

AN ACT

ENTITLED, An Act to repeal and revise certain provisions relating to permits to carry a concealed pistol.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 22-14-9 be repealed.

Section 2. That § 22-14-9.1 be repealed.

Section 3. That § 22-14-9.2 be repealed.

Section 4. That § 22-14-10 be repealed.

Section 5. That § 22-14-11 be repealed.

Section 6. That § 22-14-27 be amended to read:

22-14-27. No defendant may claim as a defense to any prosecution under § 22-14-23 that the defendant was the holder of a permit to carry a concealed pistol issued pursuant to chapter 23-7.

Section 7. That § 23-7-7 be amended to read:

23-7-7. Any person may submit an application to the sheriff of the county in which the person resides for an optional permit to carry a concealed pistol pursuant to the requirements provided under § 23-7-7.1. Prior to issuing a permit pursuant to this section, the sheriff shall execute a background investigation, including a criminal history check, of every applicant for the purposes of verifying the qualifications of the applicant pursuant to the requirements provided under § 23-7-7.1. For the purposes of this section, a background investigation is defined as a computer check of available on-line records. This section may not be construed to impose a prohibition against carrying a concealed pistol without a permit, nor may this section be construed to prohibit the recognition of out-of-state permits to carry a pistol openly or concealed, loaded or unloaded, in accordance with reciprocity agreements entered into pursuant to § 23-7-7.4.

Section 8. That § 23-7-7.1 be amended to read:

23-7-7.1. A temporary optional permit to carry a concealed pistol shall be issued within five days of application to any person who applies if the applicant:

- (1) Is eighteen years of age or older;
- (2) Has never pled guilty to, nolo contendere to, or been convicted of a felony or a crime of violence;
- (3) Is not habitually in an intoxicated or drugged condition;
- (4) Has no history of violence;
- (5) Has not been found in the previous ten years to be a "danger to others" or a "danger to self" as defined in § 27A-1-1 or is not currently adjudged mentally incompetent;
- (6) Has physically resided in and is a resident of the county where the application is being made for at least thirty days immediately preceding the date of the application;
- (7) Has had no violations of chapter 23-7, 22-14, or 22-42 constituting a felony or misdemeanor in the five years preceding the date of application or is not currently charged under indictment or information for such an offense;
- (8) Is a citizen or legal resident of the United States; and
- (9) Is not a fugitive from justice.

A person denied a permit may appeal to the circuit court pursuant to chapter 1-26.

Section 9. That § 23-7-7.2 be amended to read:

23-7-7.2. No issuing authority, that has issued a permit to carry a concealed pistol in accordance with this chapter is civilly liable to any person or his estate for any injury suffered, including any action for wrongful death or property damage suffered, because the issuing authority issued a permit to any person. For purposes of this section, the Division of Criminal Investigation is considered an issuing authority when issuing a certificate of completion pursuant to § 23-7-59.

Section 10. That § 23-7-7.4 be amended to read:

23-7-7.4. Any valid permit to carry a concealed pistol, issued to a nonresident of South Dakota, is valid in South Dakota according to the terms of its issuance in the state of its issue. The provisions of this section may not be interpreted to require a nonresident of South Dakota who may lawfully possess a pistol to have a permit in order to carry a concealed pistol in this state.

Section 11. That § 23-7-7.6 be amended to read:

23-7-7.6. If any background investigation conducted pursuant to § 23-7-7 requires an international criminal history check through INTERPOL, the sheriff shall issue a temporary optional permit to carry a concealed pistol within three business days of receiving a response from INTERPOL if the applicant otherwise meets the requirements of § 23-7-7.1.

Section 12. That § 23-7-8 be amended to read:

23-7-8. An application for an optional permit to carry a concealed pistol issued in accordance with this chapter shall be filed either electronically or in triplicate on a form prescribed by the secretary of state. The application shall require the applicant's complete name, address, occupation, place and date of birth, country of citizenship, physical description, a statement that the applicant has never pled guilty to, nolo contendere to, or been convicted of a crime of violence, a sworn statement that the information on the application is true and correct, and the applicant's signature. If the applicant is not a United States citizen, the application shall require any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement. If filed in triplicate, the original shall be delivered to the applicant as a temporary permit, the duplicate shall within seven days be sent by first class mail to the secretary of state who shall issue the official permit, and the triplicate shall be preserved for five years by the authority issuing the permit. If the application is filed electronically, two copies shall be made and each shall be signed by the applicant. One copy shall be delivered to the applicant as a temporary permit, and the other copy shall be preserved for five years by the authority issuing the permit.

Section 13. That § 23-7-8.1 be amended to read:

23-7-8.1. The secretary of state shall prescribe the form of any permit to carry a concealed pistol issued in accordance with this chapter. Each permit shall list the applicant's name, address, the expiration date, and the issuance date of the permit. The enhanced permit to carry a concealed pistol must clearly designate that the permit is enhanced and the gold card permit must clearly designate that it is a gold card permit to carry a concealed pistol.

Section 14. That § 23-7-8.2 be amended to read:

23-7-8.2. Any permit to carry a concealed pistol issued under § 23-7-8 is valid for a period of five years from the date of issuance. The application fee for issuing a permit, other than an enhanced permit or a gold card permit, is ten dollars. The local authority shall collect the fee. Seven dollars of the fee shall be remitted to the secretary of state and three dollars shall be deposited in the general fund of the county or municipality issuing the permit.

Section 15. That § 23-7-8.3 be amended to read:

23-7-8.3. Any permit to carry a concealed pistol shall be issued to a specific person only and may not be transferred from one person to another.

Section 16. That § 23-7-8.7 be amended to read:

23-7-8.7. The provisions of § 23-7-8.6 do not apply to:

- (1) Records of firearms that have been used in committing any crime;
- (2) Permits to carry a concealed pistol records relating to any person who has been convicted of a felony;
- (3) Records of the serial numbers of firearms that have been reported stolen that are retained for a period not in excess of ten days after such firearms are recovered and returned to the lawful owner. However, official documentation recording the theft of a recovered weapon may be maintained no longer than the balance of the year entered and two additional

years;

- (4) Firearm records that must be retained by firearm dealers under federal law, including copies of such records transmitted to law enforcement agencies;
- (5) Any on duty law enforcement officer while conducting routine verification of the validity of a permit to carry a concealed pistol;
- (6) The secretary of state for the issuance of any permit to carry a concealed pistol pursuant to this chapter, or any access reasonably necessary to verify information with regard to specific permits individually; and
- (7) The preservation of the triplicate copy of the application for a permit to carry a concealed pistol by the authority issuing the permit as required by § 23-7-8.

Section 17. That § 23-7-9 be amended to read:

23-7-9. Any pistol that is delivered shall be securely wrapped and shall be unloaded. A violation of this section is a Class 1 misdemeanor.

Section 18. That chapter 23-7 be amended by adding a NEW SECTION to read:

No person may carry a concealed pistol in any licensed on-sale malt beverage or alcoholic beverage establishment that derives over one-half of its total income from the sale of malt or alcoholic beverages.

Section 19. That chapter 23-7 be amended by adding a NEW SECTION to read:

No person under the age of eighteen years of age may carry a concealed pistol except in the presence of a parent or legal guardian.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1072

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1072

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State