

SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act to create and enact section 20.1-02-33 of the North Dakota Century Code,
2 relating to identifying private land open to hunters; to amend and reenact sections 12.1-22-03,
3 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of the North Dakota Century Code, relating
4 to criminal trespass and hunting on private land; to repeal section 20.1-01-17 of the North
5 Dakota Century Code, relating to posting land; and to provide a 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 A misdemeanor if, knowing ~~that that~~the individual is
14 not licensed or privileged to do so, the individual:
- 15 a. ~~Enters~~ enters or remains in or on any building, occupied structure, or storage
16 structure, or separately secured or occupied portion thereof; or
- 17 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~
18 building or structure, or any other place the individual is not licensed or privileged
19 to be.
- 20 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~
21 ~~not licensed or privileged to do so, the individual enters or remains in any place~~
22 ~~as to which notice against trespass is given by actual communication to the actor~~
23 ~~by the individual in charge of the premises or other authorized individual or by~~
24 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~

- 1 name of the person posting the premises must appear on each sign in legible
2 characters.
- 3 b. ~~Even if the conduct of the owner, tenant, or individual authorized by the owner
4 varies from the provisions of subdivision a, an individual may be found guilty of
5 violating subdivision a if the owner, tenant, or individual authorized by the owner
6 substantially complied with subdivision a and notice against trespass is clear
7 from the circumstances.~~
- 8 e. ~~An individual who violates subdivision a is guilty of a class A misdemeanor for the
9 second or subsequent offense within a two-year period.~~
- 10 4. a. ~~An individual, knowing the individual is not licensed or privileged to do so, may
11 not enter or remain in a place as to which notice against trespass is given by
12 posting in a manner reasonably likely to come to the attention of intruders. A
13 violation of this subdivision is a noncriminal offense.~~
- 14 b. ~~A peace officer shall cite an individual who violates subdivision a with a fine of
15 two hundred fifty dollars for each violation.~~
- 16 e. ~~The peace officer citing the individual shall:~~
- 17 (1) ~~Take the name and address of the individual; and~~
- 18 (2) ~~Notify the individual of the right to request a hearing if posting bond by mail.~~
- 19 d. ~~The peace officer may not take the individual into custody or require the
20 individual to proceed with the peace officer to any other location for the purpose
21 of posting bond. The officer shall provide the individual with an envelope for use
22 in mailing the bond.~~
- 23 e. ~~An individual cited may appear before the designated official and pay the
24 statutory fine for the violation at or before the time scheduled for hearing.~~
- 25 f. ~~If the individual has posted bond, the individual may forfeit bond by not appearing
26 at the designated time.~~
- 27 g. ~~If the individual posts bond by mail, the bond must be submitted within fourteen
28 days of the date of the citation and the individual cited shall indicate on the
29 envelope or citation whether a hearing is requested. If the individual does not
30 request a hearing within fourteen days of the date of the citation, the bond is
31 deemed forfeited and the individual is deemed to have admitted to the violation~~

1 and to have waived the right to a hearing on the issue of commission of the
2 violation. If the individual requests a hearing, the court for the county in which the
3 citation is issued shall issue a summons to the individual requesting the hearing
4 notifying the individual of the date of the hearing before the designated official.

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

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

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

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

16 6.4. This section does not apply to a peace officer in the course of discharging the peace
17 officer's official duties.

18 **SECTION 2. 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 not hunt or pursue game, or enter for those purposes, upon
23 legally posted land belonging to another without first obtaining the permission of the person
24 legally entitled to grant the same permission, or verifying the land is open to hunters by
25 complying with subsection 3 of section 20.1-02-03. ~~No person~~An individual 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~~An individual who
28 violates this section is guilty of a class B misdemeanor for the first offense and a class A
29 misdemeanor for a subsequent offense within a two-year period.

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

1 **20.1-01-19. When ~~posted~~private land may be entered.**

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

4 **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **20.1-01-20. Entering ~~posted~~private land with gun or firearm prima facie evidence of**
7 **intent to hunt game.**

8 Proof that a ~~person~~an individual having a firearm, or other weapon declared legal by
9 governor's proclamation, in the ~~person's~~individual's possession entered upon the legally
10 ~~posted~~private premises of another without permission of the owner or tenant is prima facie
11 evidence the ~~person~~individual entered to hunt or pursue game.

12 **SECTION 5.** Section 20.1-02-33 of the North Dakota Century Code is created and enacted
13 as follows: **20.1-02-33. Private land open to hunters - Publicly accessible database -**
14 **Penalty.**

- 15 1. If a person legally entitled to give permission to enter private land wants to make the
16 land open to hunters, the person shall notify the director on a form prescribed by the
17 director. The notification must include information the director deems necessary to
18 identify the boundaries of the private land open to hunters.
- 19 2. The director shall make the information identifying the private land made open to
20 hunters under subsection 1 accessible to the public, including in an electronic format
21 available on the department's website. The information must be made available in a
22 format that allows hunters to identify easily which private land is open to hunters.
- 23 3. Before entering private land to hunt or pursue game, an individual shall verify the
24 publicly available information under subsection 2 indicates the land is open to hunters.
25 Unless the individual has permission to hunt or pursue game on the land from a
26 person legally entitled to give the permission, an individual is guilty of a class B
27 misdemeanor if the individual hunts or pursues game on private land, or enters private
28 land to hunt or pursue game, when the land is not identified as open to hunters in the
29 publicly available information under subsection 2.

30 **SECTION 6. 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 A person may not act as a hunting guide or hunting outfitter on land the person knows is
3 owned by the state unless the appropriate state agency permits or authorizes the guiding or
4 outfitting, on private land enrolled by the department for purposes of hunting, on land in which
5 the department pays in lieu of taxes, on federal lands without being authorized or permitted as
6 required by the appropriate federal agency, or on private lands ~~posted against hunting or~~
7 ~~trespassing~~ without first informing and obtaining permission from the landowner to conduct
8 guiding or outfitting on the land. If the landowner did not grant the permission in writing, there is
9 a presumption that the permission did not exist.

10 **SECTION 7. REPEAL.** Section 20.1-01-17 of the North Dakota Century Code is repealed.