Altig, Stephanie

To: Williams, Rich
Subject: RE: Concealed Pistol Permit Reciprocity with South Dakota

Richard:

Idaho is fine to continue under the 2006 SD/ID reciprocity agreement. The Idaho Attorney General is required by state law to reach out to the other states regarding concealed weapons license reciprocity. My office does that each year (started in 2013). The purpose of the letters and enclosed information we send is to see if anything has changed with the other states. Idaho State Police is statutorily charged with keeping records regarding concealed weapons licence reciprocity, so the responses we receive from the other states are posted online so that the public can access exactly what the other states' responses were. With that in mind, for 2014, ISP will post your email and the documents you attached to it to Idaho's concealed weapons reciprocity website as South Dakota's 2014 response. If you haven't seen it, here is Idaho's concealed weapons reciprocity website - http://www.isp.idaho.gov/BCI/concealedWeapons.html

Thank you very much!

Stephanie A. Altig
Lead Deputy Attorney General
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642
(Phone) 208.884.7050
(Fax) 208.884.7228

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From: Williams, Rich [mailto:Rich.Williams@state.sd.us]
Sent: Wednesday, September 10, 2014 1:43 PM
To: Altig, Stephanie
Cc: Klapperich, Ashley
Subject: Concealed Pistol Permit Reciprocity with South Dakota

Stephanie,

I'm reviewing the letter you sent to the South Dakota Attorney General, dated August, 20, 2014, regarding reciprocity with Idaho.

South Dakota currently has a reciprocity agreement with Idaho (see attached) that was originally entered into in 2006. Under paragraph 6, it would appear that the agreement remains in effect as long as the privilege of reciprocity exists between South Dakota and Idaho.

Like Idaho, South Dakota also recognizes all other states valid concealed pistol permits. *See* SDCL 23-7-7.4 reproduced below. The agreements are helpful in providing information to South Dakota citizens on where their permits are valid. By its terms, the 2006 agreement recognizes valid Idaho permits to carry concealed pistols. Because it contains no limitation as to class of concealed pistol permit, I believe this current agreement would operate to recognize both the Regular and Enhanced Idaho permit. With that in mind, South Dakota would propose that we simply continue on with the 2006 agreement as written.

I would note, however, that the agreement only covers concealed pistols. The South Dakota Concealed Pistol Permit is valid statewide. The State of South Dakota does not require permitting for the concealment of any other type of weapon. Counties, townships and municipalities, however, may have separate regulations regarding the concealment of weapons other than firearms. Accordingly, Idaho's concealed weapons license would only be valid in South Dakota for the carry of concealed pistols. Although it was years ago now, I believe this was the same arrangement we arrived at in 2006.

I've also attached a copy of the latest firearms laws pamphlet for your review.

If simply relying on the 2006 agreement for reciprocity between South Dakota and Idaho is acceptable to you, please let me know. If some other agreement is necessary, South Dakota is happy to work something out.

If you have any questions regarding South Dakota's firearms laws, please feel free to email or call.

23-7-7.4. Nonresident permit to carry concealed pistol--Validity in South Dakota--Application. Any valid permit to carry a concealed pistol, issued to a nonresident of South Dakota, is valid in South Dakota according to the terms of its issuance in the state of its issue, but only to the extent that the terms of issuance comply with any appropriate South Dakota statute or promulgated rule. However, if the holder of such a nonresident permit to carry a concealed pistol becomes, at any time, a legal resident of South Dakota, the provisions of this section no longer apply.

Richard M. Williams
Assistant Attorney General
Ph: 605-73-3215

RECIPROCITY AGREEMENT

This Reciprocity Agreement by and between the State of South Dakota by and through the South Dakota Secretary of State, and the State of Idaho by and through the Idaho Attorney General's office.

WHEREAS, the purpose of this Reciprocity Agreement is to extend reciprocal concealed pistol carry permit/license privileges to the citizens of the State of Idaho and the State of South Dakota,

WHEREAS, the respective state offices are authorized by statute to enter into this Reciprocity Agreement,

WHEREAS, in consideration of the matters described herein, and of the mutual benefits and obligations set forth in this Reciprocity Agreement, the Parties hereby agree and covenant as follows:

1.

The State of South Dakota will recognize valid Idaho permits to carry concealed pistols by valid Idaho permit holders while said permit holders are present in the State of South Dakota.

2.

The State of Idaho will recognize valid South Dakota licenses to carry concealed pistols by valid South Dakota permit holders while said permit holders are present in Idaho.

3.

This Reciprocity Agreement applies only to the carrying of pistols as defined and authorized by the applicable statutes of Idaho by valid license/permit holders from the respective states and not to any other types of weapons.

4.

The State of Idaho and the State of South Dakota will inform each other of any changes in their respective carry of concealed pistols statutes that may affect the eligibility of the recognition granted by each state.

5.

The State of Idaho and the State of South Dakota will each provide the other with copies of their current laws regarding concealed pistol and firearm carry licenses/permits.

6.

This Reciprocity Agreement is contingent upon and shall only remain effective as long as the respective statutory authority in each state authorizing the reciprocal privileges remains effective.

7.

This Reciprocity Agreement shall become effective upon the execution of the authorized Parties' signatures.

This Agreement may be terminated by either party or their successor upon thirty (30) days written notice.

WITNESSETH, each Party to this Reciprocity Agreement has caused to be executed on the date indicated below.

Date signed: January 5, 2006

Chris Nelson
Secretary of State
State of South Dakota

Date signed: 1-9-06

Stephanie A. Altig
Deputy Attorney General
Idaho State Police

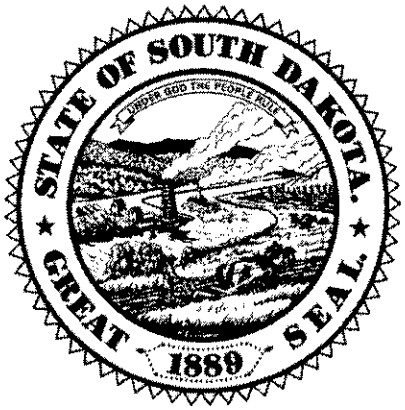
State of South Dakota Contact Information:

Chris Nelson
South Dakota Secretary of State
State Capitol, Suite 204
500 East Capitol
Pierre, SD 57501-5077
(605) 773-3537

State of Idaho Contact Information:

Stephanie A. Altig
Deputy Attorney General
Idaho State Police
PO Box 700
Meridian, Idaho 83680

SOUTH DAKOTA FIREARM LAWS



May 2012

Courtesy of

Jason M. Gant
Secretary of State

South Dakota Secretary of State
500 E. Capitol Avenue, Suite 204
Pierre, SD 57501
Phone: (605) 773–3537
Fax: (605) 773–6580

Permit to Carry a Concealed Pistol

An individual who wishes to carry a concealed pistol on or about his person or in a vehicle must obtain a Permit to Carry a Concealed Pistol (SDCL 22-14-9). A person does not need a permit to own a pistol, keep it in his home, business, or property, or visibly carry it (SDCL 22-14-11).

Carrying a concealed pistol without a permit is a Class 1 misdemeanor, punishable by one year imprisonment or one thousand dollar fine or both (SDCL 22-14-9).

A Permit to Carry a Concealed Pistol may be obtained from the sheriff of the county of which the applicant is a resident (SDCL 23-7-7).

A permit is valid for five years and the fee is $10.00 (SDCL 23-7-8.2).

The applicant must complete a form called an Application and Temporary Permit to Carry a Concealed Pistol. The information required for the permit includes (SDCL 23-7-8): the applicant's complete name, address, occupation, place and date of birth, physical description, a statement that the applicant has never pled guilty to, nolo contendere to, or been convicted of a crime of violence, a sworn statement that the information on the application is true and correct, and the applicant's signature.

Providing false information or false evidence of identity in applying for a permit to carry a concealed pistol is a Class 6 felony punishable by two years imprisonment, a fine of two thousand dollars, or both (SDCL 23-7-12).

The applicant must also meet the following requirements (SDCL 23-7-7.1):

- 18 years of age or older;
- never pled guilty to, nolo contendere to, or been convicted of a **felony** or a **crime of violence**;
- not habitually intoxicated or drugged condition;
- no history of violence;
- has not been found in the previous ten years to be a "danger to others" or a "danger to self" as defined in 27A-1-1 or is not currently adjudged mentally incompetent;
- has physically resided in and is a resident of the county where the application is being made for at least thirty days immediately preceding the date of the application;
- has had no violations of chapter 23-7 (firearms control), 22-14 (unlawful use of weapons) or 22-42 (controlled substances and marijuana) in the five years preceding the date of application or is not currently charged under indictment or information for such an offense;
- a citizen of the United States; and
- is not a fugitive from justice

The sheriff has **five** days from the date of application in which to issue the temporary permit (SDCL 23-7-7.1).

Within **seven** days after the temporary permit has been issued, the sheriff sends a copy of the application to the secretary of state who issues the official permit (SDCL 23-7-8).

The permit is valid throughout South Dakota except in the following: any licensed on-sale malt beverage or alcoholic beverage establishment that derives over one-half of its total income from the sale of malt or alcoholic beverages (SDCL 23-7-8.1); any county courthouse as defined in SDCL 22-14-22; or any elementary or secondary schools (SDCL 13-32-7). The permit is not transferable from one person to another (SDCL 23-7-8.3).

Reciprocity

Pursuant to SDCL 23-7-7.3 the Secretary of State has assigned reciprocity agreements for concealed weapons permits with a number of states.

§ 23-7-7.3 Reciprocity with other states-Conditions. The attorney general shall compare South Dakota permit issuance statutes with the permit issuance statutes in states with which reciprocity is sought or requested in order to determine whether the laws of the other state meet or exceed the requirements of this chapter for the issuance of a permit. 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 the provisions of this chapter.

The current reciprocity status of states is located at www.sdsos.gov.

Recognition

The state of South Dakota recognizes any valid concealed pistol permit issued to a nonresident of South Dakota, according to the terms of its issuance in the state of its issue.

§ 23-7-7.4. Nonresident permit to carry concealed pistol-Validity in South Dakota-Application. Any valid permit to carry a concealed pistol, issued to a nonresident of South Dakota, is valid in South Dakota according to the terms of its issuance in the state of its issue, but only to the extent that the terms of issuance comply with any appropriate South Dakota statute or promulgated rule. However, if the holder of such a nonresident permit to carry a concealed pistol becomes, at any time, a legal resident of South Dakota, the provisions of this section no longer apply.

Purchase of a Firearm

Federal Requirements

Anyone purchasing a firearm from a licensed firearms dealer must complete a Bureau of Alcohol, Tobacco & Firearms form 4473 (firearms transaction form). This form will be maintained by the dealer.

A firearms purchaser must, under the permanent provisions of the Federal Brady Law, also undergo a National Instant Criminal Background Check System (NICS) check, which will be performed by the firearms dealer. The check will indicate to the dealer whether or not the purchaser's background allows for the person to actually complete the purchase of the firearm. If the check disallows the sale for no warranted reason, there is an appeals process the purchaser can pursue to receive the necessary clearance to complete the purchase.

For questions regarding federal regulations, please contact the Regulatory Office of the Bureau of Alcohol, Tobacco and Firearms, St. Paul, MN, (651) 726-0220.

Statutory Provisions
Repealed Sections are Omitted

Chapter 22-1
Definitions and General Provisions

§ 22-1-2. Definition of terms. Terms used in this title mean:

(1) through (3) Omitted.

(4) "Antique firearm," any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured before 1899, and any replica of any firearm described in this section if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or if it uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade;

(5) Omitted.

(6) "Concealed," any firearm that is totally hidden from view. If any part of the firearm is capable of being seen, it is not concealed;

(7) Omitted.

(8) "Controlled weapon" includes any firearm silencer, machine gun, or short shotgun, as those terms are defined in subdivisions (17), (23), and (46) of this section;

(9) "Crime of violence," any of the following crimes or an attempt to commit, or a conspiracy to commit, or a solicitation to commit any of the following crimes: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree, arson, kidnapping, felony sexual contact as defined in § 22-22-7, felony child abuse as defined in § 26-10-1, or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device;

(10) "Dangerous weapon" or "deadly weapon," any firearm, stun gun, knife, or device, instrument, material, or substance, whether animate or inanimate, which is calculated or designed to inflict death or serious bodily harm, or by the manner in which it is used is likely to inflict death or serious bodily harm;

(11) through (15) Omitted.

(16) "Firearm," any weapon from which a projectile or projectiles may be discharged by gunpowder. As used in this subdivision, the term, gunpowder, includes any propellant that upon oxidization emits heat and light and is commonly used in firearms cartridges;

(17) "Firearm silencer," any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol, or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any such weapon;

(18) through (20) Omitted.

(21) "Intoxication," a disturbance of mental or physical capacities resulting from the introduction of substances into the body. Intoxication is not, in itself, a mental disease or defect;

(22) "Law enforcement officer," any officer, prosecutor, or employee of the state or any of its political subdivisions or of the United States, or, while on duty, an agent or employee of a railroad or express company or security personnel of an airline or airport, who is responsible for the prevention, detection, or prosecution of crimes, for the enforcement of the criminal or highway traffic laws of the state, or for the supervision of confined persons or those persons on supervised release or probation;

(23) "Machine gun," any firearm, whatever its size and usual designation, that automatically discharges two or more cartridges by a single function of the firing device;

(24) through (31) Omitted.

(32) "Pistol," any firearm with a barrel less than sixteen inches in length, designed to expel a projectile or projectiles by the action of an explosive;

(33) through (43) Omitted.

(44) "Seller," any person or employee engaged in the business of selling pistols at retail;

(44A) "Serious bodily injury," such injury as is grave and not trivial, and gives rise to apprehension of danger to life, health, or limb.

(45) "Short rifle," any rifle having a barrel less than sixteen inches long, or an overall length of less than twenty-six inches;

(46) "Short shotgun," any shotgun having a barrel less than eighteen inches long or an overall length of less than twenty-six inches;

(47) through (49) Omitted.

(50) "Stun gun," any battery-powered, pulsed electrical device of high voltage and low or no amperage that can disrupt the central nervous system and cause temporary loss of voluntary muscle control of a person;

(50A) through (55) Omitted.

Chapter 22-14
Unlawful Use of Weapons

§ 22-14-5. Possession of firearm with altered serial number -Felony-Exception. Any person who possesses any firearm on which the manufacturer's serial number has been changed, altered, removed or obliterated is guilty of a Class 6 felony.

The provisions of this section do not apply to persons who have applied for a new serial number pursuant to § 23-7-43.

§ 22-14-6. Possession of controlled weapon-Felony-Exceptions. Any person who knowingly possesses a controlled weapon is guilty of a Class 6 felony. However, the provisions of this section do not apply to any person who:

(1) Is a law enforcement officer or member of the armed forces of the United States or South Dakota National Guard acting in the lawful discharge of duties;

(2) Has a valid state or federal license issued pursuant to law for such weapon or has registered such weapon with the proper state or federal authority pursuant to law;

(3) Possesses a controlled weapon briefly after having found it or taken it from an offender; or

(4) Possesses a controlled weapon, except a machine gun or short shotgun, under circumstances which negate any purpose or likelihood that the weapon would be used unlawfully.

§ 22-14-7. Reckless discharge of firearm or shooting of bow and arrow-Leaving trip device-Possession of loaded firearm while intoxicated-Misdemeanor. Any person who:

(1) Recklessly discharges a firearm or recklessly shoots a bow and arrow;

(2) Sets a device designed to activate a weapon upon being tripped or approached, and leaves the device unmarked or unattended by a competent person; or

(3) Has in personal possession a loaded firearm while intoxicated;

is guilty of a Class 1 misdemeanor.

§ 22-14-8. Concealment of weapon with intent to commit felony-Felony. Any person who conceals on or about his person a controlled or dangerous weapon with intent to commit a felony is guilty of a Class 5 felony.

§ 22-14-9. Carrying pistol or revolver without a permit-Misdemeanor. Any person, other than a law enforcement officer or parole agent acting under color of authority, who:

(1) Carries a pistol or revolver, loaded or unloaded, concealed on or about his person without a permit as provided in chapter 23-7; or

(2) Carries a pistol or revolver, loaded or unloaded, concealed in any vehicle while operating the vehicle, without a permit as provided in chapter 23-7;

is guilty of a Class 1 misdemeanor.

§ 22-14-9.1. Person possessing concealed pistol to have physical possession of valid permit-Violation as petty offense-Charge dismissed. No person may possess a concealed pistol in accordance with chapter 23-7 or this chapter unless that person also has in his or her

physical possession a valid South Dakota permit to carry a concealed pistol or a permit effective pursuant to § 23-7-7.3. Any violation of this section is a petty offense. However, if within twenty-four hours of being charged with a violation of this section, the person produces a permit to carry a concealed pistol which was valid at the time of the alleged offense in the office of the officer making the demand, the charge shall be dismissed.

§ 22-14-9.2. Holders of permits from reciprocal states subject to South Dakota laws-Misdemeanor. Any person who is permitted to carry a concealed pistol in a state with which the secretary of state has entered into a reciprocity agreement pursuant to § § 23-7-7.3, 22-14-9.1, 22-14-9.2, 23-7-7, 23-7-7.1, and 23-7-8 may carry a concealed pistol in this state if the permit holder carries the pistol in compliance with the laws of this state. A violation of this section is a Class 1 misdemeanor.

§ 22-14-10. Lawful uses of unloaded pistols or revolvers-Concealment-Exempt from permit requirement. The provisions of § 22-14-9 do not apply to any person carrying any unloaded pistol or revolver for the purpose of, or in connection with, any lawful use, if the unloaded pistol or revolver is carried:

(1) In the trunk or other closed compartment of a vehicle; or

(2) In a closed container which is too large to be effectively concealed on the person or within the person's clothing. The container may be carried in a vehicle or in any other manner.

No person who complies with this section may be required to obtain a permit for the lawful uses described in this section.

§ 22-14-11. License not required for weapon in own home, business or property. The provisions of § 22-14-9 do not apply to any person who possesses a pistol or revolver in his or her own dwelling house or place of business or on land owned or rented by himself or herself or by a member of his or her household.

§ 22-14-12. Commission of felony while armed with firearms-Felony-Minimum sentences-Consecutive sentencing-Execution of sentence. Any person who commits or attempts to commit any felony when armed with a firearm, including a machine gun or short shotgun, is guilty of a Class 2 felony for the first conviction. A second or subsequent conviction is a Class 1 felony. The sentence imposed for a first conviction under this section shall carry a minimum sentence of imprisonment in the state penitentiary of five years. In case of a second

or subsequent conviction under this section such person shall be sentenced to a minimum imprisonment of ten years in the penitentiary.

Any sentence imposed under this section shall be consecutive to any other sentences imposed for a violation of the principal felony. The court may not place on probation, suspend the execution of the sentence, or suspend the imposition of the sentence of any person convicted of a violation of this section.

§ 22-14-14. Armed felony to be charged separately from principal felony charge-No offense charged when dangerous weapon an element of principal felony. A violation of § 22-14-12 shall be charged in the indictment or information as a separate count in addition to the principal felony or attempted felony alleged to have been committed. No offense may be charged under those sections if the use of a dangerous weapon is a necessary element of the principal felony alleged to have been committed or attempted.

§ 22-14-15. Possession of firearm by one with prior violent crime conviction or certain drug-related conviction-Felony-Fifteen-year period. No person who has been convicted in this state or elsewhere of a crime of violence or a felony pursuant to § 22-42-2, 22-42-3, 22-42-4, 22-42-7, 22-42-8, 22-42-9, 22-42-10 or 22-42-19, may possess or have control of a firearm. A violation of this section is a Class 6 felony. The provisions of this section do not apply to any person who was last discharged from prison, jail, probation, or parole more than fifteen years prior to the commission of the principal offense.

§ 22-14-15.1. Possession of firearm by one with prior drug conviction-Felony-Exception. No person who has been convicted of a felony under chapter 22-42 or of a felony for a crime with the same elements in another state may possess or have control of a firearm. A violation of this section is a Class 6 felony. The provisions of this section do not apply to any person who was last discharged from prison, jail, probation, or parole, for a felony under chapter 22-42 more than five years prior to the commission of the principal offense and is not subject to the restrictions in § 22-14-15.

§ 22-14-15.2. Possession of firearm by one convicted of misdemeanor crime involving domestic violence-Misdemeanor-Civil rights restored-Repeal of section-Order restoring rights. No person who has been convicted of any misdemeanor crime involving an act of domestic violence may possess or have control of a firearm for a period of one

year from the date of conviction. Any violation of this section is a Class 1 misdemeanor. At the end of the one year period, any civil rights lost as a result of this provision shall be restored. Any person who has lost their right to possess or have control of a firearm as a result of a misdemeanor conviction involving an act of domestic violence, prior to July 1, 2005, shall be restored to those civil rights one year after July 1, 2005. This section shall be repealed on the date when any federal law restricting the right to possess firearms for misdemeanor domestic violence convictions is repealed.

Once eligible under the statute, a person convicted under this section may petition the convicting court for an order reflecting the restoration of any firearm rights lost, if the person has not been convicted within the prior year of a crime for which firearm rights have been lost. A petition filed under this section shall be verified by the petitioner and served upon the states attorney in the county where the conviction occurred. Thirty days after service upon the states attorney, the court shall enter the order, if the court finds that the petitioner is eligible for relief under this section. (This section is repealed under its own terms on the date when any federal law restricting the right to possess firearms for misdemeanor domestic violence convictions is repealed.)

§ 22-14-16. Providing firearm to person with known prior violent crime conviction-Felony. Any person who knows that another person is prohibited by § 22-14-15 or § 22-14-15.1 from possessing a firearm, and who knowingly gives, loans, or sells a firearm to that person is guilty of a Class 6 felony.

§ 22-14-17. Firearms incapable of discharge exempt. The provisions of this chapter do not apply to any firearm which has been permanently altered so it is incapable of being discharged.

§ 22-14-20. Discharge of firearm at occupied structure or motor vehicle-Felony. Any person who willfully, knowingly and illegally discharges a firearm at an occupied structure or motor vehicle is guilty of a Class 3 felony.

§ 22-14-21. Discharge of firearm from a moving motor vehicle within municipality-Felony. Any person who willfully, knowingly and illegally discharges a firearm from a moving motor vehicle within the incorporated limits of a municipality under circumstances not constituting a violation of § 22-14-20 is guilty of a Class 6 felony.

§ 22-14-22. County courthouse defined. For the purposes of §§ 22-14-23 to 22-14-28, inclusive, the term, county courthouse, means the state capitol and any building occupied for the public sessions of a circuit court, with its various offices. The term includes any building appended to or used as a supplementary structure to the courthouse.

§ 22-14-23. Possession in county courthouse-Misdemeanor. Except as provided in § 22-14-24, any person who knowingly possesses or causes to be present any firearm or other dangerous weapon, in any county courthouse, or attempts to do so, is guilty of a Class 1 misdemeanor.

§ 22-14-24. Exceptions to penalty for possession in a county courthouse. The provisions of § 22-14-23 do not apply to:

(1) The lawful performance of official duties by an officer, agent or employee of the United States, the state, political subdivision thereof, or a municipality, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law or an officer of the court;

(2) Possession by a judge or magistrate;

(3) The possession of a firearm or other dangerous weapon by a federal or state official or member of the armed services if such possession is authorized by law; or

(4) The lawful carrying of firearms, or other dangerous weapons in a county courthouse incident to hunting, or gun safety course or to other lawful purposes.

§ 22-14-25. Power of court to punish and promulgate rules. Nothing in this chapter limits the power of a court to punish for contempt or to promulgate rules or orders regulating, restricting or prohibiting the possession of weapons, within any building housing such court or any of its proceedings, or upon any grounds pertinent to such building.

§ 22-14-26. Notice of provisions to be posted at county courthouse. Notice of the provisions of § 22-14-23 shall be posted conspicuously at each public entrance to each county courthouse.

§ 22-14-27. Concealed weapons permit not a defense. It is not a defense to a prosecution under § 22-14-23 that the defendant was the holder of a concealed weapons permit issued pursuant to §§ 23-7-7 and 23-7-7.1.

§ 22-14-28. Waiver of provisions. By a majority of the members-elect, the county commission in any county may elect to waive the provisions of § 22-14-23.

Chapter 23-7
Firearms Control

§ 23-7-1. Definitions applicable to chapter. Terms used in this chapter, unless the context otherwise requires, mean:

(1) "Antique firearm," a firearm as defined in subdivision 22-1-2 (4);

(2) "Concealed," a firearm as defined in subdivision 22-1-2 (6);

(3) "Crime of violence," an action as defined in subdivision 22-1-2 (9);

(4) "Pistol," a firearm as defined in subdivision 22-1-2 (32);

(5) "Seller," a person as defined in subdivision 22-1-2 (44).

§ 23-7-1.1. Antique or nondischargeable firearms excepted. This chapter shall not apply to antique firearms or to firearms which have been permanently altered so they are incapable of being discharged.

§ 23-7-7. Permit to carry concealed pistol-Statewide validity-Background investigation. A permit to carry a concealed pistol shall be issued to any person by the sheriff of the county in which the applicant resides. The permit shall be valid throughout the state and shall be issued pursuant to § 23-7-7.1. Prior to issuing the permit, the sheriff shall execute a background investigation, including a criminal history check, of every applicant for the purposes of verifying the qualifications of the applicant pursuant to the requirements of § 23-7-7.1. For the purposes of this section, a background investigation is defined as a computer check of available on-line records.

§ 23-7-7.1. Requirements for issuance of temporary permit-Time-Appeal of denial. A temporary permit to carry a concealed pistol shall be issued within five days of application to a person if the applicant:

(1) Is eighteen years of age or older;

(2) Has never pled guilty to, nolo contendere to, or been convicted of a felony or a crime of violence;

(3) Is not habitually in an intoxicated or drugged condition;

(4) Has no history of violence;

(5) Has not been found in the previous ten years to be a "danger to others" or a "danger to self" as defined in § 27A-1-1 or is not currently adjudged mentally incompetent;

(6) Has physically resided in and is a resident of the county where the application is being made for at least thirty days immediately preceding the date of the application;

(7) Has had no violations of chapter § 23-7, 22-14, or 22-42 constituting a felony or misdemeanor in the five years preceding the date of application or is not currently charged under indictment or information for such an offense;

(8) Is a citizen or legal resident of the United States; and

(9) Is not a fugitive from justice.

A person denied a permit may appeal to the circuit court pursuant to chapter 1-26.

§ 23-7-7.2. Liability of issuing authority. No issuing authority, that has issued the permit in conformity with this chapter, is civilly liable to any injured person or his estate for any injury suffered, including any action for any wrongful death or property damage suffered, because of the issuance of a concealed weapons permit, or temporary permit, to any person.

§ 23-7-7.3. Reciprocity with other states-Conditions. The attorney general shall compare South Dakota permit issuance statutes with the permit issuance statutes in states with which reciprocity is sought or requested in order to determine whether the laws of the other state meet or exceed the requirements of this chapter for the issuance of a permit. 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 the provisions of this chapter.

§ 23-7-7.4. Nonresident permit to carry concealed pistol-Validity in South Dakota-Application. Any valid permit to carry a concealed pistol, issued to a nonresident of South Dakota, is valid in South Dakota according to the terms of its issuance in the state of its issue, but only to the extent that the terms of issuance comply with any appropriate South Dakota statute or promulgated rule. However, if the holder of such a nonresident permit to carry a concealed pistol becomes, at any time, a

legal resident of South Dakota, the provisions of this section no longer apply.

§ 23-7-7.5. Temporary permit-Active duty military personnel. Any person who is active duty military with a home of record in South Dakota is considered to have met the provisions of subdivision.

§ 23-7-7.6. Time requirement for INTERPOL check. Notwithstanding the five day requirement provided in § 23-7-7.1, if the background investigation under § 23-7-7 requires an international criminal history check through INTERPOL, the sheriff shall issue a temporary permit to carry a concealed pistol within three business days of receiving a response from INTERPOL if the applicant otherwise meets the requirements of § 23-7-7.1.

§ 23-7-8. Application for permit-Form and contents-Distribution and retention of copies-Issuance of official permit. The application for a permit to carry a concealed pistol shall be filed either electronically or in triplicate on a form prescribed by the secretary of state. The application shall require the applicant's complete name, address, occupation, place and date of birth, physical description, a statement that the applicant has never pled guilty to, nolo contendere to, or been convicted of a crime of violence, a sworn statement that the information on the application is true and correct, and the applicant's signature. If filed in triplicate, the original shall be delivered to the applicant as the temporary permit, the duplicate shall within **seven** days be sent by first class mail to the secretary of state who shall issue the official permit, and the triplicate shall be preserved for four years by the authority issuing the permit. If the application is filed electronically, two copies shall be made and each shall be signed by the applicant. One copy shall be delivered to the applicant as the temporary permit, and the other copy shall be preserved for four years by the authority issuing the permit.

§ 23-7-8.1. Form and contents of permit. The form of the permit to carry a concealed pistol shall be prescribed by the secretary of state pursuant to § 23-7-8. The permit shall list the applicant's name, address and the expiration date of the permit. The holder of a permit may carry a concealed pistol anywhere in South Dakota except in any licensed on-sale malt beverage or alcoholic beverage establishment that derives over one-half of its total income from the sale of malt or alcoholic beverages. Nothing in this section prevents law enforcement officers, parole agents, security guards employed on the premises, and other public officials with the written permission of the sheriff from carrying concealed weapons in

the performance of their duties or prevents home or business owners from carrying concealed weapons on their property pursuant to § 22-14-11.

§ 23-7-8.2. Duration of permit-Fee. The permit to carry a concealed pistol is valid for a period of five years from the date of issuance. The fee for issuing the permit is ten dollars. The local authority shall collect the fee. Seven dollars of the fee shall be remitted to the secretary of state and three dollars shall be deposited in the general fund of the county or municipality issuing the permit.

§ 23-7-8.3. Permit issued to specific person-Transfer prohibited. A permit to carry a concealed pistol shall be issued to a specific person only and may not be transferred from one person to another.

§ 23-7-8.4. Revocation of permit-Procedure. A prosecuting attorney, upon application of a law enforcement officer, may apply to the circuit court for an order to show cause why a person's permit to carry a concealed pistol should not be revoked. Upon order of the court, after hearing, the permit shall be revoked and the holder of the permit shall immediately surrender the permit to the sheriff of the county in which he resides.

§ 23-7-8.6. List, record, or registry of privately owned firearms, owners of firearms, or holders of permits prohibited. No state agency, political subdivision, official, agent, or employee of any state agency or political subdivision may knowingly keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms, or any list, record, or registry of holders of permits to carry a concealed pistol.

§ 23-7-8.7. Application of firearm confidentiality provisions. The provisions of § 23-7-8.6 do not apply to:

(1) Records of firearms that have been used in committing any crime;

(2) Permits to carry a concealed pistol records relating to any person who has been convicted of a felony;

(3) Records of the serial numbers of firearms that have been reported stolen that are retained for a period not in excess of ten days after such firearms are recovered and returned to the lawful owner. However, official documentation recording the theft of a recovered weapon may be maintained no longer than the balance of the year entered and two additional years;

(4) Firearm records that must be retained by firearm dealers under federal law, including copies of such records transmitted to law enforcement agencies;

(5) Any on duty law enforcement officer while conducting routine verification of the validity of a permit to carry a concealed pistol;

(6) The secretary of state for the issuance of concealed pistol permits pursuant to chapter 23-7 and any access reasonably necessary to verify information with regard to specific permits individually; and

(7) The preservation of the triplicate copy of the application for a permit to carry a concealed pistol by the authority issuing the permit as required by § 23-7-8.

§ 23-7-8.8. Law enforcement officer not restricted in performance of official duty under specified circumstances. The provisions of §§ 23-7-8.6 to 23-7-8.9, inclusive, do not restrict any law enforcement officer in the performance of any official duty if the law enforcement officer is in the immediate physical presence of a permit holder who has either presented a permit to the officer or declared to the officer that he or she is a permit holder.

§ 23-7-8.9. Retention of data by law enforcement officer limited. The provisions of §§ 23-7-8.6 to 23-7-8.9, inclusive, do specifically prohibit any law enforcement officer from retaining any notes, data, or pieces of information, either collectively or individually, unless the retention of such notes, data, or pieces of information is pertinent to a specific ongoing investigation or prosecution.

§ 23-7-8.10. Access restricted to application, record, or registry of holders of permits. No state agency, political subdivision, official, agent, employee of any state agency or political subdivision, may knowingly release or permit access to any application, list, record or registry of applicants or holders of permits to carry a concealed pistol to any person except another law enforcement agency or the secretary of state.

§ 23-7-9. Delivery of pistol to purchaser-Wrapped and unloaded-Violation as misdemeanor. When a pistol is delivered, the pistol shall be securely wrapped and shall be unloaded. A pistol that is securely wrapped and delivered to a purchaser pursuant to this section is not a concealed weapon under § 22-14-9. A violation of this section is a Class 1 misdemeanor.

§ 23-7-10. Repealed.

§ 23-7-11. Regulation does not apply to sale of pistols at wholesale. Sections 23-7-7 to 23-7-12, inclusive, do not apply to sales at wholesale.

§ 23-7-12. False information or false evidence of identity to secure pistol or permit as felony. No person, in purchasing or otherwise securing delivery of a pistol or in applying for a permit to carry a concealed pistol, may give false information or offer false evidence of his identity. A violation of this section is a Class 6 felony.

§ 23-7-18. Sale of pistol by retail dealer-Restrictions-Misdemeanor. No pistol shall be sold in violation of any provisions of this chapter, nor shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity. A violation of this section is a Class 1 misdemeanor.

§ 23-7-40. Purchase of rifles and shotguns by residents of South Dakota and contiguous states-Implementation of federal provisions. The State of South Dakota herewith permits residents of contiguous states and residents of this state, not otherwise precluded by any applicable laws, to purchase, sell, trade, convey, deliver, or transport rifles, shotguns, ammunition, reloading components or firearms accessories in South Dakota and in states contiguous to South Dakota. This authorization is enacted to implement for this state the permissive firearms sales and delivery provisions in section 922(b), (3)(A) of Public Law 90-618 of the 90th United States Congress, second session.

§ 23-7-41. Effect of repeal of federal restrictions on purchase of firearms accessories. In the event that presently enacted federal restrictions on the purchase, sale, trade, delivery, transportation or conveyance of firearms accessories are repealed by the United States Congress or set aside by courts of competent jurisdiction, § 23-7-40 shall in no way be interpreted to prohibit or restrict the purchase, sale, trade, delivery, transportation or conveyance of shotguns, rifles, ammunition, reloading components, or firearms accessories by residents of this state or of contiguous states, or of any other states who are otherwise competent to purchase, sell, trade, deliver, transport or convey rifles, shotguns, ammunition, reloading components or firearms accessories in this state, in contiguous states or other states.

§ 23-7-43. New serial number engraved or stamped on firearm. Upon application by an owner of a firearm, the Director of the Division of Criminal Investigation shall engrave or stamp a new serial number on any firearm on which the manufacturer's serial number has been changed, altered, removed or obliterated.

§ 23-7-44. Possession of pistols by minors prohibited-Misdemeanor. No person under the age of eighteen years may knowingly possess a pistol. A violation of this section is a Class 1 misdemeanor.

§ 23-7-45. Exceptions to prohibition against possession of pistols by minors. The provisions of § 23-7-44 or to a criminal prosecution brought after transfer pursuant to chapter 26-11, do not apply to any minor who has the consent of the minor's parent or guardian to possess such pistol, and:

(1) That the minor was in the presence of the minor's parent or guardian;

(2) That the minor was on premises owned or leased by the minor or the minor's parent, guardian, or immediate family member;

(3) That the minor was in the presence of a licensed or accredited gun safety instructor; or

(4) That the pistol was being used for farming, ranching, hunting, trapping, target shooting, or gun safety instruction.

§ 23-7-46. Prohibited transfer of firearms and ammunition to juveniles-Felony. No person may sell, transfer, give, loan, furnish, or deliver a firearm or firearm ammunition to any person under the age of eighteen years if such person knows or reasonably believes that the minor recipient of the transfer intended, at the time of transfer, to use the firearm or ammunition in the commission or attempted commission of a crime of violence as defined in subdivision 22-1-2(9). The affirmative defenses contained in chapter 23-7 do not apply to a prosecution under this section. A violation of this section is a Class 5 felony.

Chapter 32-20
Motorcycle Regulation

§ 32-20-6.6. Carrying firearm on motorcycle or off-road vehicle-Exception for holder of concealed pistol permit or disabled hunter permit-Enforcement-Violation as misdemeanor. No person, other than a law enforcement officer or conservation officer, or any person on the person's own land or land leased by the person, may operate or ride on any motorcycle or off-road vehicle with any firearm in the person's possession unless the firearm is completely unloaded and within a carrying case which encloses the entire firearm. However, this section does not apply to any person who is carrying a pistol and

possesses a permit to carry a concealed pistol issued pursuant to chapter 23-7. This section does not apply to any person who holds a permit issued pursuant to § 41-8-37 while engaged in hunting from an off-road vehicle in accordance with the provisions of the permit. This section shall be enforced by all law enforcement officers including conservation officers. A violation of this section is a Class 2 misdemeanor.

Chapter 32-20A
Snowmobile Operation

§ 32-20A-11. Restrictions on carrying of firearms-Violation as misdemeanor. No person other than a law enforcement officer or conservation officer may operate or ride in any snowmobile with any firearm in his possession unless the firearm is completely unloaded and within a carrying case which encloses the entire firearm. A violation of this section is a Class 2 misdemeanor.

Chapter 13-32
Supervision of Students and Conduct of School

§ 13-32-7. Possession of firearms on elementary or secondary school premises or vehicle as misdemeanor-Exceptions. Any person, other than a law enforcement officer, who intentionally carries, has in his possession, stores, keeps, leaves, places, or puts into the possession of another person, any firearm, or air gun, whether or not the firearm or air gun is designed, adapted, used, or intended primarily for imitative or noisemaking purposes, or any dangerous weapon, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions, whether or not any person is endangered by such actions, is guilty of a Class 1 misdemeanor. This section does not apply to starting guns while in use at athletic events, firearms, or air guns at firing ranges, gun shows, and 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.

Title 36 – Parks, Forests, and Public Property
Chapter 1 – National Park Service, Department of the Interior

Part 2 – Resource Protection, Public Use and Recreation

Information regarding carrying firearms within the national parks can be accessed under subsection 2.4, Weapons, Traps and Nets at the following website address:

http://www.access.gpo.gov/nara/cfr/waisidx_08/36cfr2_08.html

THE LAW ENFORCEMENT OFFICERS ACT OF 2004

The Law Enforcement Officers Safety Act of 2004 amended the Federal criminal code to authorize qualified law enforcement officers (including certain qualified retired officers) carrying the photographic identification issued by their governmental agency, notwithstanding State or local laws, to carry a concealed firearm. The federal law provides that such authorization shall not supersede State laws that: (1) permit private entities to prohibit the possession of concealed firearms on their property; or (2) prohibit the possession of firearms on State or local government property. The law also excludes from the definition of "firearm" any machine gun, firearm silencer, or destructive device.

MUNICIPAL, TOWNSHIP OR COUNTY GOVERNMENT

No municipal, township or county government in South Dakota may pass any ordinance that restricts possession, transportation, sale, transfer, ownership, manufacture, or repair of firearms or ammunition or their components. (See SDCL § 9-19-20, 8-5-13 and 7-18A-36)

Pistol Permit Front

STATE OF SOUTH DAKOTA
Permit to Carry a Concealed Pistol

JOHN J DOE
500 ANYWHERE STREET
PIERRE SD 57501

PERMIT:	**111222**		
DOB:	**1/13/1955**	WGT:	**213**
HGT:	**6/00**	EYES:	**GREEN**
HAIR:	**BROWN**	EXPIRES:	**1/13/2011**

Pistol Permit Back

The person issued this permit is entitled to carry a concealed pistol anywhere in South Dakota except where prohibited by law. This permit is not transferable.

Chris Nelson
Secretary of State

Pistol Permit Application

☐ New
☐ Renewal

STATE OF SOUTH DAKOTA
Application and Temporary
Permit to Carry a Concealed Pistol

Date of Birth _____

Place of Birth _____
(City and State)

PLEASE TYPE OR PRINT LEGIBLY

Name _____
Last First Middle

Mailing Address _____ SD _____
City State Zip Code

Residence (if different) _____
City State Zip Code

Driver's License/ID Number _____ Occupation _____

Weight _____ Height _____ Eye Color _____ Hair Color _____

I certify that I am the applicant described and that the above information is true and correct. I further certify that I have never pled guilty to, nolo contendere to or been convicted of a felony or a crime of violence and that I am a citizen of the United States of America.

I declare and affirm under the penalties of perjury that this application has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

Date _____ Applicant's Signature _____

The official permit to carry a concealed pistol will be mailed to the **above address** within 30 days.

Date _____

Sheriff's Signature _____

SECRETARY OF STATE

County _____

Cash ☐ Check ☐ DCI Check Yes ____ No ____

Clear Form