

February 8, 2019

Guns in Trunks Again – It Seemed to be Worse Than Ever

Turns Out - It is the “Worst-est” of the Worst

HB 1173 Rep. Jensen (Kevin) R Canton - An Act to permit the possession of firearms by certain employees.

This bill overrides business owner property rights to adopt and maintain a “no firearms” policy on their property and in their buildings. HB 1173 establishes a right for individuals to take a firearm onto private property, if it remains locked in the car. Unlike previous similar bills, HB 1173 has language protecting the rights of those who bring firearms onto to their employer’s parking lot by saying they cannot be terminated.

The South Dakota Chamber of Commerce and Industry opposes HB 1173 because it puts gun rights ahead of property rights and limits the ability of business owners to control whether or not firearms can be on their property.

Even worse, HB 1173 infringes on the rights of employers to discipline or take action against employees who might violate company policies.

This phrase “An employer, whether public or private, may not”

- *“(8) Terminate the employment of or otherwise discriminate against an employee for exercising the constitutional right to keep and bear firearms or for exercising the right of self-defense, so long as the firearm is not exhibited on the employer’s property for any reason other than lawful defensive purposes”.*

is widely interpreted to allow employees to carry concealed firearms not only in the parking lot but into the buildings!

The South Dakota Chamber of Commerce and Industry fully supports second amendment gun rights but also needs to protect those businesses that choose to disallow firearms at their place of business. There are some contracts that require a manufacturer or construction site to prohibit firearms as a condition of doing the work. It is a common requirement when working for the Federal Government.

Here is the entire language of HB 1173:

**FOR AN ACT ENTITLED, An Act to permit the possession of firearms by certain employees.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:**

Section 1. That chapter 22-14 be amended by adding a NEW SECTION to read:

An employer, whether public or private, may not:

- (1) Prohibit an employee from keeping a legally owned and lawfully possessed firearm locked inside a private motor vehicle in a parking lot under the employer’s control;

- (2) Make a verbal or written inquiry of an employee regarding the presence of a firearm inside a private motor vehicle that is in a parking lot under the employer's control;
- (3) Search the private motor vehicle of an employee to ascertain the presence of a firearm;
- (4) Take any action against an employee based upon verbal or written statements by any other person regarding the possession of a firearm in accordance with this section;
- (5) Condition employment upon the fact that an employee or a prospective employee holds or does not hold a permit to carry a concealed weapon;
- (6) Condition employment upon any agreement that prohibits an employee or a prospective employee from keeping a legally owned and lawfully possessed firearm locked inside a private motor vehicle in a parking lot under the control of the employer;
- (7) Prohibit or attempt to prevent an employee from entering a parking lot under the control of the employer because the employee's private motor vehicle contains a legally owned and lawfully possessed firearm; or
- (8) Terminate the employment of or otherwise discriminate against an employee for exercising the constitutional right to keep and bear firearms or for exercising the right of self-defense, so long as the firearm is not exhibited on the employer's property for any reason other than lawful defensive purposes.

The prohibitions of this section do not apply to any property under federal jurisdiction, any school district, any correctional facility, the South Dakota Human Services Center, or the South Dakota Developmental Center.

HELP NEEDED – Here are the members of the

[\[https://sdlegislature.gov/Legislative_Session/Committees/Default.aspx?Committee=424&Session=2019&tab=Detail&document=none#Detail\]](https://sdlegislature.gov/Legislative_Session/Committees/Default.aspx?Committee=424&Session=2019&tab=Detail&document=none#Detail) House State Affairs Committee. Please call, write or send an owl to urge them to voter NO on HB 1173.

[\[https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1563&Session=2019\]](https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1563&Session=2019) Anderson, David (R);

[\[https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1567&Session=2019\]](https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1567&Session=2019) Beal, Arch (R);

[\[https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1579&Session=2019\]](https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1579&Session=2019) Dennert, Drew (R);

[\[https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1645&Session=2019\]](https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1645&Session=2019) Diedrich, Michael (R);

[\[https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1444&Session=2019\]](https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1444&Session=2019) Goodwin, Tim (R);

[\[https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1434&Session=2019\]](https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1434&Session=2019) Gosch, Spencer (R);

[\[https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1635&Session=2019\]](https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1635&Session=2019) Hansen, Jon (R);

[<https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1432&Session=2019>] Haugaard, Steven (R);

[<https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1427&Session=2019>] Jensen, Kevin (R);

[<https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1609&Session=2019>] McCleerey, Steven (D);

[<https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1630&Session=2019>] Peterson, Kent (R);

[<https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1569&Session=2019>] Qualm, Lee (R); Chair

[<https://sdlegislature.gov/Legislators/Legislators/MemberDetail.aspx?Member=1576&Session=2019>] Smith, Jamie (D)

Update – Workforce Solutions

The Drive to Help Workers Drive . . . To Their Jobs

SB 117 – Nesiba (D- Sioux Falls) – Driver’s manuals and tests in non-English

This is the bill that will allow the driver’s license manuals, and perhaps even the exams, to be published in Spanish. The goal is to facilitate legal immigrants getting a driver’s license by learning the rules of the road in their own language. The core belief is that immigrants will learn English faster if they are working than if they are sitting at home playing “Rosetta Stone” tapes.

The bill had its hearing last Wednesday morning before Senate Transportation Committee. Entering the hearing the proponents were not optimistic about passage.

It was an excellent hearing with 14 proponents for the bill including the Sioux Falls and Rapid City Chambers of Commerce and the South Dakota Chamber of Commerce and Industry; along with Associated General Contractors, Avera Health Systems, South Dakota Homebuilders and Voices for Justice Presentation Sisters of Aberdeen. This was a very diverse coalition, certainly not a “line up of the usual suspects” to be sure.

It proved to be a very effective coalition. SB 117 did pass out of committee on a vote of 5 yea – to –1 Nay. Here is the vote to send SB 117 to the floor:

SB 117, Senate Transportation, Do Pass Amended - 2019

Yea **5** Nay **1** Excused **1** Absent **0**

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|--------|-----|---------|-----|------------|-----|
| Monroe | Nay | Russell | Yea | Soholt Yea | Yea |
| Solano | Yea | Foster | Yea | Blare Yea | Yea |

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|---------------|-----|---------|-----|------------|-----|
| Monroe | Nay | Russell | Yea | Soholt Yea | Yea |
| Otten (Ernie) | | | | | |

Update – Bill to Force Manufacturers to Treat Independent Repair Shops the Same of Their Dealership – Dies in Committee

HB 1102 – Penske (D-Dell Rapids) – establish certain provisions regarding fairness in repairs of equipment sold or used in this state.

This bill would require original equipment manufacturers to establish relationships with independent repair shops and provide them with software and equipment at no cost or minimal cost, or on the same basis as they have with their dealerships.

Bill had its hearing last Wednesday morning before House Commerce and Energy Committee. A significant number of business groups opposed the bill. The Chamber testified that there was no other provision of law that forced businesses into working relationships. There are laws that prohibit discrimination or refusing to do business with protected classes of people, but not any law that treats business like an arranged marriage.

Bill was defeated on a vote of 12–to–1. Here is that vote:

HB 1102, House Commerce and Energy, Deferred to the 41st legislative day - 2019

Yea **12** Nay **1** Excused **0** Absent **0**

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|-----------|-----|-----------------|-----|-------------|-----|
| Beal | Yea | Johnson (Chris) | Yea | Lake Yea | Yea |
| Milstead | Yea | Miskimins | Yea | Perry Yea | Yea |
| Weis | Yea | Willadsen | Yea | Zikmund Yea | Yea |
| McCleerey | Nay | Sullivan | Yea | Gosch Yea | Yea |
| Rounds | Yea | | | | |

The early discount registration rate for Business Day at the Legislature ends February 14th. Business Day offers the opportunity to stay informed of trending issues, vote your opinions during Business Caucus and network with business and community peers and legislative leaders from across the state. [<https://business.sdchamber.biz/events/details/business-day-at-the-legislature-77>]Click here to register.

Here is a partial list of bills being addressed by the South Dakota Chamber of Commerce and Industry

| Bil l | Title | |
|----------|---|--|
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1040&Session=2019] HB 1040 | establish certain provisions regarding the opportunity scholarship program. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1041&Session=2019] HB 1041 | provide for the carrying of a concealed pistol without a permit. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1050&Session=2019] HB 1050 | revise certain provisions regarding the use and possession of scanning devices and reencoders. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1056&Session=2019] HB 1056 | prohibit certain local ordinances |

| Bill I | Title | |
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| | | regarding firearms. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1066&Session=2019] HB 1066 | require students to take a civics test before graduating from high school. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1074&Session=2019] HB 1074 | provide a privilege for journalists and newscasters regarding refusal to disclose information. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1103&Session=2019] HB 1103 | establish a lemon law for certain farm machinery. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1111&Session=2019] HB 1111 | provide for professional or occupational licensure for certain active duty military personnel and spouses. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1125&Session=2019] HB 1125 | create a property tax relief fund and to provide for |

| Bill I | Title | |
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| | | the transfer of certain unobligated cash balances. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1139&Session=2019] HB 1139 | repeal provisions regarding maximum taxes levied by a school district for capital outlay. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1165&Session=2019] HB 1165 | establish the South Dakota prepaid college program and to make an appropriation therefor. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1173&Session=2019] HB 1173 | permit the possession of firearms by certain employees. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=1272&Session=2019] HB 1272 | provide for electronic and remote notarization. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=9&Session=2019] SB 9 | provide for the Servicemember Firearms |

| Bill I | Title | |
|-----------|--|---|
| | | Protection Act. |
| | <p>[https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=12&Session=2019] SB 12</p> | <p>revise certain provisions pertaining to the disqualification of commercial driver license holders for failure to consent to chemical analyses.</p> |
| | <p>[https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=36&Session=2019] SB 36</p> | <p>revise the membership of the State Workers' Compensation Advisory Council.</p> |
| | <p>[https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=37&Session=2019] SB 37</p> | <p>revise certain provisions regarding association health plans.</p> |
| | <p>[https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=38&Session=2019] SB 38</p> | <p>provide for the carrying of a concealed pistol without a permit.</p> |

| Bill I | Title | |
|-----------|---|---|
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=47&Session=2019] SB 47 | repeal and revise certain provisions regarding permits to carry a concealed pistol. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=59&Session=2019] SB 59 | revise certain provisions regarding public records. |
| | [https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=86&Session=2019] SB 86 | provide for calculations of sales tax revenues from sellers located outside of the state. |

Thank you for your support of the South Dakota Chamber of Commerce and Industry.