

AN ACT

ENTITLED, An Act to repeal and revise certain provisions regarding permits to carry a concealed pistol.

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

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 That § 22-14-9 be repealed.

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 That § 22-14-9.1 be repealed.

Section 3. That § 22-14-10 be repealed.

Section 4. That § 22-14-11 be repealed.

Section 5. That § 22-14-27 be amended to read:

22-14-27. A defendant to a prosecution under § 22-14-23 may not claim as a defense that the defendant was the holder of a permit to carry a concealed pistol issued under chapter 23-7.

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

23-7-7. A permit to carry a concealed pistol shall be issued to any person by the sheriff of the county in which the applicant resides. The permit shall be valid throughout the state and shall be issued pursuant to § 23-7-7.1. For purposes of verifying the qualifications of an applicant, prior to issuing a permit, the sheriff shall execute, and the applicant shall pass, a background investigation, including a computer check of available on-line records and the National Instant Criminal Background Check. The issuance of a permit to carry a concealed pistol under this chapter, or the recognition of nonresident permits to carry a concealed pistol under § 23-7-7.4, does not impose a general prohibition on the carry of a pistol without a permit.

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

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

(1) Is eighteen years of age or older;

- (2) Has never pled guilty to, nolo contendere to, or been convicted of a felony or a crime of violence;
- (3) Is not habitually in an intoxicated or drugged condition;
- (4) Has no history of violence;
- (5) Has not been found in the previous ten years to be a danger to others or a danger to self as defined in § 27A-1-1 or is not currently adjudged mentally incompetent;
- (6) Has physically resided in and is a resident of the county where the application is being made for at least thirty days immediately preceding the date of the application;
- (7) Has had no violation of chapter 23-7, 22-14, or 22-42 constituting a felony or misdemeanor in the five years preceding the date of application or is not currently charged under indictment or information for such an offense;
- (8) Is a citizen or legal resident of the United States;
- (9) Is not a fugitive from justice; and
- (10) Is not otherwise prohibited by state law, 18 U.S.C. § 922(g) as amended to October 26, 2005, or 18 U.S.C. § 922(n) as amended to October 26, 2005, from receiving, possessing or transporting a firearm, and passes a National Instant Criminal Background Check.

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

Section 8. That § 23-7-7.2 be amended to read:

23-7-7.2. An issuing authority that has issued a permit to carry a concealed pistol in accordance with this chapter may not be held civilly liable to any person or the person's estate for any injury suffered, including any action for wrongful death or property damage, because the issuing authority issued the permit. For purposes of this section, the Division of Criminal Investigation is an issuing authority when issuing a certificate of completion pursuant to § 23-7-59.

Section 9. That § 23-7-7.4 be amended to read:

23-7-7.4. Any valid permit to carry a concealed pistol, issued to a nonresident of South Dakota, is valid in South Dakota according to the terms of its issuance in the state of its issue, but only to the extent that the terms of issuance comply with any appropriate South Dakota statute or promulgated rule. This section does not require a nonresident of this state who may lawfully possess a pistol to have a permit in order to carry a concealed pistol in this state.

Section 10. That § 22-14-9.2 be amended to read:

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

Section 11. That § 23-7-8.1 be amended to read:

23-7-8.1. The secretary of state shall prescribe the form of the permit to carry a concealed pistol, the form of the enhanced permit to carry a concealed pistol, and the form of the gold card permit to carry a concealed pistol pursuant to § 23-7-8. Each permit shall list the applicant's name, address, the expiration date, and the issuance date of the permit. The enhanced permit to carry a concealed pistol shall clearly designate that the permit is enhanced and the gold card permit shall clearly designate that it is a gold card permit to carry a concealed pistol. Nothing in this section prevents any law enforcement officer, Department of Corrections employee, parole agent, security guard employed on the premises, or any other public official, with the written permission of the sheriff, from carrying a concealed weapon in the performance of that person's duties.

Section 12. That § 23-7-8.13 be amended to read:

23-7-8.13. Upon the expiration of a permit to carry a concealed pistol that was issued pursuant to this chapter, the permit holder has a sixty-day grace period to renew the permit. During the grace period, the permit holder may continue to carry a concealed pistol.

Section 13. That § 23-7-9 be amended to read:

23-7-9. Any pistol that is delivered shall be securely wrapped and shall be unloaded. A violation of this section is a Class 1 misdemeanor.

Section 14. That chapter 23-7 be amended by adding a NEW SECTION to read:

A person may not carry a concealed pistol in any licensed on-sale malt beverage or alcoholic beverage establishment that derives over one-half of its total income from the sale of malt or alcoholic beverages.

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

A person who is under the age of eighteen years of age may not carry a concealed pistol except in the presence of a parent or legal guardian.

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I certify that the attached Act
originated in the
SENATE as Bill No. 47

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 47
File No.
Chapter No.

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Received at this Executive Office
this ____ day of _____,
20__ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this ____ day of
_____, A.D., 20__

Governor
=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State