

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

931Y0083

HOUSE BILL NO. 1072

Introduced by: Representatives DiSanto, Beal, Brunner, Campbell, Chase, Clark, Dennert, Frye-Mueller, Glanzer, Goodwin, Gosch, Greenfield (Lana), Haggar, Heinemann, Howard, Jensen (Kevin), Johnson, Kaiser, Karr, Latterell, Lesmeister, Livermont, Marty, May, Pischke, Qualm, Rasmussen, and Schoenfish and Senators Greenfield (Brock), Cronin, Ewing, Jensen (Phil), Langer, Maher, Monroe, Nelson, Netherton, Russell, Stalzer, and Youngberg

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions relating to permits
2 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 That § 22-14-9 be repealed.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 as defined in § 22-1-2 acting~~
6 ~~under color 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 That § 22-14-9.1 be repealed.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 That § 22-14-9.2 be repealed.

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 That § 22-14-10 be repealed.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 § 22-14-27 be amended to read:

4 22-14-27. ~~It is not a defense to a prosecution under § 22-14-23 that the~~ No defendant may
5 claim as a defense to any prosecution under § 22-14-23 that the defendant was the holder of a
6 ~~concealed weapons permit to carry a concealed pistol~~ issued pursuant to §§ ~~23-7-7 and 23-7-7.1~~
7 chapter 23-7.

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

9 23-7-7. ~~A permit to carry a concealed pistol shall be issued to any person by~~ Any person may
10 submit an application to the sheriff of the county in which the applicant person resides. ~~The~~
11 ~~permit shall be valid throughout the state and shall be issued~~ for an optional permit to carry a
12 concealed pistol pursuant to the requirements provided under § 23-7-7.1. Prior to issuing ~~the a~~
13 permit pursuant to this section, the sheriff shall execute a background investigation, including
14 a criminal history check, of every applicant for the purposes of verifying the qualifications of
15 the applicant pursuant to the requirements ~~of~~ provided under § 23-7-7.1. For the purposes of this
16 section, a background investigation is defined as a computer check of available on-line records.
17 This section may not be construed to impose a prohibition against carrying a concealed pistol
18 without a permit, nor may this section be construed to prohibit the recognition of out-of-state
19 permits to carry a pistol openly or concealed, loaded or unloaded, in accordance with reciprocity
20 agreements entered into pursuant to § 23-7-7.4.

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

22 23-7-7.1. ~~A temporary~~ An optional permit to carry a concealed pistol shall be issued within
23 five days of application to a any person who applies if the applicant:

24 (1) Is eighteen years of age or older;

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

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

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

16 23-7-7.2. No issuing authority, that has issued ~~the~~ a permit to carry a concealed pistol in

17 ~~conformity~~ accordance with this chapter; is civilly liable to any ~~injured~~ person or his estate for

18 any injury suffered, including any action for ~~any~~ wrongful death or property damage suffered,

19 ~~because of the issuance of a concealed weapons permit, or temporary~~ the issuing authority

20 issued a permit; to any person. For purposes of this section, the Division of Criminal

21 Investigation is considered an issuing authority when issuing a certificate of completion

22 pursuant to § 23-7-59.

23 Section 10. That § 23-7-7.3 be repealed.

24 ~~23-7-7.3. The attorney general shall compare South Dakota permit issuance statutes with the~~

1 ~~permit issuance statutes in states with which reciprocity is sought or requested in order to~~
2 ~~determine whether the laws of the other state meet or exceed the requirements of this chapter~~
3 ~~for the issuance of a permit. The secretary of state may enter into reciprocity agreements with~~
4 ~~other states after the attorney general has notified the secretary of state that the other states' laws~~
5 ~~meet or exceed the provisions of this chapter.~~

6 Section 11. That § 23-7-7.4 be amended to read:

7 23-7-7.4. Any valid permit to carry a concealed pistol, issued to a nonresident of South
8 Dakota, is valid in South Dakota according to the terms of its issuance in the state of its issue;
9 ~~but only to the extent that the terms of issuance comply with any appropriate South Dakota~~
10 ~~statute or promulgated rule. However, if the holder of such a nonresident permit to carry a~~
11 ~~concealed pistol becomes, at any time, a legal resident of South Dakota, the provisions of this~~
12 ~~section no longer apply. The secretary of state may enter into reciprocity agreements with any~~
13 ~~other state. The provisions of this section may not be interpreted to require a nonresident of~~
14 ~~South Dakota who may lawfully possess a pistol to have a permit in order to carry a concealed~~
15 ~~pistol in this state.~~

16 Section 12. That § 23-7-7.6 be amended to read:

17 23-7-7.6. ~~Notwithstanding the five day requirement provided in § 23-7-7.1, if the~~ If any
18 ~~background investigation~~ under conducted pursuant to § 23-7-7 requires an international
19 criminal history check through INTERPOL, the sheriff shall issue a ~~temporary~~ permit to carry
20 a concealed pistol within three business days of receiving a response from INTERPOL if the
21 applicant otherwise meets the requirements of § 23-7-7.1.

22 Section 13. That § 23-7-8 be amended to read:

23 23-7-8. ~~The~~ An application for a any optional permit to carry a concealed pistol; ~~enhanced~~
24 ~~permit to carry a concealed pistol, or a gold card permit to carry a concealed pistol~~ issued in

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

15 Section 14. That § 23-7-8.1 be amended to read:

16 23-7-8.1. The secretary of state shall prescribe the form of ~~the~~ any optional permit to carry
17 a concealed pistol, ~~the form of the enhanced permit to carry a concealed pistol, and the form of~~
18 ~~the gold card permit to carry a concealed pistol pursuant to § 23-7-8~~ issued in accordance with
19 this chapter. Each permit shall list the applicant's name, address, the expiration date, and the
20 issuance date of the permit. The enhanced permit to carry a concealed pistol must clearly
21 designate that the permit is enhanced and the gold card permit must clearly designate that it is
22 a gold card permit to carry a concealed pistol. ~~The holder of a permit may carry a concealed~~
23 ~~pistol anywhere in South Dakota except in any licensed on-sale malt beverage or alcoholic~~
24 ~~beverage establishment that derives over one-half of its total income from the sale of malt or~~

1 ~~alcoholic beverages. Nothing in this section prevents law enforcement officers, Department of~~
2 ~~Corrections employees, parole agents, security guards employed on the premises, and other~~
3 ~~public officials with the written permission of the sheriff from carrying concealed weapons in~~
4 ~~the performance of their duties or prevents home or business owners from carrying concealed~~
5 ~~weapons on their property pursuant to § 22-14-11.~~

6 Section 15. That § 23-7-8.2 be amended to read:

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

12 Section 16. That § 23-7-8.3 be amended to read:

13 23-7-8.3. ~~A~~ Any permit to carry a concealed pistol shall be issued to a specific person only
14 and may not be transferred from one person to another.

15 Section 17. That § 23-7-8.7 be amended to read:

16 23-7-8.7. The provisions of § 23-7-8.6 do not apply to:

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

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

10 Section 18. That § 23-7-9 be amended to read:

11 23-7-9. ~~When a~~ Any pistol that is delivered, ~~the pistol~~ shall be securely wrapped and shall
12 be unloaded. ~~A pistol that is securely wrapped and delivered to a purchaser pursuant to this~~
13 ~~section is not a concealed weapon under § 22-14-9.~~ A violation of this section is a Class 1
14 misdemeanor.

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

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