

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2315**

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act to amend and reenact sections 12.1-22-03, 20.1-01-17, 20.1-01-18,
2 20.1-01-19, 20.1-01-20, and 20.1-03-42 of the North Dakota Century Code, relating to criminal
3 trespass and hunting on private land; to provide a statement of legislative intent; to provide for a
4 study of access to land; to repeal sections 20.1-01-17 and 20.1-01-20; to provide for a report to
5 the legislative management and interim legislative committees; to provide a penalty; to provide
6 a contingent effective date; to provide a contingent expiration date; and to declare an
7 emergency.

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

9 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **12.1-22-03. Criminal trespass – ~~Noncriminal offense on posted property.~~**

12 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
13 or privileged to do so, the individual enters or remains in a dwelling or in highly
14 secured premises.

15 2. An individual is guilty of a class A misdemeanor if, knowing that that the individual is
16 not licensed or privileged to do so, the individual:

17 a. ~~Enters~~ enters or remains in or on any building, occupied structure, or storage
18 structure, or separately secured or occupied portion thereof; or

19 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~
20 building or structure, or any other place the individual is not licensed or privileged
21 to be, except as provided in subsection 3 and sections 20.1-01-18, 20.1-01-19,
22 and 20.1-03-42.

23 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~
24 ~~not licensed or privileged to do so, the individual enters or remains in any place~~

1 as to which notice against trespass is given by actual communication to the actor
2 by the individual in charge of the premises or other authorized individual or by
3 posting in a manner reasonably likely to come to the attention of intruders. The
4 name of the person posting the premises must appear on each sign in legible
5 characters.

6 b. Even if the conduct of the owner, tenant, or individual authorized by the owner
7 varies from the provisions of subdivision a, an individual may be found guilty of
8 violating subdivision a if the owner, tenant, or individual authorized by the owner
9 substantially complied with subdivision a and notice against trespass is clear
10 from the circumstances.

11 e. An individual who violates subdivision a is guilty of a class A misdemeanor for the
12 second or subsequent offense within a two-year period.

13 4. a. An individual, knowing the individual is not licensed or privileged to do so, may
14 not enter or remain in a place as to which notice against trespass is given by
15 posting in a manner reasonably likely to come to the attention of intruders on
16 property that is privately owned and open to the public after being requested to
17 leave the property by a duly authorized individual. A violation of this subdivision is
18 a noncriminal offense.

19 b. A peace officer shall cite an individual who violates subdivision a or commits a
20 noncriminal offense under section 20.1-01-18 with a fine of two hundred fifty
21 dollars for each violation.

22 c. The peace officer citing the individual shall:

23 (1) Take the name and address of the individual; and

24 (2) Notify the individual of the right to request a hearing if posting bond by mail.

25 d. The peace officer may not take the individual into custody or require the
26 individual to proceed with the peace officer to any other location for the purpose
27 of posting bond. The officer shall provide the individual with an envelope for use
28 in mailing the bond.

29 e. An individual cited may appear before the designated official and pay the
30 statutory fine for the violation at or before the time scheduled for hearing.

- 1 f. If the individual has posted bond, the individual may forfeit bond by not appearing
2 at the designated time.
- 3 g. If the individual posts bond by mail, the bond must be submitted within fourteen
4 days of the date of the citation and the individual cited shall indicate on the
5 envelope or citation whether a hearing is requested. If the individual does not
6 request a hearing within fourteen days of the date of the citation, the bond is
7 deemed forfeited and the individual is deemed to have admitted to the violation
8 and to have waived the right to a hearing on the issue of commission of the
9 violation. If the individual requests a hearing, the court for the county in which the
10 citation is issued shall issue a summons to the individual requesting the hearing
11 notifying the individual of the date of the hearing before the designated official.
- 12 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
13 at the individual's request, the individual may make a statement in explanation of
14 the individual's action. The official may at that time waive or suspend the statutory
15 fine or bond.
- 16 i. A citing peace officer may not receive the statutory fine or bond.
- 17 j. The bond required to secure appearance before the judge must be identical to
18 the statutory fine established in subdivision b.
- 19 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the
20 property of another after being requested to leave the property by a duly authorized
21 individual. An individual who violates this subsection is guilty of a class A
22 misdemeanor for the second or subsequent offense within a two-year period.~~
- 23 ~~6.4.~~ This section does not apply to a:
- 24 a. A peace officer in the course of discharging the peace officer's official duties; or
- 25 b. An individual who enters land to access buried and aboveground infrastructure
26 for operations, inspection, repair, or maintenance purposes, if the individual has a
27 right to operate, inspect, repair, or maintain the infrastructure.

28 **SECTION 2. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

2 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
3 or privileged to do so, the individual enters or remains in a dwelling or in highly
4 secured premises.

5 2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not
6 licensed or privileged to do so, the individual:

7 a. ~~Enters~~ enters or remains in or on any building, occupied structure, or storage
8 structure, or separately secured or occupied portion thereof; or

9 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~
10 building or structure, or any other place the individual is not licensed or privileged
11 to be, except as provided in subsection 3.

12 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~
13 ~~not licensed or privileged to do so, the individual enters or remains in any place~~
14 ~~as to which notice against trespass is given by actual communication to the actor~~
15 ~~by the individual in charge of the premises or other authorized individual or by~~
16 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~
17 ~~name of the person posting the premises must appear on each sign in legible~~
18 ~~characters.~~

19 b. ~~Even if the conduct of the owner, tenant, or individual authorized by the owner~~
20 ~~varies from the provisions of subdivision a, an individual may be found guilty of~~
21 ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~
22 ~~substantially complied with subdivision a and notice against trespass is clear~~
23 ~~from the circumstances.~~

24 c. ~~An individual who violates subdivision a is guilty of a class A misdemeanor for the~~
25 ~~second or subsequent offense within a two-year period.~~

26 4. a. ~~An individual, knowing the individual is not licensed or privileged to do so, may~~
27 ~~not enter or remain in a place as to which notice against trespass is given by~~
28 ~~posting in a manner reasonably likely to come to the attention of intruders on~~
29 property that is privately owned and open to the public after being requested to
30 leave the property by a duly authorized individual. A violation of this subdivision is
31 a noncriminal offense.

- 1 b. A peace officer shall cite an individual who violates subdivision a with a fine of
2 two hundred fifty dollars for each violation.
- 3 c. The peace officer citing the individual shall:
4 (1) Take the name and address of the individual; and
5 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 6 d. The peace officer may not take the individual into custody or require the
7 individual to proceed with the peace officer to any other location for the purpose
8 of posting bond. The officer shall provide the individual with an envelope for use
9 in mailing the bond.
- 10 e. An individual cited may appear before the designated official and pay the
11 statutory fine for the violation at or before the time scheduled for hearing.
- 12 f. If the individual has posted bond, the individual may forfeit bond by not appearing
13 at the designated time.
- 14 g. If the individual posts bond by mail, the bond must be submitted within fourteen
15 days of the date of the citation and the individual cited shall indicate on the
16 envelope or citation whether a hearing is requested. If the individual does not
17 request a hearing within fourteen days of the date of the citation, the bond is
18 deemed forfeited and the individual is deemed to have admitted to the violation
19 and to have waived the right to a hearing on the issue of commission of the
20 violation. If the individual requests a hearing, the court for the county in which the
21 citation is issued shall issue a summons to the individual requesting the hearing
22 notifying the individual of the date of the hearing before the designated official.
- 23 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
24 at the individual's request, the individual may make a statement in explanation of
25 the individual's action. The official may at that time waive or suspend the statutory
26 fine or bond.
- 27 i. A citing peace officer may not receive the statutory fine or bond.
- 28 j. The bond required to secure appearance before the judge must be identical to
29 the statutory fine established in subdivision b.
- 30 5. ~~An individual is guilty of a class B misdemeanor if that individual remains upon the~~
31 ~~property of another after being requested to leave the property by a duly authorized~~

1 individual. ~~An individual who violates this subsection is guilty of a class A-~~
2 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

3 ~~6.4.~~ This section does not apply to a:

- 4 a. A peace officer in the course of discharging the peace officer's official duties; or
5 b. An individual who enters land to access buried and aboveground infrastructure
6 for operations, inspection, repair, or maintenance purposes, if the individual has a
7 right to operate, inspect, repair, or maintain the infrastructure.

8 **SECTION 3. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs**
11 **defaced.**

- 12 1. Only the owner or tenant or an individual authorized by the owner of land may post the
13 land. Land may be posted by placing signs alongside the public highway or the land
14 giving notice that hunting is not permitted on the land or by designating the land as
15 closed to hunters in a database or other electronic application available to the public
16 which is operated and maintained by the state for purposes of electronic posting. ~~The~~
17 land is physically posted, the name of the person posting the land must appear on
18 each sign in legible characters. The signs must be readable from the outside of the
19 land and must be placed conspicuously not more than eight hundred eighty yards
20 [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure,
21 posting of signs at or on all gates through the fence or enclosure constitutes a posting
22 of all the enclosed land.
- 23 2. A person may not deface, take down, destroy posting signs, or post property without
24 the permission of the owner or tenant or an individual authorized by the owner.
- 25 3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies
26 from the provisions of subsection 1, an individual may be found guilty of violating
27 section 20.1-01-18 if the owner, tenant, or individual authorized by the owner
28 substantially complied with subsection 1 and notice against hunting or trespassing is
29 clear from the circumstances.

30 **SECTION 4. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **20.1-01-18. Hunting on posted land and trapping on private land without permission**
2 **unlawful - Penalty.**

3 ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally-
4 ~~posted~~ land belonging to another without first obtaining the permission of the person legally
5 entitled to grant the ~~same~~permission, unless the land is legally posted or the individual is
6 requested to leave by a duly authorized person. ~~No person~~ A person may not enter upon
7 privately owned land for the purpose of trapping protected fur-bearing animals without first
8 gaining the written permission of the owner or operator of that land. A person who violates this
9 section is guilty of a ~~class B misdemeanor~~ noncriminal offense subject to the fines and
10 procedures under subsection 3 of section 12.1-22-03 for the first offense and a class A
11 misdemeanor for a subsequent offense within a two-year period.

12 **SECTION 5. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **20.1-01-18. Hunting on posted land and trapping on private land without permission**
15 **unlawful - Penalty.**

16 No person may hunt or pursue game, or enter for those purposes, upon legally-
17 ~~posted~~privately owned land belonging to another without first obtaining the permission of the
18 person legally entitled to grant the same. No person may enter upon privately owned land for
19 the purpose of trapping protected fur-bearing animals without first gaining the written permission
20 of the owner or operator of that land. A person who violates this section is guilty of a ~~class B-~~
21 ~~misdemeanor for the first offense and a class A misdemeanor for a subsequent offense within a~~
22 ~~two-year period.~~

23 **SECTION 6. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **20.1-01-19. When ~~posted~~private land may be entered.**

26 ~~Any person~~An individual may enter upon ~~legally posted~~private land to recover game shot or
27 killed on land where the ~~person~~individual had a lawful right to hunt.

28 **SECTION 7. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm**
2 **prima facie evidence of intent to hunt game.**

3 Proof that ~~a person having an individual had~~ a firearm, or other weapon declared legal by
4 governor's proclamation, ~~in the person's possession and a valid license to hunt game in the~~
5 relevant area when the individual or a group including the individual entered upon the ~~legally-~~
6 ~~posted~~private premises of another without permission of the owner or tenant is prima facie
7 evidence the ~~person~~individual or the group including the individual entered to hunt or pursue
8 game.

9 **SECTION 8. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **20.1-03-42. Guiding on prohibited lands.**

12 1. A person may not act as a hunting guide or hunting outfitter on land the person knows
13 is owned by the state unless the appropriate state agency permits or authorizes the
14 guiding or outfitting, on private land enrolled by the department for purposes of
15 hunting, on land in which the department pays in lieu of taxes, or on federal lands
16 without being authorized or permitted as required by the appropriate federal agency,
17 ~~or.~~

18 2. A person may not act as a hunting guide or outfitter on private lands ~~posted against~~
19 ~~hunting or trespassing~~ without first informing and obtaining permission from the
20 landowner to conduct guiding or outfitting on the land. If the landowner did not grant
21 the permission in writing, there is a presumption that the permission did not exist.

22 **SECTION 9. REPEAL.** Sections 20.1-01-17 and 20.1-01-20 of the North Dakota Century
23 Code are repealed.

24 **SECTION 10. STUDY - ACCESS TO LANDS - REPORT TO LEGISLATIVE**
25 **MANAGEMENT AND INTERIM LEGISLATIVE COMMITTEES.**

26 1. During the 2019-20 interim, the land access committee shall study access to public
27 and private lands and related issues and shall provide recommendations regarding
28 electronic posting of land. The study must include consideration of the numbers of
29 calls to law enforcement regarding trespassers and hunting violations, the number of
30 citations and convictions for trespass and hunting violations, the locations where
31 trespass and hunting violations occur the most and least in the state, how sportsmen

1 are impacted by legislation regarding access to land in the state, and whether and how
2 state laws regarding land access affect tribal lands. Before August 1, 2020, the land
3 access committee shall report its findings and recommendations, together with any
4 legislation required to implement the recommendations, to the legislative
5 management, interim energy and natural resources committee, and interim agriculture
6 committee.

7 2. a. The voting members of the committee, who must be appointed by the legislative
8 management are:

9 (1) Two members representing landowners;

10 (2) Two members representing sportsmen;

11 (3) Four members of the legislative assembly, one of whom must be selected
12 by the committee as chairman of the committee, including:

13 (a) One member of the majority party in the house of representatives;

14 (b) One member of the minority party in the house of representatives;

15 (c) One member of the majority party in the senate; and

16 (d) One member of the minority party in the senate; and

17 (4) A representative of the North Dakota association of counties.

18 b. The nonvoting members of the committee are:

19 (1) The agriculture commissioner or the commissioner's designee;

20 (2) The director of the game and fish department or the director's designee;

21 (3) The chief information officer or the officer's designee; and

22 (4) A game warden.

23 3. A member of the committee who is not a state employee is entitled to reimbursement
24 for mileage and expenses as provided by law for state officers and employees, to be
25 paid by the legislative council. A state employee who is a member of the committee is
26 entitled to receive that employee's regular salary and is entitled to reimbursement for
27 mileage and expenses to be paid by the employing agency. A member of the
28 committee who is a member of the legislative assembly is entitled to receive per diem
29 compensation at the rate provided under section 54-35-10 for each day performing
30 official duties of the committee. The legislative council shall pay the per diem

1 compensation and reimbursement for travel and expenses as provided by law for any
2 member of the committee who is a member of the legislative assembly.

3 **SECTION 11. EDUCATION AND MARKETING.** The game and fish department and the
4 tourism division of the department of commerce shall provide public education and marketing
5 regarding the changes to land access in this Act.

6 **SECTION 12. CONTINGENT EFFECTIVE DATE.** If the legislative management does not
7 receive agreed upon recommendations regarding electronic posting of land from the land
8 access committee in section 10 of this Act before August 1, 2020, sections 2, 5, 6, 8, and 9
9 become effective on August 1, 2020.

10 **SECTION 13. CONTINGENT EXPIRATION DATE.** If the legislative management does not
11 receive agreed upon recommendations regarding electronic posting of land from the land
12 access committee in section 10 of this Act before August 1, 2020, sections 1, 3, 4, and 7 are
13 effective until July 31, 2020, and after that date are ineffective.

14 **SECTION 14. EMERGENCY.** Sections 1, 3, 4, 7, 10, and 11 of this Act are declared to be
15 an emergency measure.