

SENATE BILL NO. 2274

Introduced by

Senators Armstrong, Poolman, Unruh

Representatives Karls, Streyle, Toman

1 A BILL for an Act to create and enact a new section to chapter 62.1-05 of the North Dakota
2 Century Code, relating to chief law enforcement officer certification for certain firearms.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 62.1-05 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Chief law enforcement officer certification - Certain firearms.**

7 1. For purposes of this section:

8 a. "Chief law enforcement officer" means any official, or the designee of the official,
9 the bureau of alcohol, tobacco, firearms and explosives, or any successor
10 agency, identifies by regulation or otherwise as eligible to provide any required
11 certification for the making or transfer of a firearm.

12 b. "Certification" means the participation and assent of the chief law enforcement
13 officer necessary under federal law for the approval of the application to transfer
14 or make a firearm. A chief law enforcement officer is not required to make any
15 certification under this section the officer knows to be untrue, but the officer may
16 not refuse to provide certification based on a generalized objection to private
17 persons or entities making, possessing, or receiving firearms or any certain type
18 of firearm the possession of which is not prohibited by law.

19 c. "Firearm" has the same meaning as provided in the National Firearms Act [26
20 U.S.C. § 5845(a)].

21 2. When a chief law enforcement officer's certification is required by federal law or
22 regulation for the transfer or making of a firearm, the chief law enforcement officer,
23 within thirty days of receipt of a request for certification, shall provide the certification if
24 the applicant is not prohibited by law from receiving or possessing the firearm or is not

- 1 the subject of a proceeding that could result in the applicant being prohibited by law
2 from receiving or possessing the firearm. If the chief law enforcement officer is unable
3 to make a certification as required by this section, the officer shall provide the
4 applicant with a written notification of the denial and the reason for this determination.
- 5 3. In making the certification required by subsection 2, a chief law enforcement officer or
6 designee may require the applicant to provide only the information as is required by
7 federal or state law to identify the applicant and conduct a criminal background check,
8 including a check of the national instant criminal background check system, or to
9 determine the disposition of an arrest or proceeding relevant to the applicant's
10 eligibility to lawfully possess or receive a firearm. A chief law enforcement officer may
11 not require access to or consent for an inspection of any private premises as a
12 condition of making a certification under this section.
- 13 4. Chief law enforcement officers and their employees who act in good faith are immune
14 from liability arising from any act or omission in making a certification as required by
15 this section.
- 16 5. An applicant whose request for certification is denied may appeal the chief law
17 enforcement officer's decision to the district court for the county in which the applicant
18 resides or maintains the applicant's address of record. The court shall review the chief
19 law enforcement officer's decision to deny the certification de novo. If the court finds
20 that the applicant is not prohibited by law from receiving or possessing the firearm, or
21 is not the subject of a proceeding that could result in the prohibition, or that there is not
22 any substantial evidence that supports the chief law enforcement officer's
23 determination that the officer cannot truthfully make the certification, the court shall
24 order the chief law enforcement officer to issue the certification and award court costs
25 and reasonable attorney's fees to the applicant.