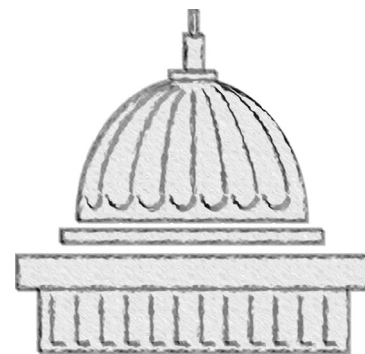


# F. NRA / ILA Firearms Laws for

## SOUTH DAKOTA

(As of May, 2004)



Compiled by:

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### A SYNOPSIS OF STATE LAWS ON PURCHASE, POSSESSION AND CARRYING OF FIREARMS.

#### QUICK REFERENCE CHART

	Rifles and Shotguns	Handguns
Permit to Purchase	No	No*
Registration of Firearms	No	No
Licensing of Owners	No	No
Permit to Carry	No	Yes**

\*48-hour waiting period. Police recordation is made of purchases from dealers.

\*\*A permit is required to carry concealed.

#### STATE CONSTITUTIONAL PROVISION

“The right of the citizens to bear arms in defense of themselves and the state shall not be denied.” Article VI, Section 24.

#### PURCHASE

No seller may deliver a pistol to a purchaser until 48 hours have elapsed. A person with a valid carrying permit shall be exempt from the 48-hour waiting period. When a pistol is delivered it must be unloaded and securely wrapped.

The buyer must complete an application to purchase a pistol if he does not possess a valid carrying permit. The seller must within 6 hours, mail or hand deliver the application to the police chief of the municipality or sheriff of the county of which the purchaser is a resident. The duplicate shall be returned to the seller by the police chief or sheriff and the original shall be retained by him for a period of one year.

It is unlawful to knowingly give, loan, or sell a firearm to any person who has been convicted of a violent felony within 15 years of his discharge from prison, jail, probation or parole.

#### POSSESSION

No state permit is required to possess a shotgun, rifle or handgun.

A person under 18 may not possess a pistol. This prohibition does not apply when a minor has the consent of his parent or guardian and was in the presence of his parent or guardian and was on premises owned or leased by him or his parent, guardian or immediate family member; the minor was

in the presence of a licensed or accredited gun safety instructor, or was using the pistol for farming, ranching, trapping, target shooting, or gun safety instruction.

No person shall possess a firearm on which the manufacturer's serial number has been changed, altered, removed or obliterated. This does not apply if the owner or possessor of the firearms has applied for a new serial number with the director of criminal investigation.

No person who has been convicted of a crime of violence shall possess or have under his control any firearm. Crimes of violence include the following crimes or attempts to commit or a conspiracy to commit them: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary, arson, kidnapping, and any other felony in the commission of which the perpetrator used force or was armed with a weapon. This does not apply to a person who was last discharged from prison, jail, probation or parole for a crime of violence more than 15 years prior to the commission of this offense.

It is unlawful to possess a loaded firearm while intoxicated.

#### CARRYING

No person shall carry a pistol concealed in any vehicle or concealed on or about his person, without a license to carry. The issuing authority for a permit to carry is the sheriff of a county.

The permit shall be issued if the applicant is at least 18, has not been convicted of a felony or crime of violence, is not a habitual drunkard or drug user, has no history of repeated acts of violence, is not currently adjudged mentally incompetent or has not been found in the previous 10 years to be mentally ill, has been a resident of the county for at least 30 days preceding application, is a citizen of the United States, has not been convicted of a misdemeanor or felony offence within the preceding 5 years under the South Dakota weapon laws, firearm control laws or controlled substance laws, and is not a fugitive from justice. A temporary permit to carry shall be issued within 5 days of application to a person who satisfies the above standards. The original copy of an application for a permit shall serve as the temporary permit until the permit is issued. All permit denials may be appealed to the circuit court.

The permit is valid for 4 years. The fee for a permit to carry is \$10.00.

A permittee may not carry a concealed pistol into an establishment licensed to serve alcoholic beverages on the premises if the establishment derives more than 50% of its sales from alcoholic beverages.

A permit is not required to carry an unloaded handgun if it is carried in the trunk or other closed compartment of a vehicle or if it is in a closed container which is too large to be effectively concealed on the person or within his clothing. This container may be carried in a vehicle or in any other manner.

A permit is not required to possess a handgun in one's dwelling house or place of business or on land owned or rented by him or by a member of his household.

The secretary of state may enter into reciprocity agreements with other states after the attorney general has notified the secretary of state that the other states' laws meet or exceed those in South Dakota.

It is lawful to carry a loaded shotgun or rifle in a car or truck.

## CONTROLLED WEAPONS

The term "controlled weapon" is defined to include machine guns, silencers, and short shotguns.

No person shall possess a controlled weapon unless he:

- 1) is a law enforcement officer or member of the armed forces of the U.S. or of the South Dakota National Guard acting in the lawful discharge of his duties;
- 2) has a valid state or federal license or has registered the weapon with the proper authority;
- 3) possesses the machine gun briefly after having found it or taken it from an aggressor.

## ANTIQUES AND REPLICAS

An "antique firearm" is defined as any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured before 1899 and any replica of a firearm if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the U.S. and which is not readily available in the ordinary channels of commercial trade.

The weapon laws of South Dakota are not applicable to antique firearms or those firearms which have been permanently altered so they are incapable of discharge.

## MISCELLANEOUS

Any person who commits or attempts to commit any felony when armed with a firearm shall receive a minimum sentence of 5 years for a first conviction and 10 years for any subsequent conviction. The court shall not place on probation or suspend the sentence of any person convicted of such armed offense.

It is unlawful for any person to recklessly discharge a firearm.

No person shall set a device designed to activate a weapon upon being tripped or approached and leave it unmarked or unattended by a competent person.

No person, other than a law enforcement officer, shall carry, have in his possession, store, keep, leave, place or put into the possession of another person, any firearm or airgun, whether or not the firearm or airgun is designed, adapted, used or intended primarily for imitative or noisemaking purposes, on any school premises, in any school vehicle, or in any vehicle used by the school or for school purposes, in any school building or other building or premises used for school functions, whether or not any person is endangered by such actions. This does not apply to starting guns while in use at athletic events, firearms or airguns at firing ranges, gun shows, and duly supervised schools or sessions for training in the use of firearms. (This section does not apply to the ceremonial presence of unloaded weapons at color guard ceremonies.)

It is unlawful for a person other than a law enforcement officer or a conservation officer to operate or ride any snowmobile with a firearm in his possession unless the firearm is completely unloaded and within a carrying case which encloses the entire firearm. (The same is true of motorcycles, except that a person with a concealed carry permit may carry a pistol on a motorcycle.)

Persons crossing the state game preserve or any game or bird refuge upon any public highway may carry a firearm provided it is enclosed in a case and not removed therefrom while in the preserve. A bona-fide resident within any game preserve or refuge in the state may carry firearms for the purpose of killing nongame and predatory animals on his own premises and may kill nongame and predatory animals or birds on his own premises within any game preserve or refuge.

No local government may enact a law pertaining to the possession, transportation, sale, or transfer of firearms and ammunition.

It is unlawful to possess a firearm in a courthouse.

Firearms manufacturers, distributors, and sellers are not liable for injury caused by firearms because of use of the firearm by another. The potential of a firearm to cause serious injury, damage, or death as a result of normal function does not constitute a defective condition of the product.

SOURCES: S.D. Codified Laws §§ 7-18A-36, 8-5-13, 9-19-20, 13-32-7, 22-1-2, 22-14-5 et.seq., 23-7-1 et.seq., 32-20-6.6, 32-20A-11.

**CAUTION:** Firearm laws are subject to frequent change and court interpretation. This summary is not intended as legal advice or restatement of law. This summary does not include federal or local laws, ordinances or regulations. For any particular situation, a licensed local attorney must be consulted for an accurate interpretation. **YOU MUST ABIDE WITH ALL LAWS: STATE, FEDERAL AND LOCAL.**

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