

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act ~~to create and enact chapter 20.1-18 of the North Dakota Century Code,~~
2 ~~relating to a database identifying whether private land is open to hunters;~~ to amend and reenact
3 sections 12.1-22-03, 20.1-01-17, 20.1-01-18, ~~20.1-01-19, 20.1-01-20~~, and 20.1-03-42 of the
4 North Dakota Century Code, relating to criminal trespass and hunting on private land; ~~to provide~~
5 ~~a statement of legislative intent~~ to repeal section 20.1-01-20 of the North Dakota Century Code,
6 relating to prima facie evidence of hunting; to provide for a legislative management study; and
7 to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **12.1-22-03. Criminal trespass – ~~Noncriminal offense on posted property.~~**

- 12 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
13 or privileged to do so, the individual enters or remains in a dwelling or in highly
14 secured premises.
- 15 2. An individual is guilty of a class B misdemeanor for a first offense and a class A
16 misdemeanor for a second or subsequent offense if, knowing that ~~that~~ the individual is
17 not licensed or privileged to do so, the individual:
- 18 a. Enters ~~enters~~ or remains in or on any building, occupied structure, or storage
19 structure, or separately secured or occupied portion thereof; or
- 20 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~
21 building or structure, or any other place the individual is not licensed or privileged
22 to be, except as provided in sections 20.1-01-18, and 20.1-01-19, ~~20.1-03-42,~~
23 and 20.1-18-03, or

1 b. Remains on property that is privately owned and open to the public after being
2 requested to leave the property by a duly authorized individual.

3 ~~3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is~~
4 ~~not licensed or privileged to do so, the individual enters or remains in any place~~
5 ~~as to which notice against trespass is given by actual communication to the actor~~
6 ~~by the individual in charge of the premises or other authorized individual or by~~
7 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~
8 ~~name of the person posting the premises must appear on each sign in legible~~
9 ~~characters.~~

10 ~~b. Even if the conduct of the owner, tenant, or individual authorized by the owner~~
11 ~~varies from the provisions of subdivision a, an individual may be found guilty of~~
12 ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~
13 ~~substantially complied with subdivision a and notice against trespass is clear~~
14 ~~from the circumstances.~~

15 ~~c. An individual who violates subdivision a is guilty of a class A misdemeanor for the~~
16 ~~second or subsequent offense within a two-year period.~~

17 ~~4. a. An individual, knowing the individual is not licensed or privileged to do so, may~~
18 ~~not enter or remain in a place as to which notice against trespass is given by~~
19 ~~posting in a manner reasonably likely to come to the attention of intruders. A~~
20 ~~violation of this subdivision is a noncriminal offense.~~

21 ~~b. A peace officer shall cite an individual who violates subdivision a with a fine of~~
22 ~~two hundred fifty dollars for each violation.~~

23 ~~c. The peace officer citing the individual shall:~~

24 ~~(1) Take the name and address of the individual; and~~

25 ~~(2) Notify the individual of the right to request a hearing if posting bond by mail.~~

26 ~~d. The peace officer may not take the individual into custody or require the~~
27 ~~individual to proceed with the peace officer to any other location for the purpose~~
28 ~~of posting bond. The officer shall provide the individual with an envelope for use~~
29 ~~in mailing the bond.~~

30 ~~e. An individual cited may appear before the designated official and pay the~~
31 ~~statutory fine for the violation at or before the time scheduled for hearing.~~

- 1 ~~_____ f. If the individual has posted bond, the individual may forfeit bond by not appearing~~
2 ~~at the designated time.~~
- 3 ~~_____ g. If the individual posts bond by mail, the bond must be submitted within fourteen~~
4 ~~days of the date of the citation and the individual cited shall indicate on the~~
5 ~~envelope or citation whether a hearing is requested. If the individual does not~~
6 ~~request a hearing within fourteen days of the date of the citation, the bond is~~
7 ~~deemed forfeited and the individual is deemed to have admitted to the violation~~
8 ~~and to have waived the right to a hearing on the issue of commission of the~~
9 ~~violation. If the individual requests a hearing, the court for the county in which the~~
10 ~~citation is issued shall issue a summons to the individual requesting the hearing~~
11 ~~notifying the individual of the date of the hearing before the designated official.~~
- 12 ~~_____ h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled~~
13 ~~at the individual's request, the individual may make a statement in explanation of~~
14 ~~the individual's action. The official may at that time waive or suspend the statutory~~
15 ~~fine or bond.~~
- 16 ~~_____ i. A citing peace officer may not receive the statutory fine or bond.~~
- 17 ~~_____ j. The bond required to secure appearance before the judge must be identical to~~
18 ~~the statutory fine established in subdivision b.~~

19 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~
20 ~~property of another after being requested to leave the property by a duly authorized~~
21 ~~individual. An individual who violates this subsection is guilty of a class A~~
22 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

23 ~~6.4.3. This section does not apply to a:~~

24 ~~_____ a. A peace officer in the course of discharging the peace officer's official duties; or~~

25 ~~_____ b. An individual who enters land to access buried and aboveground infrastructure~~
26 ~~for operations, inspection, repair, or maintenance purposes, if the individual has a~~
27 ~~right to operate, inspect, repair, or maintain the infrastructure.~~

28 **SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs**
2 **defaced.**

- 3 1. Only the owner or tenant or an individual authorized by the owner of land may post the
4 land by placing signs alongside the public highway or the land giving notice that
5 hunting is not permitted on the land. The name of the person posting the land must
6 appear on each sign in legible characters. The signs must be readable from the
7 outside of the land and must be placed conspicuously not more than eight hundred
8 eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other
9 enclosure, posting of signs at or on all gates through the fence or enclosure
10 constitutes a posting of all the enclosed land.
- 11 2. A person may not deface, take down, destroy posting signs, or post property without
12 the permission of the owner or tenant or an individual authorized by the owner.
- 13 3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies
14 from the provisions of subsection 1, an individual may be found guilty of violating
15 section 20.1-01-18 if the owner, tenant, or individual authorized by the owner
16 substantially complied with subsection 1 and notice against hunting or trespassing is
17 clear from the circumstances.

18 4. If the state, either directly or through a third party, develops, operates, or maintains an
19 online database or other electronic application for up to three counties which is
20 available to the public and identifies whether land in the counties is available to
21 hunters, an owner or tenant or individual authorized by the owner of land in the
22 counties may submit electronic information for the database or application regarding
23 the availability of the land for hunting. Land designated as posted or closed to hunters
24 in the database or application under this subsection is deemed posted land.

25 **SECTION 3. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **20.1-01-18. Hunting on posted land and trapping on private land without permission**
28 **unlawful - Penalty.**

29 ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally-
30 ~~posted~~ land belonging to another without first obtaining the permission of the person legally
31 entitled to grant the same permission, unless the land is legally posted or the individual is

1 requested to leave by a duly authorized person. ~~No person~~ A person may not enter upon
2 privately owned land for the purpose of trapping protected fur-bearing animals without first
3 gaining the written permission of the owner or operator of that land. A person who violates this
4 section is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for a
5 subsequent offense within a two-year period ~~unless the land is designated as closed to hunters-~~
6 ~~or open to hunters with permission under section 20.1-18-02 or the land is legally posted in-~~
7 ~~accordance with section 20.1-01-17.~~

8 ~~— **SECTION 6. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~— **20.1-01-19. When posted private land may be entered.**~~

11 ~~— Any person~~ An individual may enter upon legally posted private land to recover game shot or
12 killed on land where the person individual had a lawful right to hunt. ~~—~~

13 ~~**SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is~~
14 ~~amended and reenacted as follows:~~

15 ~~— **20.1-01-20. Entering posted private land with a hunting license and a gun or firearm-**~~
16 ~~**prima facie evidence of intent to hunt game.**~~

17 ~~— Proof that a person having~~ an individual had a firearm, or other weapon declared legal by
18 governor's proclamation, in the person's possession and a valid license to hunt game in the-
19 relevant area when the individual entered upon the legally posted private premises of another-
20 without permission of the owner or tenant is prima facie evidence the person individual entered-
21 to hunt or pursue game.

22 ~~**SECTION 4. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is~~
23 ~~amended and reenacted as follows:~~

24 ~~**20.1-03-42. Guiding on prohibited lands.**~~

- 25 1. A person may not act as a hunting guide or hunting outfitter on land the person knows
26 is owned by the state unless the appropriate state agency permits or authorizes the
27 guiding or outfitting, on private land enrolled by the department for purposes of
28 hunting, on land in which the department pays in lieu of taxes, or on federal lands
29 without being authorized or permitted as required by the appropriate federal agency,
30 or.

1 2. A person may not act as a hunting guide or outfitter on private lands that are posted
2 against hunting or trespassing under section 20.1-01-17 or private lands that are
3 designated as closed to hunters or open to hunters with permission under section
4 20.1-18-02, without first informing and obtaining permission from the landowner to
5 conduct guiding or outfitting on the land. If the landowner did not grant the permission
6 in writing, there is a presumption that the permission did not exist.

7 ~~SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~
8 ~~follows:~~

9 ~~**20.1-18-01. Hunters access advisory group.**~~

10 ~~1. The hunters access advisory group consists of:~~

11 ~~a. The agriculture commissioner or the commissioner's designee;~~

12 ~~b. The director or the director's designee;~~

13 ~~c. The chief information officer or the officer's designee;~~

14 ~~d. A representative of the North Dakota association of counties;~~

15 ~~e. Two members of an agriculture committee; and~~

16 ~~f. Two members of a sportsmen committee.~~

17 ~~2. The hunters access advisory group shall oversee the development of the hunters~~
18 ~~access database identifying private land in the state as open to hunters, closed to~~
19 ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

20 ~~3. The hunters access advisory group shall establish guidelines for the development of~~
21 ~~the database and acceptance criteria for county data used to develop the database.~~

22 ~~**20.1-18-02. Hunters access database.**~~

23 ~~1. The hunters access database must use color coding or other clear indicators to~~
24 ~~designate private land in the state as open to hunters, closed to hunters, or open to~~
25 ~~hunters with permission from the owner or lawful occupant.~~

26 ~~2. A landowner or lawful occupant may designate which of the three categories in~~
27 ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~
28 ~~landowner or lawful occupant does not designate a category must be indicated in the~~
29 ~~database as open to hunters if the county in which the land is located is included in the~~
30 ~~database.~~

1 ~~3. If a landowner or lawful occupant designates land as open to hunters with permission,~~
2 ~~the landowner or lawful occupant shall provide contact information to be included in the~~
3 ~~database for hunters to request permission to hunt on the land.~~

4 ~~4. The database must be accessible electronically to the public and may be made~~
5 ~~available to the public through other means, including smartphone applications.~~

6 ~~5. To be included in the database, a county shall provide geographic information system~~
7 ~~data or other data to the information technology department which meets the criteria~~
8 ~~established by the hunters access advisory group.~~

9 ~~**20.1-18-03. Noncompliance with database and posting - Penalty.**~~

10 ~~1. Until the county in which private land is located is included in the hunters access~~
11 ~~database, the land is deemed open unless posted in accordance with section~~
12 ~~20.1-01-17.~~

13 ~~2. After a county is included in the database:~~

14 ~~a. A hunter may not enter land in the county which is designated in the database as~~
15 ~~closed to hunters or open to hunters with permission unless the hunter has~~
16 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~
17 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~
18 ~~a second and subsequent knowing violation of this subdivision; and~~

19 ~~b. A hunter without permission may enter land in the county which is not designated~~
20 ~~in the database as closed to hunters or open to hunters with permission, unless~~
21 ~~the land is posted in accordance with section 20.1-01-17.~~

22 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~
23 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~
24 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~
25 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~
26 ~~subsequent knowing violation of this subsection.~~

27 ~~**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is~~
28 ~~the intent of the legislative assembly that several counties will be included in an operational~~
29 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~
30 ~~include all counties whose data meet the specifications of the hunters access database~~
31 ~~advisory group by September 1, 2022.~~

1 **SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed.

2 **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS ~~FOR~~**
3 **~~HUNTING AND TRAPPING.~~**

4 1. During the 2019-20 interim, the legislative management shall ~~consider studying study~~
5 access to public and private lands for hunting, trapping, fishing, and related issues,
6 including trespass violations and penalties, and provide recommendations regarding a
7 land access database with the capability of electronic posting. At the direction of the
8 legislative management, before August 1, 2020, the information technology
9 department and game and fish department shall establish a trial electronic posting and
10 hunter access information system in up to three counties. The information technology
11 department and game and fish department may contract with a third party to assist
12 with the electronic posting and hunter access information system development and
13 operation. The legislative management shall report its findings and recommendations,
14 together with any legislation required to implement the recommendations, to the
15 sixty-seventh legislative assembly.

16 2. The legislative management shall appoint a committee for this study as follows:

17 a. The voting members of the committee, who must be appointed by the legislative
18 management, are:

19 (1) Two members representing agriculture landowners;

20 (2) Two members representing sportsmen organizations; and

21 (3) Five members of the legislative assembly, including:

22 (a) One member of the majority party in the house of representatives;

23 (b) One member of the minority party in the house of representatives;

24 (c) One member of the majority party in the senate;

25 (d) One member of the minority party in the senate; and

26 (e) One member from either party in either chamber to serve as the
27 committee chairman.

28 b. The nonvoting members of the committee are:

29 (1) A representative of the North Dakota association of counties;

30 (2) The agriculture commissioner or the commissioner's designee;

31 (3) The director of the game and fish department or the director's designee;

1 (4) The chief information officer or the officer's designee; and

2 (5) A representative of the North Dakota state's attorneys' association.

3 3. A member of the committee who is not a state employee is entitled to reimbursement
4 for mileage and expenses as provided by law for state officers and employees, to be
5 paid by the legislative council. A state employee who is a member of the committee is
6 entitled to receive that employee's regular salary and is entitled to reimbursement for
7 mileage and expenses to be paid by the employing agency. A member of the
8 committee who is a member of the legislative assembly is entitled to receive per diem
9 compensation at the rate provided under section 54-35-10 for each day performing
10 official duties of the committee. The legislative council shall pay the per diem
11 compensation and reimbursement for travel and expenses as provided by law for any
12 member of the committee who is a member of the legislative assembly.

13 **SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the
14 tourism division of the department of commerce shall provide public education and marketing
15 regarding the changes to land access in this Act.