

**FIRST ENGROSSMENT  
with Conference Committee 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, and  
2 20.1-03-42 of the North Dakota Century Code, relating to criminal trespass and hunting on  
3 private land; to repeal section 20.1-01-20 of the North Dakota Century Code, relating to prima  
4 facie evidence of hunting; to provide for a legislative management study; and to provide a  
5 penalty.

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

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

9 **12.1-22-03. Criminal trespass ~~– Noncriminal offense on posted property.~~**

- 10 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
11 or privileged to do so, the individual enters or remains in a dwelling or in highly  
12 secured premises.
- 13 2. An individual is guilty of a class B misdemeanor for a first offense and a class A  
14 misdemeanor for a second or subsequent offense if, knowing that ~~that~~the individual is  
15 not licensed or privileged to do so, the individual:
  - 16 a. Enters or remains in or on any building, occupied structure, ~~or~~ storage structure,  
17 ~~or~~ separately secured or occupied portion thereof; ~~or~~
  - 18 ~~b. Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
19 building or structure, or any other place the individual is not licensed or privileged  
20 to be, except as provided in section 20.1-01-18; or
  - 21 b. Remains on property that is privately owned and open to the public after being  
22 requested to leave the property by a duly authorized individual.
- 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. A  
16 violation of this subdivision is a noncriminal offense.

17 b. A peace officer shall cite an individual who violates subdivision a with a fine of  
18 two hundred fifty dollars for each violation.

19 e. The peace officer citing the individual shall:

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

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

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

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

28 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
29 at the designated time.

30 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
31 days of the date of the citation and the individual cited shall indicate on the

1 envelope or citation whether a hearing is requested. If the individual does not  
2 request a hearing within fourteen days of the date of the citation, the bond is  
3 deemed forfeited and the individual is deemed to have admitted to the violation  
4 and to have waived the right to a hearing on the issue of commission of the  
5 violation. If the individual requests a hearing, the court for the county in which the  
6 citation is issued shall issue a summons to the individual requesting the hearing  
7 notifying the individual of the date of the hearing before the designated official.

8 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
9 at the individual's request, the individual may make a statement in explanation of  
10 the individual's action. The official may at that time waive or suspend the statutory  
11 fine or bond.

12 i. A citing peace officer may not receive the statutory fine or bond.

13 j. The bond required to secure appearance before the judge must be identical to  
14 the statutory fine established in subdivision b.

15 5. An individual is guilty of a class B misdemeanor if that individual remains upon the  
16 property of another after being requested to leave the property by a duly authorized  
17 individual. An individual who violates this subsection is guilty of a class A  
18 misdemeanor for the second or subsequent offense within a two-year period.

19 6.3. This section does not apply to a:

20 a. A peace officer in the course of discharging the peace officer's official duties; or

21 b. An individual who enters land to access buried and aboveground infrastructure  
22 for operations, inspection, repair, or maintenance purposes, if the individual has a  
23 right to operate, inspect, repair, or maintain the infrastructure.

24 **SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs**  
27 **defaced.**

28 1. Only the owner or tenant or an individual authorized by the owner of land may post the  
29 land by placing signs alongside the public highway or the land giving notice that  
30 hunting is not permitted on the land. The name of the person posting the land must  
31 appear on each sign in legible characters. The signs must be readable from the

1 outside of the land and must be placed conspicuously not more than eight hundred  
2 eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other  
3 enclosure, posting of signs at or on all gates through the fence or enclosure  
4 constitutes a posting of all the enclosed land.

5 2. A person may not deface, take down, destroy posting signs, or post property without  
6 the permission of the owner or tenant or an individual authorized by the owner.

7 3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies  
8 from the provisions of subsection 1, an individual may be found guilty of violating  
9 section 20.1-01-18 if the owner, tenant, or individual authorized by the owner  
10 substantially complied with subsection 1 and notice against hunting or trespassing is  
11 clear from the circumstances.

12 4. If the state, either directly or through a third party, develops, operates, or maintains an  
13 online database or other electronic application available to the public which identifies  
14 whether land is available to hunters, an owner or tenant or individual authorized by the  
15 owner of land may submit electronic information for the database or application  
16 regarding the availability of the land for hunting. Land designated as posted or closed  
17 to hunters in the database or application under this subsection is deemed posted land.

18 **SECTION 3. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **20.1-01-18. Hunting on posted land and trapping on private land without permission**  
21 **unlawful - Penalty.**

22 ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally  
23 ~~posted~~ land belonging to another without first obtaining the permission of the person legally  
24 entitled to grant the ~~same~~permission, unless the land is legally posted or the individual is  
25 requested to leave by a duly authorized person. ~~No person~~A person may not enter upon  
26 privately owned land for the purpose of trapping protected fur-bearing animals without first  
27 gaining the written permission of the owner or operator of that land. A person who violates this  
28 section is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for a  
29 subsequent offense within a two-year period.

30 **SECTION 4. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **20.1-03-42. Guiding on prohibited lands.**

2       1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
3       is owned by the state unless the appropriate state agency permits or authorizes the  
4       guiding or outfitting, on private land enrolled by the department for purposes of  
5       hunting, on land in which the department pays in lieu of taxes, or on federal lands  
6       without being authorized or permitted as required by the appropriate federal agency,  
7       or

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

12       **SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed.

13       **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS.**

14       1. During the 2019-20 interim, a land access study committee shall study access to  
15       public and private lands for hunting, trapping, fishing, and related issues, including  
16       trespass violations and penalties, and provide recommendations regarding a land  
17       access database with the capability of electronic posting. The study committee may  
18       establish a trial electronic posting and hunter access information system in up to three  
19       counties prior to August 1, 2020, and shall report its findings and recommendations to  
20       the sixty-seventh legislative assembly at a time appointed by the legislative  
21       management.

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

24               (1) Two members representing agriculture organizations;

25               (2) Two members representing sportsmen organizations; and

26               (3) Five members of the legislative assembly, including:

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

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

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

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

1 (e) One member from either party in either chamber to serve as the  
2 committee chairman.

3 b. The nonvoting members of the committee are:

4 (1) A representative of the North Dakota association of counties;

5 (2) The agriculture commissioner or the commissioner's designee;

6 (3) The director of the game and fish department or the director's designee;

7 (4) The chief information officer or the officer's designee; and

8 (5) A representative of the North Dakota state's attorneys' association.

9 3. A member of the committee who is not a state employee is entitled to reimbursement  
10 for mileage and expenses as provided by law for state officers and employees, to be  
11 paid by the legislative council. A state employee who is a member of the committee is  
12 entitled to receive that employee's regular salary and is entitled to reimbursement for  
13 mileage and expenses to be paid by the employing agency. A member of the  
14 committee who is a member of the legislative assembly is entitled to receive per diem  
15 compensation at the rate provided under section 54-35-10 for each day performing  
16 official duties of the committee. The legislative council shall pay the per diem  
17 compensation and reimbursement for travel and expenses as provided by law for any  
18 member of the committee who is a member of the legislative assembly.

19 **SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the  
20 tourism division of the department of commerce shall provide public education and marketing  
21 regarding the changes to land access in this Act.