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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 309

01/17/2017 Authored by Bahr, C.; Drazkowski; Hertaus; McDonald; Lohmer and others
The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to public safety; providing for the right to carry a firearm without a permit;
1.3 providing for penalties; amending Minnesota Statutes 2016, sections 624.714, by
1.4 adding a subdivision; 624.7142, subdivisions 5, 6; 624.7143, subdivision 2;
1.5 proposing coding for new law in Minnesota Statutes, chapter 624; repealing
1.6 Minnesota Statutes 2016, section 624.714, subdivisions 1a, 1b, 9, 11a, 13.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. 624.7121] PERMIT NOT REQUIRED.

1.9 Subdivision 1. Right to carry. Notwithstanding any other law to the contrary, every
1.10 citizen in this state shall have an affirmative, fundamental, and constitutional right to keep
1.11 and bear firearms, including the right to carry openly or concealed, carry loaded or unloaded,
1.12 transport, possess, use, acquire, purchase, transfer, inherit, buy, sell, give, or otherwise
1.13 dispose of or receive any firearm or self-defense device without a permit, permission, or
1.14 restriction of any kind from or by this state or any of its political subdivisions.

1.15 Subd. 2. Optional permit. Obtaining a permit to carry a pistol under section 624.714
1.16 is optional. The voluntary nature of the permit shall not be construed to require a person to
1.17 obtain a permit to carry a pistol under sections 624.711 to 624.717.

1.18 Sec. 2. Minnesota Statutes 2016, section 624.714, is amended by adding a subdivision to
1.19 read:

1.20 Subd. 1c. Permits. (a) Due to every state citizen having a fundamental constitutional
1.21 right to keep and bear arms, obtaining a permit under this section shall be optional. The
1.22 voluntary nature of the permit shall not be construed to relieve the sheriff of the burden of
1.23 proof for denying an application for a permit. Issuance of a permit under this section by the

2.1 sheriff shall be prima facie evidence that law enforcement authorities have verified that the
 2.2 person is qualified under the law and not prohibited from possessing firearms pursuant to
 2.3 section 624.713 or other law. Nothing in this section shall be construed to require that a
 2.4 person must obtain a permit under this section in order to carry a pistol.

2.5 (b) The voluntary nature of a permit to carry a pistol may not be construed to relieve the
 2.6 sheriff of the burden of proof for denying an application for a permit. Issuance of a permit
 2.7 to carry a pistol under this section by the sheriff shall be prima facie evidence that law
 2.8 enforcement authorities have verified that the individual is qualified under the law and is
 2.9 not prohibited from possessing firearms under the laws of the state.

2.10 (c) A permit to carry a pistol shall be available to those persons who wish to carry a
 2.11 pistol openly or concealed on or about one's person or in a vehicle and shall be valid
 2.12 throughout the state.

2.13 (d) A permit to carry a pistol shall provide citizens of this state with the ability to carry
 2.14 a firearm in any state that the state maintains a reciprocal agreement for the mutual
 2.15 recognition of permits to carry firearms.

2.16 Sec. 3. Minnesota Statutes 2016, section 624.7142, subdivision 5, is amended to read:

2.17 Subd. 5. **Suspension.** A person who is charged with a violation under this section may
 2.18 have their authority to carry a pistol in a public place on or about the person's clothes or
 2.19 person under the provisions of a permit or ~~otherwise~~ without a permit suspended by the
 2.20 court as a condition of release.

2.21 Sec. 4. Minnesota Statutes 2016, section 624.7142, subdivision 6, is amended to read:

2.22 Subd. 6. **Penalties.** (a) A person who violates a prohibition under subdivision 1, clauses
 2.23 (1) to (5), is guilty of a misdemeanor. A second or subsequent violation is a gross
 2.24 misdemeanor.

2.25 (b) A person who violates subdivision 1, clause (6), is guilty of a misdemeanor.

2.26 (c) In addition to the penalty imposed under paragraph (a), if a person violates subdivision
 2.27 1, clauses (1) to (5), the person's authority to carry a pistol in a public place on or about the
 2.28 person's clothes or person under the provisions of a permit or ~~otherwise~~ without a permit
 2.29 is revoked and the person may not reapply for a permit or carry a firearm without a permit
 2.30 for a period of one year from the date of conviction.

2.31 (d) In addition to the penalty imposed under paragraph (b), if a person violates subdivision
 2.32 1, clause (6), the person's authority to carry a pistol in a public place on or about the person's

3.1 clothes or person under the provisions of a permit or ~~otherwise~~ without a permit is suspended
3.2 for 180 days from the date of conviction.

3.3 (e) Notwithstanding section 609.531, a firearm carried in violation of subdivision 1,
3.4 clause (6), is not subject to forfeiture.

3.5 Sec. 5. Minnesota Statutes 2016, section 624.7143, subdivision 2, is amended to read:

3.6 Subd. 2. **Penalties; refusal; revocation.** (a) If a person refuses to take a test required
3.7 under subdivision 1, none must be given but the officer shall report the refusal to the sheriff
3.8 and to the authority having responsibility for prosecution of misdemeanor offenses for the
3.9 jurisdiction in which the incident occurred that gave rise to the test demand and refusal. On
3.10 certification by the officer that probable cause existed to believe the person had been carrying
3.11 a pistol on or about the person's clothes or person in a public place while under the influence
3.12 of alcohol or a controlled substance, and that the person refused to submit to testing, a court
3.13 may impose a civil penalty of \$500 and may revoke the person's authority to carry a pistol
3.14 in a public place on or about the person's clothes or person under the provisions of a permit
3.15 or ~~otherwise~~ without a permit for a period of one year from the date of the refusal. The
3.16 person shall be accorded notice and an opportunity to be heard prior to imposition of the
3.17 civil penalty or the revocation.

3.18 (b) Revocations under this subdivision must be reported in the same manner as in section
3.19 624.714, subdivision 12a.

3.20 Sec. 6. **[624.7182] INTERFERENCE WITH THE RIGHT TO CARRY, DISPLAY,**
3.21 **OR POSSESS.**

3.22 (a) A public official who interferes with the right to carry a pistol under sections 624.7121
3.23 and 624.714 is guilty of a misdemeanor for the following offenses:

3.24 (1) arresting or attempting to arrest a person for the lawful possession of a pistol, whether
3.25 or not the person possesses a license issued under section 624.714. The public official shall
3.26 be personally liable for attorney fees and costs incurred in any action to enforce sections
3.27 624.7121 and 624.714;

3.28 (2) stopping, restraining, detaining, or otherwise harassing a person for carrying a pistol,
3.29 whether openly or concealed, whether or not the person possesses a license under section
3.30 624.714. A public official who wrongfully stops, restrains, detains, or otherwise harasses
3.31 a person in violation of the provisions of section 624.7121 or 624.714 shall be personally

4.1 liable for attorney fees, courts costs, and expenses incurred in any action to enforce sections
4.2 624.7121 and 624.714; and

4.3 (3) denial, suspension, or revocation of a license or application for a license under section
4.4 624.714 without just cause. A public official who denies, suspends, or revokes a license or
4.5 application for a license to carry a pistol without just cause shall be personally liable for
4.6 attorney fees, court costs, and expenses incurred in any action to enforce section 624.714.

4.7 (b) The attorney general shall investigate, enforce, and prosecute violations under this
4.8 section.

4.9 (c) For the purposes of this section, "public official" means any person holding an office
4.10 of public trust, whether appointed or elected, or any person employed by the state or any
4.11 of its political subdivisions.

4.12 **EFFECTIVE DATE.** This section is effective August 1, 2017, and applies to crimes
4.13 committed on or after that date.

4.14 **Sec. 7. REVISOR'S INSTRUCTION.**

4.15 The revisor of statutes, in consultation with the Bureau of Criminal Apprehension, shall
4.16 draft legislation showing necessary changes to clarify and conform statutory provisions
4.17 relating to possessing and carrying a firearm in Minnesota Statutes with this act. The draft
4.18 legislation shall be submitted to the house of representatives and senate committees with
4.19 jurisdiction over the carrying of firearms.

4.20 **Sec. 8. REPEALER.**

4.21 Minnesota Statutes 2016, section 624.714, subdivisions 1a, 1b, 9, 11a, and 13, are
4.22 repealed.

624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES.

Subd. 1a. **Permit required; penalty.** A person, other than a peace officer, as defined in section 626.84, subdivision 1, who carries, holds, or possesses a pistol in a motor vehicle, snowmobile, or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place, as defined in section 624.7181, subdivision 1, paragraph (c), without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time is guilty of a felony.

Subd. 1b. **Display of permit; penalty.** (a) The holder of a permit to carry must have the permit card and a driver's license, state identification card, or other government-issued photo identification in immediate possession at all times when carrying a pistol and must display the permit card and identification document upon lawful demand by a peace officer, as defined in section 626.84, subdivision 1. A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to carry the pistol at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

(d) Upon the request of a peace officer, a permit holder shall disclose to the officer whether or not the permit holder is currently carrying a firearm.

Subd. 9. **Carrying pistols about one's premises or for purposes of repair, target practice.** A permit to carry is not required of a person:

(1) to keep or carry about the person's place of business, dwelling house, premises or on land possessed by the person a pistol;

(2) to carry a pistol from a place of purchase to the person's dwelling house or place of business, or from the person's dwelling house or place of business to or from a place where repairing is done, to have the pistol repaired;

(3) to carry a pistol between the person's dwelling house and place of business;

(4) to carry a pistol in the woods or fields or upon the waters of this state for the purpose of hunting or of target shooting in a safe area; or

(5) to transport a pistol in a motor vehicle, snowmobile or boat if the pistol is unloaded, contained in a closed and fastened case, gunbox, or securely tied package.

Subd. 11a. **Emergency issuance of permits.** A sheriff may immediately issue an emergency permit to a person if the sheriff determines that the person is in an emergency situation that may constitute an immediate risk to the safety of the person or someone residing in the person's household. A person seeking an emergency permit must complete an application form and must sign an affidavit describing the emergency situation. An emergency permit applicant does not need to provide evidence of training. An emergency permit is valid for 30 days, may not be renewed, and may be revoked without a hearing. No fee may be charged for an emergency permit. An emergency permit holder may seek a regular permit under subdivision 3 and is subject to the other applicable provisions of this section.

Subd. 13. **Exemptions; adult correctional facility officers.** A permit to carry a pistol is not required of any officer of a state adult correctional facility when on guard duty or otherwise engaged in an assigned duty.