

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

378W0384

## HOUSE BILL NO. 1116

Introduced by: Representatives Stalzer, Beal, Brunner, Campbell, Deutsch, DiSanto, Gosch, Harrison, Heinemann (Leslie), Hickey, Kaiser, Langer, Marty, May, Otten (Herman), Russell, Schoenfish, Verchio, Wiik, and Zikmund and Senators Otten (Ernie), Brown, Greenfield (Brock), Haggar (Jenna), Jensen (Phil), Lederman, Olson, Omdahl, and Rave

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions relating to the  
2 requirements for a permit to carry a concealed pistol.

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

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 That § 22-14-9 be repealed.

5 ~~— 22-14-9. Any person, other than a law enforcement officer or parole agent acting under color  
6 of authority, who:~~

7 ~~— (1) — Carries a pistol or revolver, loaded or unloaded, concealed on or about his or her  
8 person without a permit as provided in chapter 23-7; or~~

9 ~~— (2) — Carries a pistol or revolver, loaded or unloaded, concealed in any vehicle while  
10 operating the vehicle, without a permit as provided in chapter 23-7;  
11 is guilty of a Class 1 misdemeanor.~~

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 That § 22-14-9.1 be repealed.

13 ~~— 22-14-9.1. No person may possess a concealed pistol in accordance with chapter 23-7 or this~~



1 chapter unless that person also has in his or her physical possession a valid South Dakota permit  
2 ~~to carry a concealed pistol or a permit effective pursuant to § 23-7-7.3. Any violation of this~~  
3 ~~section is a petty offense. However, if within twenty-four hours of being charged with a~~  
4 ~~violation of this section, the person produces a permit to carry a concealed pistol which was~~  
5 ~~valid at the time of the alleged offense in the office of the officer making the demand, the charge~~  
6 ~~shall be dismissed.~~

7 Section 3. That § 22-14-9.2 be amended to read as follows:

8 22-14-9.2. Any person who is permitted to carry a concealed pistol in a state with which the  
9 secretary of state has entered into a reciprocity agreement pursuant to §§ 23-7-7.3, ~~22-14-9.1,~~  
10 ~~22-14-9.2, 23-7-7, 23-7-7.1, and 23-7-8~~ may carry a concealed pistol in this state if the permit  
11 holder carries the pistol in compliance with the laws of this state. Any violation of this section  
12 is a Class 1 misdemeanor.:

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 That § 22-14-10 be repealed.

14 ~~22-14-10. The provisions of § 22-14-9 do not apply to any person carrying any unloaded~~  
15 ~~pistol or revolver for the purpose of, or in connection with, any lawful use, if the unloaded pistol~~  
16 ~~or revolver is carried:~~

17 ~~(1) In the trunk or other closed compartment of a vehicle; or~~

18 ~~(2) In a closed container which is too large to be effectively concealed on the person or~~  
19 ~~within the person's clothing. The container may be carried in a vehicle or in any other~~  
20 ~~manner.~~

21 ~~No person who complies with this section may be required to obtain a permit for the lawful~~  
22 ~~uses described in this section.~~

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

24 ~~22-14-11. The provisions of § 22-14-9 do not apply to any person who possesses a pistol or~~

1 ~~revolver in his or her own dwelling house or place of business or on land owned or rented by~~  
2 ~~himself or herself or by a member of his or her household.~~

3 Section 6. That § 23-7-7 be amended to read as follows:

4 23-7-7. A permit to carry a concealed pistol shall be issued to any person by the sheriff of  
5 the county in which the applicant resides. The permit shall be valid throughout the state and  
6 shall be issued pursuant to § 23-7-7.1. Prior to issuing the permit, the sheriff shall execute a  
7 background investigation, including a criminal history check, of every applicant for the purposes  
8 of verifying the qualifications of the applicant pursuant to the requirements of § 23-7-7.1. For  
9 the purposes of this section, a background investigation is defined as a computer check of  
10 available on-line records. The availability of a permit to carry a concealed pistol pursuant to the  
11 provisions of this chapter may not be construed to impose a general prohibition on the carrying  
12 of a pistol without such permit or the recognition of out-of-state permits to carry a pistol openly  
13 or concealed and loaded or unloaded.

14 Section 7. That § 23-7-7.1 be amended to read as follows:

15 23-7-7.1. A ~~temporary~~ permit to carry a concealed pistol shall be issued ~~within five days of~~  
16 ~~application~~ to a person if the applicant:

- 17 (1) Is eighteen years of age or older;
- 18 (2) Has never pled guilty to, nolo contendere to, or been convicted of a felony or a crime  
19 of violence;
- 20 (3) Is not habitually in an intoxicated or drugged condition;
- 21 (4) Has no history of violence;
- 22 (5) Has not been found in the previous ten years to be a "danger to others" or a "danger  
23 to self" as defined in § 27A-1-1 or is not currently adjudged mentally incompetent;
- 24 (6) Has physically resided in and is a resident of the county where the application is

- 1 being made for at least thirty days immediately preceding the date of the application;
- 2 (7) Has had no violations of chapter 23-7,~~22-14~~, or 22-42 constituting a felony or
- 3 misdemeanor in the five years preceding the date of application or is not currently
- 4 charged under indictment or information for such an offense;
- 5 (8) Is a citizen or legal resident of the United States; and
- 6 (9) Is not a fugitive from justice.

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

8 Section 8. That § 23-7-7.4 be amended to read as follows:

9 23-7-7.4. Any valid permit to carry a concealed pistol, issued to a nonresident of South

10 Dakota, is valid in South Dakota according to the terms of its issuance in the state of its issue,

11 but only to the extent that the terms of issuance comply with any appropriate South Dakota

12 statute or promulgated rule. ~~However, if the holder of such a nonresident permit to carry a~~

13 ~~concealed pistol becomes, at any time, a legal resident of South Dakota, the provisions of this~~

14 ~~section no longer apply.~~

15 Section 9. That § 23-7-8.1 be amended to read as follows:

16 23-7-8.1. The form of the permit to carry a concealed pistol shall be prescribed by the

17 secretary of state pursuant to § 23-7-8. The permit shall list the applicant's name, address, and

18 the expiration date of the permit. ~~The holder of a permit may carry a concealed pistol anywhere~~

19 ~~in South Dakota except in any licensed on-sale malt beverage or alcoholic beverage~~

20 ~~establishment that derives over one-half of its total income from the sale of malt or alcoholic~~

21 ~~beverages. Nothing in this section prevents law enforcement officers, parole agents, security~~

22 ~~guards employed on the premises, and other public officials with the written permission of the~~

23 ~~sheriff from carrying concealed weapons in the performance of their duties or prevents home~~

24 ~~or business owners from carrying concealed weapons on their property pursuant to § 22-14-11.~~

1       Section 10. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as  
2 follows:

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