be satisfied by one of the following:

- Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous weapons instructor;
- Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;
- Possession of a license from another state to carry a firearm, concealed or otherwise, which is granted by that state upon completion of a course described above; or

- Evidence that the applicant, during military service, was found to be qualified to operate a firearm.

A Class 1 license may be downgraded to a Class 2 license on renewal, with no additional testing required.

TESTING REQUIREMENTS – CLASS 2 LICENSE

An applicant for a Class 2 license must:

1. Successfully complete an open book test based upon this manual.

APPLICATIONS

THE APPLICATION FORM

COMPLETE THE APPLICATION FORM ONLINE. The form is on the Concealed Weapon License page of the Attorney General's website at www.ag.nd.gov. The same application form (dated 07/2015) is used for both INITIAL and RENEWAL applications.

Provide all requested information. Make sure you answer **every** question.

- **Applicants' responses (questions 1-11) must fully disclose all offenses for which they have EVER been charged, arrested, plead guilty or found guilty at any time in their life, EVEN if the charge or conviction was later dismissed and even if the charge was expunged from the court record.** We suggest you review your complete criminal history record – see page 15 for further instructions.
- Failure to make full disclose will result in a denial on the grounds that the applicant has made a material misstatement.

SIGNATURES

When you have completed the form online, you will need to PRINT IT so that you can sign and date it in TWO PLACES.

- If testing is required, take the completed form with you. The test administrator must complete the testing information and also sign and date the form.

ATTACHMENTS TO THE APPLICATION

The following must be attached to the application form. Applications that do not have the proper attachments will be returned.

ALL APPLICANTS:

- (1) Two passport photographs—write your name on the back of each photograph;
 - The BCI will not accept alternate or substitute photographs.
 - i. For the photograph, applicants may not wear glasses (including prescription eye glasses), hats, scarves, head coverings, uniforms, or any items that obscure the facial features. For complete instructions, refer to the Administrative Rules on the Concealed Weapons License page (under "Read the Law").
 - ii. Photographs that do not conform to the BCI requirements will be rejected and the application will be returned to applicant.
- (2) A photocopy of your current state driver's license or (if you do not drive) your state issued non-driving identification card;
- (3) The nonrefundable application processing fee.

AND, if applicable:

- **NEW Applicants only-Fingerprints:** In addition, you must submit two fingerprint cards. Contact your local law enforcement agency or test administrator. Fingerprints are not required for renewal.
 - There may be a separate charge for fingerprinting.
- **NON-RESIDENT Applicants:** State of residency is determined by your state-issued license/identification card. If you are a resident of a state that has reciprocity with North Dakota, you must possess a concealed carry/concealed weapon license from your home state and submit a copy of the valid license with your application for a ND license. If your home state does not have reciprocity with ND, you are not eligible for a ND concealed weapon license.
 - For a list of reciprocal states, see: <http://www.ag.nd.gov/BCI/CW/reciprocity.htm>.
- **APPLICANTS BORN OUTSIDE THE UNITED STATES:** If you were born outside the United States or its territories (the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and the Northern Mariana Islands), you must attach a copy of your:
 - US-issued Born Abroad birth certificate, or
 - Alien Registration/INS Registration documentation (be sure also to write the registration number on your application form), or
 - Certificate of naturalization, or
 - Valid US Passport.
- **ACTIVE DUTY MILITARY ONLY:** Attach a copy of your PCS orders to ND. You are not required to have a concealed carry permit in your home state. If you do not have a concealed carry permit in your home state, your ND license is valid only until you PCS out of ND.

APPLICATION PROCESSING TIME

IT TAKES ABOUT 60 DAYS (8 WEEKS) FROM THE DATE THE BCI RECEIVES A SATISFACTORILY COMPLETED APPLICATION OR RENEWAL APPLICATION FORM.

It will take longer than 60 days if the application form is not properly completed or any of the required attachments are missing. Incomplete application forms may be denied or returned to the applicant to correct. The processing time for BCI begins **after** the *satisfactorily completed* application form is returned.

*****YOU CAN HELP US GET YOUR APPLICATION PROCESSED FASTER – COMPLETE THE APPLICATION FORM ONLINE! The online application checks to make sure you have provided all required information, and the computer generated form is quicker for us to process than the handwritten form.*****

- TO AVOID UNNECESSARY DELAYS IN PROCESSING YOUR APPLICATION, DOUBLE CHECK THE APPLICATION FORM AND ATTACHMENTS BEFORE SUBMITTING TO BCI.

“SATISFACTORILY COMPLETED”

An application/renewal form must be ***satisfactorily completed*** before it can be accepted as submitted to BCI. This means that all requested information has been provided, all applicable questions have been answered, applicant has signed and dated the form, the test administrator section is properly completed, all attachments have been included, and the application has been mailed to BCI within the applicable time period(s).

INCOMPLETE APPLICATIONS

An incomplete application will be returned to the applicant for completion. An incomplete application is not deemed submitted to the BCI until it is returned satisfactorily completed.

The satisfactorily completed application must be returned to the agency no later than thirty days from the post-mark date the incomplete application was returned to the applicant. Failure to return the satisfactorily completed application within the time required may result in denial of the application and the applicant will be required to recommence the entire application process.

Renewal applicants must return the satisfactorily completed renewal form to the BCI prior to the date of expiration of the license or the application may be denied and applicant will be required to recommence the entire application process.

STATUS OF APPLICATION / RENEWAL

If you completed the form correctly and it has all necessary signatures and all required attachments, it takes 60 days (8 weeks) to complete the processing of your application.

If your form is not correctly completed, or you are missing information/signatures/attachments, your application will be returned to you for correction. The time for processing your application does not begin until after the properly completed, corrected, form is returned to the BCI.

- **PLEASE NOTE: The BCI is prohibited by law from providing information about the status of a concealed weapon license application, EVEN to the applicant.**

WEAPON PURCHASE / NICS ALTERNATIVE

A federal fingerprint based (III) record check and a National Instant Check System (NICS) check is completed during the application process and the NICS number printed on the license for a North Dakota resident. The requirement for an NICS check for a firearm purchase by a Class 1 or Class 2 license holder may be waived at the dealer’s discretion. The NICS number is not printed on a non-resident’s license, so it cannot be used to purchase firearms.

NON RESIDENTS

A non-resident ND concealed weapon license cannot be used as an alternate to a NICS check when purchasing firearms.

LICENSE PERIOD

Licenses are valid for five years.

INVALID APPLICATIONS

The BCI may destroy invalid applications. The applicant will receive a notification by mail that the application/renewal was invalid and has been destroyed.

An application is invalid if it is:

- submitted more than 30 days after completion of required testing,
- a renewal submitted outside the renewal period or after the expiration of an existing license, or
- an outdated form (issue date prior to 07/2015).

Applicant will be required to restart the application process, including all testing.

The BCI encourages applicants to ensure the application/renewal form is valid and satisfactorily completed before submitting it.

MORE THAN 60 DAYS

DO NOT CALL THE BCI TO INQUIRE ABOUT THE STATUS OF YOUR APPLICATION. The BCI is prohibited by law from providing any information about the status of an application, EVEN to the applicant.

Occasionally, we experience difficulties while processing an application form –we need to obtain additional information or records from the applicant, from another state, or the fingerprints or photographs were not sufficient. While we are waiting to resolve the problem, the application is put on “hold.” Once the problem is corrected, the 60 day processing time resumes.

If it has been more than 60 days since you submitted a *satisfactorily completed application*, you can mail a letter to notify the BCI that you have not received the license. The BCI cannot accept notification by telephone or e-mail.

- **For complete instructions, refer to the Concealed Weapon License page online at www.ag.nd.gov.**

RENEWAL

TIMELY RENEWAL IS THE RESPONSIBILITY OF THE LICENSE HOLDER. An expired license cannot be renewed. Please carefully read the form and ALL questions – the laws may have changed since the last time you completed an application form.

TESTING

No testing is required for timely renewal of a Class 2 license.

A Class 1 license may be renewed upon successful completion of all class 1 testing requirements (including the proficiency test) within 30 days before submission to the BCI of a satisfactorily completed renewal application.

A Class 2 license may be upgraded to a Class 1 license upon successful completion of all Class 1 requirements.

RENEWAL PROCESS

THE LICENSE IS INVALID THE DAY AFTER IT EXPIRES. THERE IS NO GRACE PERIOD. An invalid license cannot be renewed.

- **The license renewal period begins 180 days prior to the license expiration date and continues until the date of expiration.**

If an applicant wants to be assured of an uninterrupted ability to carry concealed, the applicant must complete and submit to BCI all requirements necessary to renew prior to 60 days before the expiration date on the permit.

If the applicant completes the renewal requirements fewer than 60 days before the license expiration date, the license may still be renewed, however, the applicant's license to carry concealed will be invalid from the date of its expiration until the renewed license is issued.

- An incomplete renewal application will be returned by the BCI to the applicant. An incomplete application is **not** deemed to have been submitted to the BCI until after it has been returned satisfactorily completed. Therefore, the BCI recommends the applicant start the renewal process as soon as allowed to avoid the risk of the license expiring before the applicant can return a satisfactorily completed application. If that happens, the applicant will have to start over as a new applicant and retake the required testing.
- Renewal applications may not be submitted to BCI after the date the current license expires. Renewal applications received by BCI after the current license expires are invalid. Invalid application forms may be destroyed by the BCI. The license holder will be required to reapply as a new applicant and complete all required testing.

EXPIRED LICENSE

IF YOUR LICENSE HAS EXPIRED, DO NOT CARRY CONCEALED!

If the license has expired, it is not a valid license. It is a criminal offense to carry a concealed weapon without a valid license. A license holder must be able to produce a valid concealed weapon license upon demand at all times while carrying concealed.

- **Even if you have already submitted a renewal application, once your license has expired you cannot carry concealed until you receive the new license.**

STUN GUNS AND TASERS™:

STUN GUNS

Stun guns and **defense sprays** (such as pepper spray) are exempt from the definition of "dangerous weapons" and therefore you do not need a concealed weapon license to carry those items concealed (e.g. in a purse or bag, under clothing, under the vehicle seat or in the vehicle's glove box) within North Dakota.

You should be aware, however, that in other states, possession or carry (open or concealed) of these items may be prohibited, even if the state has reciprocity with North Dakota. You must comply with the laws in the state you are visiting or in which you are traveling – please contact that state directly.

TASERS

For someone who is prohibited from possessing a firearm, a TASER is considered a dangerous weapon and cannot be carried without a concealed weapon license.

For someone not prohibited from possessing a firearm, a TASER that only delivers a single application of voltage is not considered a dangerous weapon and may be carried without a concealed weapon license. However, if the TASER is capable of delivering multiple applications of voltage, it may not be carried without a concealed weapon license.

DENIAL/REVOCAION

DENIAL

An application for, or renewal of, a concealed weapon license may be denied if the applicant is prohibited by state or federal law from possessing any weapon or if the applicant made a “material misstatement” on the application. As noted on the application form, an applicant is required to list all offenses for which they have been charged, arrested, plead guilty or found guilty, **even** if the charge or the guilty plea is later dismissed.

- **Failure to disclose this information WILL result in a denial on the grounds that the applicant has materially misstated their criminal record.**

MATERIAL MISSTATEMENT

We find that sometimes an applicant does not disclose an incident either because it was some years ago or because applicant did not realize that a seemingly minor issue (such as an NSF check) may have triggered a criminal record, but these all show up when the BCI does the criminal history record check. Unfortunately, by law, even if the offense itself is not something that would make you ineligible to have a concealed weapon license, the fact that you did not fully disclose that offense is what makes you ineligible for one year.

By law, when requesting a ND Criminal History Record by mail, the result may only show back three (3) years for any charges that were dismissed or deferred. This does not mean it is off your record; it only means that this information cannot be released via mail, to protect you. Your complete criminal record is always available to law enforcement. To obtain your **complete** criminal history record:

1. Make a request **IN PERSON** to view your **COMPLETE NORTH DAKOTA CRIMINAL HISTORY RECORD** at your local law enforcement agency or by coming to the Bureau of Criminal Investigation in Bismarck. You will need a valid government-issued photo ID. There is no charge to view your record, but you cannot take a copy with you.
2. Federal law allows full disclosure of your national record if you request it directly from the FBI. For more information, go to www.fbi.gov, click on “About Us,” then “Criminal Justice Information Services,” or call the FBI regional office at (763) 569-8000. If you have lived or worked in states other than North Dakota, you also may need to request a record check from the FBI. To obtain a criminal history record from another state, contact that state.
3. Some ND offense information is contained in publically available court records. You can search these records on the North Dakota Courts Records Inquiry page at www.ndcourts.gov, by selecting the ‘District Court Case/Calendar Search’ option under the “Quick Links” section on the right hand side.

REVOCAION OF LICENSE

Once issued, a concealed weapon license may be revoked if an individual becomes prohibited by state or federal law from possessing a firearm, or if another valid reason to revoke a license exists. Examples include: a criminal violation while the permit holder was in the possession of a concealed weapon, a conviction of any weapons law, false statements on the renewal application, etc. In addition, a Class 1 license may be revoked if the license holder is convicted of an offense that is a prohibitor for those licenses (such as an alcohol-related offense).

FEDERAL PROHIBITIONS ON POSSESSION OF WEAPONS

Section 62.1-04-03 of the North Dakota Century Code (N.D.C.C.) provides that a concealed weapon license may not be issued to any applicant who is prohibited under federal law from owning, possessing, or having a firearm under that person's control. Because federal law may change after the printing and distribution of this manual, it is the responsibility of the concealed weapon license holder or applicant to be familiar with, and to comply with, all current federal laws regarding the purchase, possession, and use of firearms and dangerous weapons.

According to the federal Bureau of Alcohol, Tobacco, Firearms & Explosives website:

The Gun Control Act (GCA) makes it unlawful for certain categories of persons to ship, transport, receive, or possess firearms. 18 USC 922(g). Transfers of firearms to any such prohibited persons are also unlawful. 18 USC 922(d).

These categories include any person:

1. under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year;
2. convicted of a crime punishable by imprisonment for a term exceeding one year;
3. who is a fugitive from justice;
4. who is an unlawful user of or addicted to any controlled substance;
5. who has been adjudicated as a mental defective or has been committed to any mental institution;
6. who is an illegal alien;
7. who has been discharged from the military under dishonorable conditions;
8. who has renounced his or her United States citizenship;
9. who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or
10. who has been convicted of a misdemeanor crime of domestic violence.

See: <http://www.atf.gov/content/firearms/firearms-industry/firearms-how-identify-prohibited-persons>

The BCI is prohibited by law from providing legal advice or interpreting state and federal laws. For assistance in determining whether you are eligible under state or federal law to possess a firearm please contact an attorney in private practice.

BASIC HANDGUN USE

FIREARMS SAFETY

YOU are ultimately responsible for your weapons, at home, at a shooting range and everywhere else. This includes cleaning, dry-firing and storage of the weapons. There is no such thing as an “accidental discharge,” only an unintentional discharge! It wasn’t an accident; someone didn’t practice safety.

SAFETY RULES

(1) TREAT EVERY WEAPON AS IF IT IS LOADED.

Never point any weapon at anything you do not intend to shoot. Most unintentional discharges occur as a result of someone thinking it was unloaded (but it goes off anyway).

(2) KEEP THE FIREARM POINTED IN A SAFE DIRECTION.

Should an unintentional discharge occur, having your firearm pointed in a safe direction offers an additional layer of safety.

(3) KEEP YOUR FINGER OUTSIDE THE FIREARM’S TRIGGER GUARD AND OFF THE TRIGGER UNTIL YOU ARE READY TO FIRE THE WEAPON.

Many people have had a gun discharge when not expected because they placed their finger on the trigger when handling the weapon.

(4) BE CERTAIN THAT YOUR TARGET AND SURROUNDING AREA ARE SAFE BEFORE FIRING.

(5) A LOADED WEAPON IN THE HOME HAS A MUCH GREATER DANGER POTENTIAL THAN AN UNLOADED WEAPON.

Many people feel that they need to have loaded weapons within reach in their homes for security reasons. Weapons should be secured, unloaded and/or locked to prevent children or untrained adults from being able to access them.

(6) NEVER FULLY DEPEND ON THE MECHANICAL SAFETY DEVICE.

Just like everything else that is mechanical, safeties can fail. Having the safety on is a good practice but never depend on it entirely. Keep the weapon pointed in a safe direction at all times and unload and secure it when you are not planning on using it.

(7) ANYTIME A WEAPON IS GIVEN TO YOU, CHECK THE WEAPON TO SEE IF IT IS LOADED.

Open the cylinder or action. Look and feel to make sure the weapon is empty.

- Most semi-automatic handguns will fire even if the magazine is out.

(8) IF A COCKED WEAPON IS GIVEN TO YOU, POINT THE WEAPON IN A SAFE DIRECTION.

The proper procedure to follow:

Revolver: Hold the hammer with the thumb of one hand. Pull the trigger slowly to release the hammer. Once the hammer is released, let go of the trigger and slowly let the hammer down to the rest position. Open the cylinder to ensure there is nothing in the cylinder. (Note: some revolvers have hidden or partially concealed hammers or have been made unable to be cocked.)

Pistol: Remove the magazine from the magazine well. Work the slide to the rear and (if possible) lock it in the open position. Look and feel to ensure there is nothing in the chamber. (Note: Some pistols do not have hammers and some work on a “double action only” mechanism (and cannot be cocked). Of those that have external exposed hammers, there may be several ways to lower the hammer – by the action of a “decocker” or manually (as with a revolver)).

(9) IF YOU ARE GOING TO PASS A WEAPON TO SOMEONE ELSE, PASS IT TO THEM WITH THE MAGAZINE OUT AND THE ACTION LOCKED BACK OR WITH THE CYLINDER OPEN.

Be courteous to others. Show them that you are practicing safety in your actions. Then make sure that they check the weapon anyway.

(10) INSPECT YOUR WEAPONS FOR PROPER CARE AND MAINTENANCE.

Follow the manufacturer’s specifications for care and maintenance.

If you have any questions or concerns, seek the assistance of a professional (certified armorer or reputable gun smith).

TYPES OF HANDGUNS

REVOLVERS

- Single Action – Hammer must be cocked by hand to fire.
- Double Action – May be fired after manually cocking the hammer, or trigger pulled with the hammer at the rest position for every shot.
- Double Action only – Hidden hammer design or may have trigger/hammer made to not allow cocking.

SEMI-AUTOMATIC (PISTOLS)

- Single Action – Hammer must be in cocked position to fire.
- Double/Single – The first round fired is double action and subsequent shots are single action. Weapon may have manual decocking levers.
- Full Double Action – For every shot the hammer returns to the at rest position.
- Striker fired – No external hammer; all action takes place internally.

BASIC INSPECTION GUIDE

EXTERIOR

- Make sure that there are no spots of rust or corrosion;
- Make sure there are no bulges or bent parts;
- Make sure that the weapon is clean;
- Make sure that the sights are not loose.

BARREL

- Look to see that there is nothing lodged in the barrel;
- Look for any deposits and that the barrel is clean.

FUNCTION

- Make sure that the weapon functions properly mechanically:
 - For a pistol
 - Slide locks back (if design allows);
 - Slide release works (if design includes);
 - Magazine locks in and releases properly.
 - For a revolver
 - Cylinder opens and closes properly;
 - Cylinder rotates without binding.

IF ANY MECHANICAL PROBLEM IS FOUND, take the weapon to a qualified armorer or gunsmith.

SHOOTING FUNDAMENTALS

BREATH CONTROL

There are many schools of thought with hunters and competition shooters depending on the weapon. The key is to keep breathing. The first visible sign of the lack of oxygen to the brain is trembling.

STANCE

Many different stances are available and have been taught in the past including Modern Isosceles, Point shoulder, Weaver and Modified weaver. A proper shooting stance must provide a **Stable Shooting Platform**, good mobility and - for your body type and mechanics - be one you are comfortable in.

GRIP

The proper grip differs with the type of handgun being used. For a pistol the hand is placed high, right under the tang. Grip strength must be appropriate with a very firm grip needed to allow action to cycle.

For a revolver, the hand is placed high up on the back strap with the webbing between thumb and trigger finger at very top of the grip - handshake grip strength.

For either handgun, the support hand should not exert uneven pressure but should provide support. Both thumbs should be on the same side of the weapon and should not impede the weapon's function. Watch the position of the support hand index finger.

Depending on the firearm type and trigger pull, the trigger finger should make contact with the trigger between the first joint and the pad.

- Revolver grips may be changed to fit hand.
- Pistol grips may or may not be adjustable, so hand position can be important.

TRIGGER PULL

Depending on your level of experience, you may not know exactly when the gun will fire:

- The shot going off may be a "surprise break"
- Don't anticipate (flinch)
- Don't make the gun shoot when you want it to (jerk)

"Trigger pull" should be a smooth press straight to the rear.

PISTOL

Follow-through:

- What your finger does after the shot
- Hold trigger back until recoil is over and gun is back on line

TRIGGER RESET

- How far you let the trigger go forward for the next shot
- Should go forward only far enough to re-engage the sear
- FINGER MUST STAY IN CONTACT WITH THE TRIGGER FROM THE TIME IT GOES ON UNTIL NO MORE SHOTS WILL BE TAKEN.
- You should not know the exact instant a handgun will fire. There are two most common mistakes made while shooting that affect accuracy. The first is to anticipate the gun going off. This is a “flinch” and will cause the bullets to go high. The second and more common mistake is to make the gun go off when you want it to. This is called a “jerk” and will cause the bullets to go low.

SIGHTING A FIREARM

Which eye should be used for aiming?

- Right-handed, right eye?
- Left handed, left eye?
- Dominant eye?
 - Cross-eye dominance
- Both eyes?

SIGHT ALIGNMENT

There are three components used for sighting:



Front sight



Rear Sight



Target

The relationship between the front sight, rear sight and where you want the bullet to strike is called **SIGHT ALIGNMENT**.

Proper sight alignment is: the front sight blade is centered and level with the top of the rear sight and just below where you want the bullet to strike on the target.



SIGHT PICTURE

Sight picture is what you will see or how you will see the sights. Vision should be focused on the front sight. The rear sight and where the bullet will strike will look a little blurry.



ADJUSTING THE SIGHTS

Weapons should come from the manufacturer with the sights adjusted properly. A weapon does not shoot where it has not been pointed.

Sight alignment and sight picture are key. Unless the sights are damaged or have been moved, there is usually no reason to adjust the sights. People sometimes adjust the sights to cover for improper shooting technique.

If the sights have been damaged or previously moved, it is typically the rear sight that is adjusted.

- Move the rear sight in the same direction that you want the bullet impact to move.
 - If bullet impact is low, move rear blade up;
 - If bullet impact is left, move rear blade right;
 - If bullet impact is high and right, move rear blade down and left.

LOADING A HANDGUN

Prior to loading a handgun that is completely empty it should be inspected to ensure it is clean and a function check done.

REVOLVER

A revolver may be loaded by pointing the weapon in a safe direction, opening the cylinder and placing a round into each charge hole in the cylinder. Once fully charged, properly close the cylinder of the revolver.

PISTOL

A pistol may be loaded by pointing the weapon in a safe direction and inserting a loaded magazine into the magazine well of the weapon, seating the magazine by pushing it in until a click is heard/felt.

Once the magazine is properly seated, continuing to keep the pistol pointed in a safe direction, “work” the slide to chamber a round.

If you wish to “top off” your magazine, the best practice is to holster your pistol, then activate the magazine catch and remove the magazine. Load one round into the magazine, then reinsert the magazine into the magazine well of the pistol.

You can make sure the magazine is properly seated by pulling on the floor plate.

ADMINISTRATIVE UNLOADING

A **revolver** may be unloaded by pointing the weapon in a safe direction, activating the thumb piece to open the cylinder, then pointing the muzzle up to allow the rounds to fall out of the charge holes.

A **pistol** may be unloaded by pointing the pistol in a safe direction, pressing the magazine button to allow the magazine to fall free of the magazine well, then, using your support hand and keeping your fingers clear of the muzzle and ejection port, pull back on and lock the slide to the rear. Do not attempt to catch the loose round; the loose round should fall on the floor.

RELOADING

To reload a **revolver**, empty (unload) just as with the administrative unloading process however, you may need to press the extractor rod to remove the empty brass while the muzzle is pointed up. Allow the brass/rounds to fall to the ground. Once unloaded, point the muzzle downward and new ammunition may be placed into the weapon (as with the loading process). Close the cylinder properly.

To reload a **pistol**, the slide may lock back on an empty magazine. With your support hand, obtain the spare magazine and while holding it properly, bring it towards the weapon while simultaneously releasing the magazine from the pistol, allowing it to fall to the ground. Insert the new magazine into the magazine well. Use the support hand to retract and release the slide allowing it to chamber a fresh round.

MALFUNCTIONS WITH A HANDGUN

Anything mechanical may fail at some time. It is important that handguns be inspected, cleaned and maintained regularly. It is rare that a revolver will malfunction while shooting. Bad ammunition may cause a problem but anything else will probably be something that has broken in the weapon and it must be fixed.

Pistols are another matter; there are several reasons a pistol may fail while shooting. The vast majority of malfunctions are caused by the shooter including the lack of cleaning, poor maintenance and improper grip while shooting. Bad magazines are the next leading cause. Clean and check the magazines on a regular basis just as you do with the pistol (no oil).

Bad ammunition may also cause malfunctions. Some manufacturer's warranties will be void if reloaded ammunition is used. Follow manufacturer guidelines as it relates to the type of ammunition used (new vs reloaded; lead vs jacketed).

Each time the trigger is pulled on a revolver, the cylinder rotates and a new round is struck by the firing pin.

If a malfunction occurs with a revolver you have two options:

- Pull the trigger again
- Unload and then reload the cylinder

A pistol has four distinct operations that must be completed for each shot.

- Feed, fire, extract and eject.

The first step in the process to clear a basic malfunction of a pistol is called "tap - rack." To properly perform the tap-rack the finger must come off of the trigger. The flat open support hand slaps the bottom of the magazine and the slide is racked just as when initially loading the weapon. Do not cover the ejection port. The weapon may be canted to the right to let gravity assist in removing anything from the pistol.

- If either a fail to extract or fail to eject occurs, it is likely that a double feed condition will be created.
 - One empty and one live round, both trying to occupy the same space.
- The slide will probably not be in battery and a simple "tap - rack" will not alleviate your problem.

The remedy for a double feed is called "rip - work - tap - rack."

- **Rip** means to remove the magazine. There will be one round partially in the weapon and partially in the magazine so it may be difficult to rip the magazine out. Point the weapon in a safe direction and the finger must be off the trigger. Press the magazine catch and grab the floor plate of the magazine to pull it out.
- **Work** means to work the action back and forth rapidly several times.
- **Tap-rack** Tap - Rack: The finger comes off of the trigger. The flat open support hand slaps the bottom of the magazine, and the slide is racked (just as when initially loading the weapon). Do not cover the ejection port! The weapon may be canted to the right to let gravity assist in removing anything from the pistol.



APPLICATION CHECKLIST

1. COMPLETE THE FORM ONLINE – it's quick and easy to do, and a computer-generated form is easier and faster for BCI to process. Go to www.ag.nd.gov and click on the Concealed Weapon License page.

Provide all requested information (if something is not applicable to you, put N/A in the box). Make sure you answer EVERY question. Provide ALL information about arrests, convictions, dismissals, etc., EVEN if the charges were later dropped, or the conviction dismissed or expunged from your court record.

- When you have completed the online form, PRINT IT, SIGN AND DATE THE APPLICATION IN BOTH PLACES.
- If you are required to complete testing, TAKE THE COMPLETED FORM WITH YOU TO THE TESTING SITE because the test administrator will also need to sign and date the form.

2. COMPLETE TESTING. Contact a certified test administrator (download the list of test administrators on the Concealed Weapon page at www.ag.nd.gov). After testing is successfully completed, make sure the test administrator has signed and dated the form.

- You MUST mail the completed application form and all required documents to the BCI within thirty days after the testing date.
- No additional testing is required to renew a valid Class 2 license. In order to renew a Class 1 license, applicant must repeat all required testing. An expired license is not valid and cannot be renewed.
 - TIMELY RENEWAL IS THE RESPONSIBILITY OF THE LICENSEHOLDER.

3. COMPILE THE APPLICATION PACKET. Double-check the form again. Make sure it is signed and dated by the test administrator, you have answered all the questions, you have signed and dated the form in TWO places, that you have all the required documents attached (photos, fingerprints, copy driver's license, copy concealed weapon license, copy of alien registration/citizenship/birth certificate).

- Did you write your name on the back of the photos?
- Did you include the non-refundable application processing fee (certified check or money order only)?
- Fingerprints are not required for timely renewals.

4. MAIL THE APPLICATION PACKET TO THE BCI.

- Only ONE application form with attachments per envelope. No joint (husband/wife) or bulk submissions. The BCI does not accept applications by hand, fax or email.
- EACH individual application form must have a separate fee attached – no joint (husband/wife) fee payments.

THE TEST & THE LAWS

The questions on the open book test are taken from the information appearing in the relevant chapters of the North Dakota Century Code (N.D.C.C.). These chapters of the North Dakota Century Code (N.D.C.C.) are contained in entirety in the appendix at the end of this Manual. Please carefully review this information. All applicants must score 100% on Part 1 (questions 1-28) and 70% on Part 2 (questions 29-35 – at least 5 correct answers) in order to pass the test.

This information is available from the Legislative Council's website,

<http://www.legis.nd.gov/information/statutes/cent-code.html>.

TITLE 62.1 - WEAPONS

CHAPTER 62.1-01 DEFINITIONS – GENERAL PROVISIONS

CHAPTER 62.1-02 POSSESSION OF WEAPONS

CHAPTER 62.1-03 HANDGUNS

CHAPTER 62.1-04 CONCEALED WEAPONS

CHAPTER 62.1-05 MACHINE GUNS, AUTOMATIC RIFLES, SILENCERS, BOMBS

SECTION 12.1-04 GENERAL DEFINITIONS

CHAPTER 12.1-05 JUSTIFICATION

CHAPTER 62.1-01 - WEAPONS DEFINITIONS, GENERAL PROVISIONS

62.1-01-01. General definitions.

As used in this title, unless the context otherwise requires:

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, CN, 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, 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.
2. "Direct supervision of an adult" means that an adult is present in such close proximity so as to be capable of observing and directing the actions of the individual supervised.
3. "Firearm" or "weapon" means any device which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such device, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon. For a felon who is not sentenced under section 12.1-32-09.1, the term does not include a firearm or weapon that is a rifle that has a barrel sixteen inches [40.64 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72 centimeters] or longer and which is one of the following:
 - a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899.
 - b. A replica of any firearm described in subdivision a, if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.
 - c. A muzzleloading rifle or muzzleloading shotgun that is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.
4. "Gaming site" means any room or premises licensed by the attorney general or by a city or county governing body to conduct legal gaming operations.
5. "Government building" means a building which is owned, possessed, or used by or leased to the state of North Dakota, or any of its political subdivisions.
6. "Handgun" means any firearm that is not designed to be fired from the shoulder, which has a barrel less than sixteen inches [40.64 centimeters] long, and which is capable of firing, by the energy of an explosive in a fixed metallic cartridge, an exposed projectile through a rifled bore. The term includes all firearms that are designed to be readily modified between rifle and pistol forms, if in compliance with the National Firearms Act [26 U.S.C. 5801-5872].
7. "Law enforcement officer" means 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.
8. "Machine gun, submachine gun, or fully automatic rifle" means a firearm, mechanism, or instrument not requiring that the trigger be pressed for each shot, and having a reservoir, belt, or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism, or instrument and fired therefrom at a rate of five or more shots to the second.

9. "Plain view" means the handgun is placed in such a location or carried in such a position as to be easily discernible by the ordinary observation of a passerby. In a motor vehicle, this includes being placed on the seat, dashboard, or in a gunrack as long as the handgun is not covered or is in any other way concealed from view.
10. "Rifle" means any firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger.
11. "Secured" means the firearm is closed into the trunk or nonpassenger part of the vehicle; placed into a closed and secure carrying device; rendered inoperative by the use of a trigger, hammer, cylinder, slide, or barrel-locking device that renders the firearm incapable of firing until the device is unlocked and removed; or so disassembled or disabled as to be rendered incapable of firing.
12. "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches [40.64 centimeters] in length and any firearm made from a rifle, whether by alteration, modification, or otherwise, if the firearm, as modified, has an overall length of less than twenty-six inches [66.04 centimeters].
13. "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches [45.72 centimeters] in length and any firearm made from a shotgun, whether by alteration, modification, or otherwise, if the firearm, as modified, has an overall length of less than twenty-six inches [66.04 centimeters].
14. "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired with one hand below or behind and one hand in front of the breach, which uses the energy of the explosive in a fixed shotgun shell to fire through a smooth or a rifled bore either a number of ball shot or a single projectile for each single pull of the trigger.
15. "Silencer" means any device for or attached to any firearm which will silence or deaden the sound or natural report of the firearm when it is discharged.
16. "Unloaded" means the chamber of the firearm does not contain a loaded shell. If the firearm is a revolver, then none of the chambers in the cylinder may contain a loaded shell.

62.1-01-02. Forfeiture of dangerous weapon or firearm by person arrested and convicted of crime.

1. Any firearm or dangerous weapon used or possessed while in the commission of a felony or a misdemeanor involving violence or intimidation must be seized and, upon conviction and by motion, forfeited to the jurisdiction in which the arrest was made or the jurisdiction in which the charge arose. Except as provided in chapter 29-01 for stolen property, the forfeited dangerous weapon may be, pursuant to court order, sold at public auction, sold or traded to other law enforcement agencies or dealers, retained for use, or destroyed.
2. Notwithstanding any other provision of law; and subject to the duty to return firearms to innocent owners under this section, section 29-31.1-02, and as provided in chapter 29 - 01 for stolen property; all firearms, as defined in section 62.1-01-01, which are forfeited, recovered as stolen and unclaimed, or abandoned to any law enforcement agency of this state or a political subdivision of this state, including the game and fish department, or that are otherwise acquired by the state or a political subdivision of the state and are no longer needed, shall be disposed of as provided in this section. Except as provided in chapter 29 - 01 for stolen property, this section does not apply to firearms that are seized or confiscated and disposed of under chapter 20.1-10.
3.
 - a. Before the disposal of any firearm under this section, the agency with custody of the firearm shall use its best efforts to determine if the firearm has been lost by, or stolen or otherwise unlawfully obtained from, an innocent owner and, if so, shall provide notification to the innocent owner of its custody of the firearm. An innocent owner may also notify the agency to claim a firearm.
 - b. After notification, the agency shall return the firearm to its innocent owner provided the owner submits sufficient proof of ownership, as determined by the agency, and pays the costs, if any, of returning the firearm to the innocent owner. Costs are limited to the actual costs of shipping to the

innocent owner and associated costs from any transfer and background check fees charged when delivering the firearm to the innocent owner.

c. If six months elapse after notification to the innocent owner of the custody of the firearm by an agency and the innocent owner fails to bear the costs of return of his or her firearm or fails to respond to the agency notification, or if six months elapse after notice of a claim by an innocent owner and the innocent owner fails to bear the costs of return of the innocent owner's firearm or take away the innocent owner's firearm, then the agency shall dispose of the firearm as provided in this section.

4. a. Except as provided in subdivision b of subsection 3 or subsection 5, the agency shall dispose of the firearms that it receives under subsection 2 by sale at public auction to persons that may lawfully possess a firearm and persons licensed as firearms collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C. section 921 et seq., and authorized to receive such firearms under the terms of the licenses.

b. The auction required by this subsection may occur online on a rolling basis or at live events, but in no event may the auction occur less frequently than once every year during any time the agency has an inventory of saleable firearms. The agency shall establish a procedure to notify persons of its auctions.

c. The agency may not retain proceeds above that which are necessary to cover the costs of administering this subsection, with any surplus to be transferred to the general fund of the jurisdiction in which the agency is located, provided that an agency may be reimbursed for any firearms formerly in use by the agency that are sold under this section.

d. Employees of the agency are not eligible to bid on the firearms at an auction conducted under this subsection, and except for the amounts authorized under subdivision c of this subsection, neither the agency nor its employees may retain any proceeds from any sale required by this subsection, nor may the agency or its employees retain any firearm required to be sold under this subsection

5. a. The requirements of subsection 4 do not apply to a firearm if there are not any bids from eligible persons received within six months from when bidding opened on the firearm, or if the agency director, sheriff, chief of police, or a designee of the official certifies that the firearm is unsafe for use because of wear, damage, age, or modification or because any federal or state law prohibits the sale or distribution of the firearm. The agency director, sheriff, chief of police, or a designee of the official, may transfer any of these firearms to the attorney general's crime laboratory for training or experimental purposes, or to a museum or historical society that displays these items to the public and is lawfully eligible to receive the firearm, or the firearm may be destroyed. The requirements of subsection 4 do not apply to a firearm and an agency director, sheriff, chief of police, or a designee of the official may destroy the firearm, if :

(1) The firearm was used in a violent crime, in an accidental shooting, or a self - inflicted shooting resulting in the death of an individual;

(2) There is not a claim for the firearm by an innocent owner; and

(3) A family member of the deceased individual makes a written request for the destruction of the firearm.

b. Agencies subject to the provisions of this subsection may establish a procedure to destroy firearms and may expend necessary funds for that purpose.

6. All agencies subject to the provisions of this section shall keep records of the firearms acquired and disposed of as provided in this section, as well as the proceeds of the sales and the disbursement of the proceeds, and shall maintain these records for not less than ten years from the date on which a firearm is disposed of or on which a disbursement of funds is made, as the case may be.

7. Neither the state nor any political subdivision of the state, nor any of their officers, agents, and employees, is liable to any person, including the purchaser of a firearm, for personal injuries or damage to property arising from the sale or disposal of a firearm under subsection 4 or 5 of this section, unless an officer, agent, or employee of the state or political subdivision acted with gross negligence or recklessness.
8. As used in this section, the term "innocent owner" means a person who:
 - a. Did not beforehand know or in the exercise of ordinary care would not have known of the conduct which caused that person's firearm to be forfeited, seized, or abandoned to any law enforcement agency of the state or any political subdivision of the state, including the game and fish department;
 - b. Did not participate in the commission of a crime or delinquent act involving that person's firearm;
 - c. Legally owned and presently owns the firearm forfeited, seized, or abandoned; and
 - d. Is authorized by state and federal law to receive and possess his or her firearm.

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

A political subdivision, including home rule cities or counties, may not enact any 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.

CHAPTER 62.1-02 - POSSESSION OF WEAPONS

62.1-02-01. Persons who are not to possess firearms - Penalty.

1.

- a. A person who has been convicted anywhere of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of ten years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
- b. A person who has been convicted anywhere of a felony offense of this or another state or the federal government not provided for in subdivision a or who has been convicted of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government and the offense was committed while using or possessing a firearm, a dangerous weapon, or, as defined in subsections 7 and 8 of section 12.1-01-04, a destructive device or an explosive, is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of five years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
- c. A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under section 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or as a mentally deficient person as defined in section 25-01-01, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years or who has successfully petitioned for relief under section 62.1-02-01.2.
- d. A person under the age of eighteen years may not possess a handgun except that such a person, while under the direct supervision of an adult, may possess a handgun for the purposes of firearm safety training, target shooting, or hunting.

A person who violates subdivision a or b is guilty of a class C felony, and a person who violates subdivision c or d is guilty of a class A misdemeanor.

2. For the purposes of this section, "conviction" means a determination that the person committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty, or a plea of nolo contendere even though:
 - a. The court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02;
 - b. The court deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02;
 - c. The court placed the person on probation;
 - d. The person's conviction has been reduced in accordance with subsection 9 of section 12.1-32-02 or section 12.1-32-07.1;
 - e. Sentence dispositions, sentence reductions, or offense determinations equivalent to this section were imposed or granted by a court, board, agency, or law of another state or the federal government; or
 - f. The person committed an offense equivalent to an offense described in subdivision a or b of subsection 1 when that person was subject to juvenile adjudication or proceedings and a

determination of a court under chapter 27-20 or of a court of another state or the federal government was made that the person committed the delinquent act or offense.

62.1-02-01.1. Restoration of right to possess firearm.

1. An individual who is prohibited from possessing a firearm due to a conviction of a felony under subdivision b of subsection 1 of section 62.1-02-01 may petition the district court for restoration of the individual's firearm rights. If the felony offense was committed in this state, the petition must be filed with the district court in the county where the offense occurred. If the offense was a felony of another state or the federal government, the petition must be filed with the district court in the county where the petitioner resides. A copy of the petition must be served on the state's attorney's office in the county where the petition is filed in accordance with Rule 5 of the North Dakota Rules of Civil Procedure. The state's attorney's office shall have twenty days to file a written response to the petition with the district court
2. The district court may restore the right of an individual to possess a firearm if the court determines, by clear and convincing evidence, that all of the following circumstances exist:
 - a. The individual has paid all fines imposed for the violation resulting in the prohibition;
 - b. The individual has served all terms of imprisonment imposed for the violation resulting in the prohibition;
 - c. The individual has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition; and
 - d. The individual's record and reputation are such that the individual is not likely to act in a manner dangerous to the safety of others.

62.1-02-01.2. Mental disability and the possession of firearms.

1. A court shall make a finding as to whether the provisions of 18 U.S.C. 922(d) (4) and (g)(4) apply to the subject of a following proceeding in which the court:
 - a. Finds that a person, as a result of mental disease or defect, may not be held criminally responsible in any case pursuant to chapter 12.1-04 or 12.1-04.1;
 - b. Finds that a person is a "mentally deficient person", as defined in subsection 3 of section 25-01-01;
 - c. Orders involuntary hospitalization or commitment to a treatment facility or involuntary treatment pursuant to chapter 25-03.1;
 - d. Orders involuntary commitment or involuntary treatment under chapter 25-03.3;
 - e. Appoints a guardian ad litem under section 28-03-04;
 - f. Appoints a guardian under chapter 30.1-28; or
 - g. Appoints a conservator under chapter 30.1-29.
2. If the court finds that the provisions apply, the clerk of the court shall forward the individual's name and nonclinical identifying information to the bureau of criminal investigation, which shall forward the information to the federal bureau of investigation, or its successor agency, for inclusion in the national instant criminal background check system database. The court also shall notify the individual of the prohibitions of 18 U.S.C. 922(d)(4) and (g)(4), and, if relevant, of subdivision c of subsection 1 of section 62.1-02-01.
3. If a court of this state has found an individual under subsection 1 to be subject to the provisions of 18 U.S.C. 922(d)(4) and (g)(4), that individual may petition the court that issued the finding or the district court of the county where the individual resides to remove that individual's firearms-related disabilities, as provided in Public Law No. 110- 180, 105(a). A copy of the petition for relief must be served on the director of the treatment facility that treated the individual pursuant to court order and the prosecuting attorney of the county in which the original finding, order, or appointment occurred. The director of the treatment facility that treated the individual pursuant to court order and the prosecuting attorney may appear, support, object to, and present evidence relevant to the relief sought by the petitioner. The

court shall receive and consider evidence in a closed proceeding, including evidence offered by the petitioner, concerning:

- a. The circumstances of the original order, appointment, or finding;
 - b. The petitioner's mental health and criminal history records, if any;
 - c. The petitioner's reputation; and
 - d. Changes in the petitioner's condition or circumstances relevant to the relief sought.
4. The court shall grant the petition for relief if the court finds by a preponderance of the evidence that the petitioner likely will not act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. A record must be kept of the proceedings. The record is confidential and may be disclosed only to a court in the event of an appeal. An individual may file a petition for relief under this section no more than once every two years.
 5. When a magistrate or court issues an order granting a petition for relief under subsection 3, the clerk of the court immediately shall forward a copy of the order to the bureau of criminal investigation in the format and medium specified by the bureau after consultation with the state court administrator. The bureau immediately shall forward a copy to the federal bureau of investigation, or its successor agency, for updating of the national instant criminal background check system database.

62.1-02-02. Sale of handgun regulated - Penalty.

No person may transfer a handgun to any person who the transferor knows or has reasonable cause to believe is a person prohibited by section 62.1-02-01 from possessing a firearm. Any person who violates this section is guilty of a class A misdemeanor.

62.1-02-03. Possession or sale of short-barreled rifle or shotgun - Penalty - Application.

A person who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun is guilty of a class C felony. This section does not apply to a law enforcement officer who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun in the course of or in connection with the officer's official duties, to a member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations who possesses or uses a short-barreled rifle or short-barreled shotgun issued to the member by that organization and while on official duty, or to any person who complies with the National Firearms Act [26 U.S.C. 5801-5872].

62.1-02-04. Possession of firearm or dangerous weapon in liquor establishment or gaming site prohibited - Penalty - Exceptions.

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 in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages.
2. This section does not apply to:
 - a. A law enforcement officer.
 - b. The proprietor.
 - c. The proprietor's employee.
 - d. A designee of the proprietor when the designee is displaying an unloaded firearm or dangerous weapon as a prize or sale item in a raffle or auction.

- e. Private security personnel while on duty for the purpose of delivering or receiving moneys used at the liquor establishment or at the gaming site at which bingo is the primary gaming activity.
- f. The restaurant part of an establishment if an individual under twenty-one years of age is not prohibited in that part of the establishment.

62.1-02-05. Possession of a firearm at a public gathering - Penalty - Application.

1. An individual who knowingly possesses a firearm 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 blank cartridge firearm at a sporting or theatrical event;
 - f. A firearm carried in a temporary residence or motor vehicle;
 - g. A student and an instructor at a hunter safety class; or
 - 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 the 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.

62.1-02-06. Discharge of firearm within city - Penalty - Application.

A person who discharges a firearm within a city is guilty of a class B misdemeanor. This section does not apply to the lawful discharge of firearms by law enforcement officers, by citizens in defense of person or property, or by participants in lawful activities in which discharge of firearms is a recognized part of the activity, including shooting galleries and ranges.

62.1-02-07. Use of firearm by certain minors prohibited - Penalty.

Any parent, guardian, or other person having charge or custody of any minor under fifteen years of age who permits that minor to carry or use in public any firearm of any description loaded with powder and projectile, except when the minor is under the direct supervision of the parent, guardian, or other person authorized by the parent or guardian, is guilty of a class B misdemeanor.

62.1-02-08. Illegal firearms, ammunition, or explosive materials business.

1. A person is guilty of an offense if the person supplies a firearm, ammunition, or explosive material to, or procures or receives a firearm, ammunition, or explosive material for, a person prohibited by this title from receiving it if the transferor knows or has reasonable cause to believe that such person is prohibited by section 62.1-02-01 from receiving or possessing it.
2. The offense is a class C felony if the actor:
 - a. Was not licensed or otherwise authorized by law to handle, transfer, or engage in transactions with respect to the firearm, destructive device, or explosive material; or
 - b. Engaged in the forbidden transaction under circumstances manifesting the actor's readiness to supply or procure on other occasions in disregard of lawful restrictions.Otherwise the offense is a class A misdemeanor.

62.1-02-09. Possession of explosive and destructive device in government building - Penalty.

A person, except for a law enforcement officer while on official business, is guilty of a class C felony if the person possesses an explosive or destructive device in a government building without the written consent of the government agency or person responsible for the management of the building.

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 a class B misdemeanor. 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 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 in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.
5. A security guard or private investigator properly licensed to carry firearms.
6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

62.1-02-11. Possessing explosive prohibited - Exception - Penalty.

No person may have in custody, possession, or control any nitroglycerin, dynamite, or any other dangerous or violent explosive, unless the explosive is carried in the prosecution of or to effect a lawful and legitimate purpose. Any person violating this section is guilty of a class C felony.

62.1-02-12. Resident may purchase rifle or shotgun in contiguous state - Application - Definitions.

Repealed by S.L. 2005, ch. 598, § 2.

62.1-02-13. Possession of secured firearm - Prohibition by employer prohibited.

1. A public or private employer may not:
 - a. Prohibit any customer, employee, or invitee from possessing any legally owned firearm, if the firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and if the customer, employee, or invitee is lawfully in the area.
 - b. Make a verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or make an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle. In addition, a public or private employer may not take any action against a customer, employee, or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes. A search of a private motor vehicle in the parking lot of a public or private employer to ascertain the presence of a firearm within the vehicle may only be conducted by an on-duty law enforcement officer.
 - c. Condition employment upon the fact that an employee or prospective employee holds or does not hold a concealed weapons license or any agreement by an employee or a prospective employee that prohibits an employee from keeping a legal firearm locked inside or locked to a private motor vehicle in a parking lot, if the firearm is kept for lawful purposes.
 - d. Prohibit or attempt to prevent any customer, employee, or invitee from entering the parking lot or the employer's place of business because the customer's, employee's, or invitee's private motor vehicle contains a legal firearm being carried for lawful purposes, that is out of sight within the customer's, employee's, or invitee's private motor vehicle.
 - e. Terminate the employment of or otherwise discriminate against an employee, or expel a customer or invitee for exercising the constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes.
2. A public or private employer has no duty of care related to the actions prohibited under this section.
3. A public or private employer is not liable in a criminal or civil action based on actions or inactions taken in compliance with this section. The immunity provided in this subsection does not apply to civil actions based on actions or inactions of public or private employers that are unrelated to compliance with this section.
4. This section does not expand any existing duty, or create any additional duty, on the part of a public or private employer, property owner, or property owner's agent.
5. A person aggrieved under this section may bring a civil action for violation of rights protected under this section. In any successful action brought by a customer, employee, or invitee aggrieved under this section, the court shall award all reasonable personal costs and losses suffered by the aggrieved person as a result of the violation of rights under this section. In any action brought under this section, the court shall award all court costs and attorney's fees to the prevailing party.
6. The prohibitions in subsection 1 do not apply to:
 - a. Any public or nonpublic elementary school, middle school, or high school.
 - b. Any correctional facility or institution.
 - c. Property owned or leased by a public or private employer or the landlord of a public or private employer upon which are conducted substantial activities involving national defense, aerospace, or homeland security.
 - d. Property owned or leased by a public or private employer or the landlord of a public or private employer upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law, or property owned or leased by an employer who has obtained a permit required under 18 U.S.C.

- 842 to engage in the business of importing, manufacturing, or dealing in explosive materials on the property.
- e. A motor vehicle owned, leased, or rented by a public or private employer or the landlord of a public or private employer.
 - f. Any other property owned or leased by a public or private employer or the landlord of a public or private employer upon which possession of a firearm or other legal product by a customer, employee, or invitee is prohibited under any federal law, contract with a federal governmental entity, or other law of this state.
 - g. The state hospital.

CHAPTER 62.1-03 - HANDGUNS

62.1-03-01. Carrying handgun - Restrictions - Exceptions.

1. A handgun may not be carried unless by an individual not otherwise prohibited and if:
 - a. Between the hours of one hour before sunrise and one hour after sunset, the handgun is unloaded and either in plain view or is secured.
 - b. Between the hours of one hour after sunset and one hour before sunrise, the handgun is unloaded and secured.
2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:
 - a. An individual possessing a valid concealed weapons license from this state or 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.
 - 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 person 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.

62.1-03-02. Selling handgun to minors prohibited - Penalty.

Any person who sells, barter, hires, lends, or gives any handgun to any minor is guilty of a class A misdemeanor. This section does not prohibit a person from lending or giving a handgun to a minor if the minor will be using the handgun under the direct supervision of an adult and for the purpose of firearm safety training, target shooting, or hunting.

62.1-03-03. Copy of federal license submitted to law enforcement officials.

A retail dealer licensed to sell handguns by the federal government shall send a copy of the license, within seven days after receiving it, to the chief of police of the city and the sheriff of the county in which the dealer is licensed to sell handguns.

62.1-03-04. False information prohibited.

No person, in purchasing or otherwise securing delivery of a handgun or in applying for a license to carry the handgun concealed, may give false information or offer false evidence of the person's identity.

62.1-03-05. Prohibited alterations in handgun.

A person may not change, alter, remove, or obliterate any mark of identification on a firearm, including the name of the maker, model, or manufacturer's number or knowingly possess a firearm on which these alterations have been made. Possession of any firearm upon which any identification mark has been changed, altered, removed, or obliterated creates a rebuttable presumption that the possessor made the alterations.

62.1-03-06. General penalty.

Any person who violates any provision of this chapter, for which another penalty is not specifically provided, is guilty of a class A misdemeanor.

CHAPTER 62.1-04 - CONCEALED WEAPONS

62.1-04-01. Definition of concealed.

A firearm or dangerous weapon is concealed if it is carried in such a manner as to not be discernible by the ordinary observation of a passerby. There is no requirement that there be absolute invisibility of the firearm or dangerous weapon, merely that it not be ordinarily discernible. A firearm or dangerous weapon is considered concealed if it is not secured, and is worn under clothing or carried in a bundle that is held or carried by the individual, or transported in a vehicle under the individual's control or direction and available to the individual, including beneath the seat or in a glove compartment. A firearm or dangerous weapon is not considered concealed if it is:

1. Carried in a belt holster which is wholly or substantially visible or carried in a case designed for carrying a firearm or dangerous weapon and which is wholly or substantially visible;
2. Locked in a closed trunk or luggage compartment of a motor vehicle;
3. Carried in the field while lawfully engaged in hunting, trapping, or target shooting, whether visible or not; or
4. Carried by any person permitted by law to possess a 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.
5. A bow and arrow, rifle, shotgun, unloaded handgun, or a 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 commonly referred to as a BB gun, air rifle, or CO₂ gun, while carried in a motor vehicle.

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

An individual, other than a law enforcement officer, may not carry any firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter.

62.1-04-03. License to carry a firearm or dangerous weapon concealed – Class 1 firearm license and Class 2 firearm and dangerous weapon license.

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 possess 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 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 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.
2. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous weapon licenses to carry a firearm or dangerous weapon concealed pursuant to the following requirements:
- a. An applicant for a class 1 firearm license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:
 - (1) Certification of familiarity with a firearm or dangerous weapon by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor;
 - (2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;
 - (3) Possession of a license from another state to carry a firearm concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
 - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm.
 - b. An applicant for a class 2 firearm and dangerous weapon license is required to successfully complete the open book test offered for the class 1 firearm license.

- c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. Class 1 and class 2 permits are equally valid in this state.
 - d. Additional testing is not required to renew a class 2 firearm and dangerous weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within thirty days before submission of the application for renewal.
3. The director of the bureau of criminal investigation shall send by mail to a holder of a license a notice of the procedures for renewal of the license issued under this section. The director shall give the notice at least one hundred fifty days but not more than one hundred eighty days before the expiration of the license.
4. The bureau of criminal investigation is required to process the application and make a determination within sixty days of receipt of the properly completed application.
5. The fee for a concealed weapons license must be credited to the attorney general's operating fund. All fees must be paid before the license application may be processed by the director of the bureau of criminal investigation. The attorney general shall list the fees associated with the license, including the costs of the fingerprint-based federal criminal history record check, in the attorney general's administrative rules.
6. The director of the bureau of criminal investigation shall prescribe the form of the application and license, which must include the name, address, description, a photograph, and the signature of the individual. The application form must require sufficient information to properly conduct the criminal history record check and be accompanied by:
 - a. A photocopy of a valid driver's license or identification card issued by this state which establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or a valid state - issued driver's license from the applicant's state of residence which 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 has reciprocity with this state under section 62.1 - 04 - 03.1; and
 - b. Two sets of classifiable fingerprints. The two sets of classifiable fingerprints are not required for a renewal of a concealed weapons license. The license is valid for five years. The original license must be delivered to the licensee and an electronic copy must be preserved for six years by the director. Access to license information must be available to law enforcement through electronic means for official law enforcement purposes. The applicant or licensee shall notify the director of the bureau of criminal investigation of any change of address or any other material fact which would affect the restrictions on or the need for the license.
7. The director of the bureau of criminal investigation may deny an application or revoke or cancel a license after it has been granted for any material misstatement by an applicant in an application for the license or any violation of this title. The director of the bureau of criminal investigation shall disclose to the applicant the specific reason for denial or revocation of the license.
8. The applicant may appeal a denial or revocation of this license to the district court of Burleigh County
9. Information collected from an applicant under this section is confidential information. However, the information may be disclosed:
 - a. To a governmental agency or court for a law enforcement purpose, including the investigation, prosecution, or punishment of a violation of law.
 - b. To a court to aid in a decision concerning sentence, probation, or release pending trial or appeal.
 - c. Pursuant to a court order or a judicial, legislative, or administrative agency subpoena issued in this state.
10. The attorney general may adopt any rules necessary to implement this title.

62.1-04-03.1. Reciprocity.

A person who has a valid license issued by another state to carry a concealed firearm or dangerous weapon in that state and whose state grants to residents of this state the right to carry a concealed firearm or dangerous weapon without requiring a separate license to carry a concealed firearm or dangerous weapon issued by that state may carry, subject to the provisions of this state's law, a concealed firearm or dangerous weapon in this state, and the other state's license is valid in this state.

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 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.

62.1-04-05. Penalty.

Any person who violates this chapter is guilty of a class A misdemeanor.

CHAPTER 62.1-05 - MACHINE GUNS, AUTOMATIC RIFLES, SILENCERS, BOMBS

62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and bombs - Penalty - Forfeiture.

A person may not purchase, sell, have, or possess a machine gun, fully automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or any other federally licensed firearm or dangerous weapon unless that person has complied with the National Firearms Act [26 U.S.C. 5801-5872].

A person who violates this section is guilty of a class C felony. Upon arrest of that person, the firearm or dangerous weapon must be seized. Upon conviction of the person and motion to the court in which the conviction occurred, the firearm or dangerous weapon must be forfeited to the jurisdiction in which the arrest was made. The firearm or dangerous weapon may be sold at public auction, retained for use, or destroyed pursuant to the court's order. If a qualified local program as defined under section 12.1-32-02.2 has paid a reward for information that resulted in forfeiture of the item and the item has been sold, the jurisdiction shall, after payment of expenses for forfeiture and sale, repay the qualified local program for the reward that it has paid.

62.1-05-02. Persons exempt from chapter.

This chapter does not apply to:

1. The authorized agent and a servant of a person who has a license to purchase, sell, have, or possess a machine gun, submachine gun, fully automatic rifle, silencer, or a bomb loaded with explosives or poisonous or dangerous gases.
2. Any officer or member of a duly authorized military organization while on official duty and using the firearm or dangerous weapon issued to the officer or member by that organization.
3. A North Dakota law enforcement officer.
4. Any federal officer authorized by the federal government to have or possess a machine gun, submachine gun, fully automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases.

62.1-05-03 Chief law enforcement officer certification – Certain firearms.

1. For purposes of this section:
 - a. "Chief law enforcement officer" means any official, or the designee of the official, the bureau of alcohol, tobacco, firearms and explosive, or any successor agency, identified by regulation as eligible to provide any required certification for the making or transfer of a firearm.
 - b. "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm. A chief law enforcement officer is not required to make any certification under this section the officer knows to be untrue, but the officer may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm the possession of which is not prohibited by law.
 - c. "Firearm" has the same meaning as provided in the National Firearms Act [26 U.S.C. § 5845(a)].
2. When a chief law enforcement officer's certification is required by federal law or regulation for the transfer or making of a firearm, the chief law enforcement officer, within thirty days of receipt of a request for certification, shall provide the certification if the applicant is not prohibited by law from receiving or possessing the firearm or is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm. If the chief law

- enforcement officer is unable to make a certification as required by this section, the officer shall provide the applicant with a written notification of the denial and the reason for this determination.
3. In making the certification required by subsection 2, a chief law enforcement officer or designee may require the applicant to provide only the information as is required by federal or state law to identify the applicant and conduct a criminal background check, including a check of the national instant criminal background check system, or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm. A chief law enforcement officer may not require access to or consent for an inspection of any private premises as a condition of making a certification under this section.
 4. Chief law enforcement officers and their employees who act in good faith are immune from liability arising from any act or omission in making a certification as required by this section.
 5. An applicant whose request for certification is denied may appeal the chief law enforcement officer's decision to the district court for the county in which the applicant resides in accordance with the procedures provided in section 28-34-01. If the court finds that the applicant is not prohibited by law from receiving or possessing the firearm, or is not the subject of a proceeding that could result in the prohibition, or that there is insufficient evidence to support the chief law enforcement officer's determination that the officer cannot truthfully make the certification, the court shall order the chief law enforcement officer to issue the certification and award court costs and reasonable attorney's fees to the applicant.

TITLE 12.1 – CRIMINAL CODE

SECTION 12.1-01-04 GENERAL DEFINITIONS

As used in this title, unless a different meaning plainly is required:

1. "Act" or "action" means a bodily movement, whether voluntary or involuntary.
2. "Acted", "acts", and "actions" include, where relevant, "omitted to act" and "omissions to act".
3. "Actor" includes, where relevant, a person guilty of an omission.
4. "Bodily injury" means any impairment of physical condition, including physical pain.
5. "Court" means any of the following courts: the supreme court, a district court, and where relevant, a municipal court.
6. "Dangerous weapon" means, but is not limited to, any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon which 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.
7. "Destructive device" means any explosive, incendiary or poison gas bomb, grenade, mine, rocket, missile, or similar device.
8. "Explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or other ingredients in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, or material, or any part thereof may cause an explosion.
9. Repealed by S.L. 1975, ch. 116, § 33.
10. "Firearm" means any weapon which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such weapon, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.
11. "Force" means physical action.
12. "Government" means:
 - a. The government of this state or any political subdivision of this state;
 - b. Any agency, subdivision, or department of the foregoing, including the executive, legislative, and judicial branches;
 - c. Any corporation or other entity established by law to carry on any governmental function; and
 - d. Any commission, corporation, or agency established by statute, compact, or contract between or among governments for the execution of intergovernmental programs.
13. "Governmental function" includes any activity which one or more public servants are legally authorized to undertake on behalf of government.
14. "Harm" means loss, disadvantage, or injury to the person affected, and includes loss, disadvantage, or injury to any other person in whose welfare the person affected is interested.
15. "Included offense" means an offense:
 - i. Which is established by proof of the same or less than all the facts required to establish commission of the offense charged;
 - ii. Which consists of criminal facilitation of or an attempt or solicitation to commit the offense charged; or
 - iii. Which differed from the offense charged only in that it constitutes a less serious harm or risk of harm to the same person, property, or public interest, or because a lesser degree of culpability suffices to establish its commission.
16. "Includes" should be read as if the phrase "but is not limited to" were also set forth.

17. "Law enforcement officer" or "peace officer" means 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.
18. "Local" means of or pertaining to any political subdivision of the state.
19. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable individual, with due consideration of the totality of circumstances.
20. "Offense" means conduct for which a term of imprisonment or a fine is authorized by statute after conviction.
21. "Official action" includes a decision, opinion, recommendation, vote, or other exercise of discretion by any government agency.
22. "Official proceeding" means a proceeding heard or which may be heard before any government agency or branch or public servant authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.
23. "Omission" means a failure to act.
24. As used in this title and in sections outside this title which define offenses, "person" includes, where relevant, a corporation, limited liability company, partnership, unincorporated association, or other legal entity. When used to designate a party whose property may be the subject of action constituting an offense, the word "person" includes a government which may lawfully own property in this state.
25. "Political subdivision" as used in this title and in any statute outside this title which defines an offense means a county, city, school district, township, and any other local governmental entity created by law.
26. "Property" includes both real and personal property.
27. "Public servant" as used in this title and in any statute outside this title which defines an offense means any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function, but the term does not include witnesses.
28. "Risk assessment" means an initial phase with a secondary process approved by the department of human services for the evaluation of the likelihood that a person who committed an offense will commit another similar offense. The initial phase is an assessment tool that is administered by a trained probation and parole officer. A predetermined score on the initial phase initiates the secondary process that includes a clinical interview, psychological testing, and verification through collateral information or psychophysiological testing, or both. The department of human services shall perform the secondary process of the risk assessment.
29. "Serious bodily injury" means bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs.
30. "Signature" includes any name, mark, or sign written or affixed with intent to authenticate any instrument or writing.
31. "Substantial bodily injury" means a substantial temporary disfigurement, loss, or impairment of the function of any bodily member or organ.

CHAPTER 12.1-05 - JUSTIFICATION - EXCUSE - AFFIRMATIVE DEFENSES

12.1-05-01. Justification.

1. Except as otherwise expressly provided, justification or excuse under this chapter is a defense.
2. If a person is justified or excused in using force against another, but he recklessly or negligently injures or creates a risk of injury to other persons, the justifications afforded by this chapter are unavailable in a prosecution for such recklessness or negligence.
3. That conduct may be justified or excused within the meaning of this chapter does not abolish or impair any remedy for such conduct which is available in any civil action.

12.1-05-02. Execution of public duty.

1. Conduct engaged in by a public servant in the course of the person's official duties is justified when it is required or authorized by law.
2. A person who has been directed by a public servant to assist that public servant is justified in using force to carry out the public servant's direction, unless the action directed by the public servant is plainly unlawful.
3. A person is justified in using force upon another to effect that person's arrest or prevent that person's escape when a public servant authorized to make the arrest or prevent the escape is not available if the other person has committed, in the presence of the actor, any crime which the actor is justified in using force to prevent, or if the other person has committed a felony involving force or violence.
4. Conduct engaged in by an individual at the direction of a public servant, known by that individual to be a law enforcement officer, to assist in the investigation of a criminal offense is justified unless the individual knows or has a firm belief, unaccompanied by substantial doubt, that the conduct is not within the law enforcement officer's official duties or authority. For purposes of this subsection, conduct "not within the law enforcement officer's official duties or authority" is conduct in which the law enforcement officer alone could not lawfully engage in that officer's official capacity. When practicable, permission must be obtained from a parent or guardian of a minor who is under the age of eighteen years and is neither married nor in the military service of the United States before the minor may engage in conduct, other than the providing of information, to assist in a criminal investigation under the direct supervision of a public servant.

12.1-05-03. Self-defense.

A person is justified in using force upon another person to defend himself against danger of imminent unlawful bodily injury, sexual assault, or detention by such other person, except that:

- a. A person is not justified in using force for the purpose of resisting arrest, execution of process, or other performance of duty by a public servant under color of law, but excessive force may be resisted.
- b. A person is not justified in using force if:
 - a. He intentionally provokes unlawful action by another person to cause bodily injury or death to such other person; or
 - b. He has entered into a mutual combat with another person or is the initial aggressor unless he is resisting force which is clearly excessive in the circumstances. A person's use of

defensive force after he withdraws from an encounter and indicates to the other person that he has done so is justified if the latter nevertheless continues or menaces unlawful action.

12.1-05-04. Defense of others.

A person is justified in using force upon another person in order to defend anyone else if:

1. The person defended would be justified in defending himself; and
2. The person coming to the defense has not, by provocation or otherwise, forfeited the right of self-defense.

12.1-05-05. Use of force by persons with parental, custodial, or similar responsibilities.

The use of force upon another person is justified under any of the following circumstances:

1. Except as provided in section 15.1-19-02, a parent, guardian, or other person responsible for the care and supervision of a minor, or other person responsible for the care and supervision of a minor for a special purpose, or a person acting at the direction of any of the foregoing persons, may use reasonable force upon the minor for the purpose of safeguarding or promoting the minor's welfare, including prevention and punishment of the minor's misconduct, and the maintenance of proper discipline. The force may be used for this purpose, whether or not it is "necessary" as required by subsection 1 of section 12.1-05-07. The force used must not create a substantial risk of death, serious bodily injury, disfigurement, or gross degradation.
2. A guardian or other person responsible for the care and supervision of an incompetent person, or a person acting at the direction of the guardian or responsible person, may use reasonable force upon the incompetent person for the purpose of safeguarding or promoting the incompetent person's welfare, including the prevention of the incompetent person's misconduct or, when the incompetent person is in a hospital or other institution for care and custody, for the purpose of maintaining reasonable discipline in the institution. The force may be used for these purposes, whether or not it is "necessary" as required by subsection 1 of section 12.1-05-07. The force used must not create a substantial risk of death, serious bodily injury, disfigurement, or gross degradation.
3. A person responsible for the maintenance of order in a vehicle, train, vessel, aircraft, or other carrier, or in a place where others are assembled, or a person acting at the responsible person's direction, may use force to maintain order.
4. A duly licensed physician, or a person acting at a duly licensed physician's direction, may use force in order to administer a recognized form of treatment to promote the physical or mental health of a patient if the treatment is administered:
 - e. In an emergency;
 - f. With the consent of the patient, or, if the patient is a minor or an incompetent person, with the consent of the patient's parent, guardian, or other person entrusted with the patient's care and supervision; or
 - g. By order of a court of competent jurisdiction.

5. A person may use force upon another person, about to commit suicide or suffer serious bodily injury, to prevent the death or serious bodily injury of such other person.

12.1-05-06. Use of force in defense of premises and property.

Force is justified if it is used to prevent or terminate an unlawful entry or other trespass in or upon premises, or to prevent an unlawful carrying away or damaging of property, if the person using such force first requests the person against whom such force is to be used to desist from his interference with the premises or property, except that a request is not necessary if it would be useless or dangerous to make the request or substantial damage would be done to the property sought to be protected before the request could effectively be made.

12.1-05-07. Limits on the use of force - Excessive force - Deadly force.

1. An individual is not justified in using more force than is necessary and appropriate under the circumstances.
2. Deadly force is justified in the following instances:
 - a. When it is expressly authorized by law or occurs in the lawful conduct of war.
 - b. When used in lawful self-defense, or in lawful defense of others, if such force is necessary to protect the actor or anyone else against death, serious bodily injury, or the commission of a felony involving violence. The use of deadly force is not justified if it can be avoided, with safety to the actor and others, by retreat or other conduct involving minimal interference with the freedom of the individual menaced. An individual seeking to protect another individual must, before using deadly force, try to cause the other individual to retreat, or otherwise comply with the requirements of this provision, if safety can be obtained thereby. However, the duty to retreat or avoid force does not apply under the following circumstances:
 - (1) A public servant justified in using force in the performance of the public servant's duties or an individual justified in using force in assisting the public servant need not desist from the public servant's or individual's efforts because of resistance or threatened resistance by or on behalf of the other individual against whom the public servant's or individual's action is directed; and
 - (2) An individual is not required to retreat within or from that individual's dwelling or place of work or from an occupied motor home or travel trailer as defined in section 39-01-01, unless the individual was the original aggressor or is assailed by another individual who the individual knows also dwells or works there or who is lawfully in the motor home or travel trailer.
 - c. When used by an individual in possession or control of a dwelling, place of work, or an occupied motor home or travel trailer as defined in section 39-01-01, or by an individual who is licensed or privileged to be there, if the force is necessary to prevent commission of arson, burglary, robbery, or a felony involving violence upon or in the dwelling, place of work, or occupied motor home or travel trailer, and the use of force other than deadly force for these purposes would expose any individual to substantial danger of serious bodily injury.

- d. When used by a public servant authorized to effect arrests or prevent escapes, if the force is necessary to effect an arrest or to prevent the escape from custody of an individual who has committed or attempted to commit a felony involving violence, or is attempting to escape by the use of a deadly weapon, or has otherwise indicated that the individual is likely to endanger human life or to inflict serious bodily injury unless apprehended without delay.
- e. When used by a guard or other public servant, if the force is necessary to prevent the escape of a prisoner from a detention facility, unless the guard or public servant knows that the prisoner is not an individual as described in subdivision d. A detention facility is any place used for the confinement, pursuant to a court order, of an individual charged with or convicted of an offense, charged with being or adjudicated a juvenile delinquent, held for extradition, or otherwise confined under court order.
- f. When used by a duly licensed physician, or an individual acting at the physician's direction, if the force is necessary to administer a recognized form of treatment to promote the physical or mental health of a patient and if the treatment is administered in an emergency; with the consent of the patient, or, if the patient is a minor or an incompetent person, with the consent of the patient's parent, guardian, or other person entrusted with the patient's care and supervision; or by order of a court of competent jurisdiction.
- g. When used by an individual who is directed or authorized by a public servant, and who does not know that the public servant is not authorized to use deadly force under the circumstances.

12.1-05-07.1. Use of deadly force - Presumption of fear of death or serious bodily injury.

1. An individual is presumed to have held a reasonable fear of imminent peril of death or serious bodily injury to that individual or another when using deadly force if:
 - a. The individual against whom the deadly force was used was in the process of unlawfully and forcibly entering, or had unlawfully and forcibly entered and remains within a dwelling, place of work, or occupied motor home or travel trailer as defined in section 39-01-01, or if the individual had removed or was attempting to remove another against that individual's will from the dwelling, place of work, or occupied motor home or travel trailer as defined in section 39-01-01; and
 - b. The individual who uses deadly force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.
2. The presumption in subsection 1 may be rebutted by proof beyond a reasonable doubt that the individual who used the deadly force did not have a reasonable fear of imminent peril of death or serious bodily injury to that individual or another.
3. The presumption in subsection 1 does not apply if the court finds that any of the following have occurred:
 - a. The individual against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, place of work, or occupied motor home or travel trailer as defined in section 39-01-01, including an owner, lessee, or titleholder, and there is not a temporary or permanent domestic violence protection order or any other order of no contact against that individual;

- b. The individual removed or sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the individual against whom the deadly force is used;
- c. The individual who uses deadly force is engaged in the commission of a crime or is using the dwelling, place of work, or occupied motor home or travel trailer as defined in section 39-01-01 to further the commission of a crime; or
- d. The individual against whom the deadly force is used is a law enforcement officer who enters or attempts to enter a dwelling, place of work, or occupied motor home or travel trailer as defined in section 39-01-01 in the performance of official duties and the officer provided identification, if required, in accordance with any applicable law or warrant from a court, or if the individual using force knew or reasonably should have known that the individual entering or attempting to enter was a law enforcement officer.

12.1-05-07.2. Immunity from civil liability for justifiable use of force.

1. An individual who uses force as permitted under this chapter is immune from civil liability for the use of the force to the individual against whom force was used or to that individual's estate unless that individual is a law enforcement officer who was acting in the performance of official duties and the officer provided identification, if required, in accordance with any applicable law or warrant from a court, or if the individual using force knew or reasonably should have known that the individual was a law enforcement officer.
2. The court shall award reasonable attorney's fees and court costs and disbursements incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from civil liability as provided in subsection 1.

12.1-05-08. Excuse.

A person's conduct is excused if he believes that the facts are such that his conduct is necessary and appropriate for any of the purposes which would establish a justification or excuse under this chapter, even though his belief is mistaken. However, if his belief is negligently or recklessly held, it is not an excuse in a prosecution for an offense for which negligence or recklessness, as the case may be, suffices to establish culpability. Excuse under this section is a defense or affirmative defense according to which type of defense would be established had the facts been as the person believed them to be.

12.1-05-09. Mistake of law.

Except as otherwise expressly provided, a person's good faith belief that conduct does not constitute a crime is an affirmative defense if he acted in reasonable reliance upon a statement of the law contained in:

1. A statute or other enactment.
2. A judicial decision, opinion, order, or judgment.
3. An administrative order or grant of permission.
4. An official interpretation of the public servant or body charged by law with responsibility for the interpretation, administration, or enforcement of the law defining the crime.

12.1-05-10. Duress.

1. In a prosecution for any offense, it is an affirmative defense that the actor engaged in the proscribed conduct because he was compelled to do so by threat of imminent death or serious bodily injury to himself or to another. In a prosecution for an offense which does not constitute a felony, it is an affirmative defense that the actor engaged in the proscribed conduct because he was compelled to do so by force or threat of force. Compulsion within the meaning of this section exists only if the force, threat, or circumstances are such as would render a person of reasonable firmness incapable of resisting the pressure.
2. The defense defined in this section is not available to a person who, by voluntarily entering into a criminal enterprise, or otherwise, willfully placed himself in a situation in which it was foreseeable that he would be subjected to duress. The defense is also unavailable if he was negligent in placing himself in such a situation, whenever negligence suffices to establish culpability for the offense charged.

12.1-05-11. Entrapment.

1. It is an affirmative defense that the defendant was entrapped into committing the offense.
2. A law enforcement agent perpetrates an entrapment if, for the purpose of obtaining evidence of the commission of a crime, the law enforcement agent induces or encourages and, as a direct result, causes another person to engage in conduct constituting such a crime by employing methods of persuasion or inducement which create a substantial risk that such crime will be committed by a person other than one who is ready to commit it. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.
3. In this section "law enforcement agent" includes personnel of federal and local law enforcement agencies as well as state agencies, and any person cooperating with such an agency.

12.1-05-12. Definitions.

In this chapter:

1. "Deadly force" means force which a person uses with the intent of causing, or which he knows creates a substantial risk of causing, death or serious bodily injury. A threat to cause death or serious bodily injury, by the production of a weapon or otherwise, so long as the actor's intent is limited to creating an apprehension that he will use deadly force if necessary, does not constitute deadly force.
2. "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is for the time being a person's home or place of lodging.
3. "Force" means physical action, threat, or menace against another, and includes confinement.
4. "Premises" means all or any part of a building or real property, or any structure, vehicle, or watercraft used for overnight lodging of persons, or used by persons for carrying on business therein.