

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

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HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1190** - 02/19/2016

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Mickelson, Gosch, Hawley, Westra, and Wink and Senators Rusch, Cammack, Frerichs, and Solano

1 FOR AN ACT ENTITLED, An Act to enhance customer convenience in firearms transactions,
2 improve public safety, and provide for the issuance of an additional concealed pistol permit.

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

4 Section 1. That § 23-7-8 be amended to read:

5 23-7-8. The application for a permit to carry a concealed pistol ~~or an~~ enhanced permit to
6 carry a concealed pistol, or a gold card permit to carry a concealed pistol shall be filed either
7 electronically or in triplicate on a form prescribed by the secretary of state. The application shall
8 require the applicant's complete name, address, occupation, place and date of birth, country of
9 citizenship, physical description, a statement that the applicant has never pled guilty to, nolo
10 contendere to, or been convicted of a crime of violence, a sworn statement that the information
11 on the application is true and correct, and the applicant's signature. If the applicant is not a
12 United States citizen, the application shall require any alien or admission number issued by the
13 United States Bureau of Immigration and Customs Enforcement. If filed in triplicate, the
14 original shall be delivered to the applicant as the temporary permit, the duplicate shall within



seven days be sent by first class mail to the secretary of state who shall issue the official permit, and the triplicate shall be preserved for ~~four~~ five years by the authority issuing the permit. If the application is filed electronically, two copies shall be made and each shall be signed by the applicant. One copy shall be delivered to the applicant as the temporary permit, and the other copy shall be preserved for ~~four~~ five years by the authority issuing the permit.

Section 2. 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 ~~and~~, 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, ~~and the expiration date~~, and the issuance date of the permit. The enhanced permit to carry a concealed pistol must clearly designate that the permit is enhanced and the gold card permit must clearly designate that it is a gold card permit to carry a concealed pistol. The holder of a permit may carry a concealed pistol anywhere in South Dakota except 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. Nothing in this section prevents law enforcement officers, parole agents, security guards employed on the premises, and other public officials with the written permission of the sheriff from carrying concealed weapons in the performance of their duties or prevents home or business owners from carrying concealed weapons on their property pursuant to § 22-14-11.

Section 3. That § 23-7-54 be amended to read:

23-7-54. The sheriff shall retain the application and other documents until the sheriff receives the results of the background checks required pursuant to § 23-7-53. Within seven days following receipt of a confirmation that the applicant passed each criminal background check required pursuant to this section and § 23-7-53, the sheriff shall file the application with the

1 secretary of state pursuant to § 23-7-8.

2 If the applicant submits an application pursuant to § 23-7-53, meets the requirements of
3 § 23-7-7.1, is not otherwise prohibited by state law, 18 U.S.C. 922(g) as amended to October
4 26, 2005, or 18 U.S.C. 922(n) as amended to October 26, 2005, from receiving, possessing, or
5 transporting a firearm, passes the required fingerprint background check, and passes a National
6 Instant Criminal Background Check, the sheriff of the county where the applicant submitted the
7 application shall, within thirty days of application, issue the applicant a temporary enhanced
8 permit to carry a concealed pistol. The temporary permit must clearly designate that the permit
9 is enhanced.

10 Section 4. That § 23-7-57 be amended to read:

11 23-7-57. Unless otherwise specified, the references, rights, and responsibilities in this
12 chapter related to a permit to carry a concealed pistol also apply to an enhanced permit to carry
13 a concealed pistol and a gold card permit to carry a concealed pistol.

14 Section 5. That § 25-10-24 be amended to read:

15 25-10-24. The court may require the defendant to surrender any dangerous weapon or any
16 concealed pistol permit issued under 23-7 in his the defendant's possession to local law
17 enforcement.

18 Section 6. That § 23-7-8.9 be amended to read:

19 23-7-8.9. The provisions of §§ 23-7-8.6 to 23-7-8.9, inclusive, do specifically prohibit any
20 law enforcement officer from retaining any notes, data, or pieces of information, either
21 collectively or individually, unless the retention of such notes, data, or pieces of information is
22 pertinent to a specific ongoing investigation or prosecution. Access by law enforcement to
23 information necessary to perform a periodic National Instant Criminal Background Check of
24 gold card or enhanced pistol permit holders under section 15 of this Act is authorized.

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

An applicant may submit an application to the sheriff of the county in which the applicant resides for a gold card permit to carry a concealed pistol. The application shall include:

- (1) The application for the gold card permit to carry a concealed pistol;
- (2) A copy of the applicant's fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information, for a state, national, and international criminal history background check;
- (3) An authorization to run a fingerprint background check;
- (4) A separate payment for the cost of processing the fingerprint background check; and
- (5) A separate application fee of seventy dollars for the gold card permit to carry a concealed pistol. Thirty dollars of the fee shall be distributed to the sheriff, thirty-four dollars shall be distributed to the Department of Public Safety, and six dollars to the secretary of state to be used by the secretary of state to administer the concealed carry program.

The sheriff shall forward the copy of the applicant's fingerprints, the applicant's authorization for processing a fingerprint background check, and the payment for the fingerprint background check to the Division of Criminal Investigation for processing.

Section 8. That chapter 23-7 be amended by adding a NEW SECTION to read:

The sheriff shall retain the application and other documents until the sheriff receives the results of the background checks required pursuant to section 7 of this Act. Within seven days following receipt of a confirmation that the applicant passed each criminal background check required pursuant to this section and section 7 of this Act, the sheriff shall file the application with the secretary of state pursuant to § 23-7-8.

1 If the applicant submits an application pursuant to section 1 of this Act, meets the
2 requirements of § 23-7-7.1, is not otherwise prohibited by state law, 18 U.S.C. 922(g) as
3 amended to October 26, 2005, or 18 U.S.C. 922(n) as amended to October 26, 2005, from
4 receiving, possessing, or transporting a firearm, passes the required fingerprint background
5 check, and passes a National Instant Criminal Background Check, the sheriff of the county of
6 the application shall, within thirty days of application, issue the applicant a temporary gold card
7 permit to carry a concealed pistol. The temporary permit must clearly designate that the permit
8 is a gold card permit.

9 Section 9. That chapter 23-7 be amended by adding a NEW SECTION to read:

10 The holder of the gold card permit to carry a concealed pistol may renew the permit through
11 the sheriff of the county where the holder resides, no earlier than ninety days prior to the
12 expiration of the permit. The holder shall pay a seventy dollar renewal fee and pass a National
13 Instant Criminal Background Check prior to the renewal of the permit. The renewal fee shall
14 be distributed as set forth in subdivision (7) of section 5 of this Act.

15 Section 10. That chapter 23-7 be amended by adding a NEW SECTION to read:

16 The gold card permit to carry a concealed pistol is valid for a period of five years from the
17 date of issuance.

18 Section 11. That chapter 23-7 be amended by adding a NEW SECTION to read:

19 A gold card permit to carry a concealed pistol or an enhanced permit to carry a concealed
20 pistol is automatically revoked upon failure to maintain the requirements under § 23-7-7.1 or
21 if the gold card or enhanced permit holder becomes prohibited by state law, 18 U.S.C. 922(g)
22 as amended to October 26, 2005, or 18 U.S.C. 922(n) as amended to October 26, 2005, from
23 receiving, possessing, or transporting a firearm.

24 Upon such occurrence, the permit holder shall immediately return the gold card or enhanced

1 concealed pistol permit to the county sheriff of the permit holder's county of residence. If the
2 permit has not been returned, upon learning that a permit holder is ineligible for a gold card or
3 enhanced permit for any violent crime or for a crime punishable by more than one year of
4 incarceration, the sheriff of the permit holder's county of residence shall secure the possession
5 and return of the gold card or enhanced permit forthwith. For any other disqualifying offense
6 set forth above the sheriff of the permit holder's county of residence shall secure the possession
7 and return of the gold card or enhanced permit as soon as reasonably possible after being
8 notified of the holders ineligibility. A gold card or enhanced permit holder whose permit has
9 been secured by law enforcement under this section may petition the circuit court for the return
10 of the gold card or enhanced permit if the permit holder believes the gold card or enhanced
11 permit was unlawfully secured. Law enforcement may communicate with federally licensed
12 firearms dealers relative to revoked gold card or enhanced permits.

13 Section 12. That chapter 23-7 be amended by adding a NEW SECTION to read:

14 It is a Class 1 misdemeanor for anyone that is ineligible to possess a gold card or enhanced
15 concealed pistol permit to possess or present a revoked gold card or enhanced concealed pistol
16 permit.

17 Section 13. That chapter 23-7 be amended by adding a NEW SECTION to read:

18 If any person is convicted of any offense which results in the automatic revocation of a gold
19 card or enhanced permit to carry a concealed pistol under this chapter, the court entering the
20 conviction shall require the surrender to the court of all gold card or enhanced concealed pistol
21 permits held by the person convicted. The court shall forward all gold card and enhanced
22 concealed pistol permits to the sheriff of the defendant's county of residence.

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

24 It is a Class 1 misdemeanor for a person to fail or refuse to surrender to the county sheriff

1 of the person's county of residence, upon lawful demand, a gold card or enhanced permit to
2 carry a concealed pistol that has been revoked. If a person fails to return a gold card or enhanced
3 permit to the sheriff of the person's county of residence after lawful demand, the sheriff shall
4 direct a law enforcement officer to secure its possession and return in compliance with section
5 11 of this Act. The law enforcement officer shall receive ten dollars and fifty cents plus mileage,
6 at a rate established by the State Board of Finance, to be paid by the violator. Failure to pay the
7 fee and mileage is a Class 2 misdemeanor.

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

9 Law enforcement may periodically perform a National Instant Criminal Background Check
10 of gold card or enhanced concealed pistol permit holders for the purposes of determining
11 whether the permit holder remains eligible for the permit under § 23-7-7.1, 18 U.S.C. 922(g)
12 as amended to October 26, 2005, and 18 U.S.C. 922(n) as amended to October 26, 2005.

13 Section 16. The Act is effective January 1, 2017.