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## 1996 Firearm-Related Statutes

Minnesota, Montana, Nebraska and South Dakota

MARCH 1998

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Multistate Project: Minnesota, Montana, Nebraska and South Dakota

Minnesota, Montana, Nebraska and South Dakota  
Statutes  
1996



The Multistate Project studied the use of firearms in the commission of crime by examining criminal history, death record, Supplementary Homicide and Uniform Crime Report data, along with 1996 firearm-related statutes in four states. Project members were LaLonnie Erickson and Susan Roth of Minnesota, Wanda Fergen and Kari Stulken of South Dakota, Thomas Murphy and Gary Leonardson of Montana, and Michael Overton and Marilyn Keelan of Nebraska.

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*1996 Firearm-Related Statutes: Minnesota, Montana, Nebraska and South Dakota* was prepared by LaLonnie Erickson, Patricia Larson and Susan Roth of Minnesota. Upon request, *1996 Firearm-Related Statutes: Minnesota, Montana, Nebraska and South Dakota* will be made available in an alternate format, such as Braille, large print or audio tape.

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# 1996 Firearm-Related Statutes

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## Legislative jurisdiction

This document summarizes federal, Minnesota, Montana, Nebraska and South Dakota 1996 statutes and terms pertaining to firearms. Regulations typically focus on export, import or manufacture; sales; and use or possession. While federal guidelines dictate minimum national standards, many states and municipalities have enacted more restrictive legislation. Because only statutes were examined, the information presented here is not exhaustive. Other governmental entities such as state natural resources departments have authority to impose firearm-related regulations, which are not documented in statute.

Federal laws primarily apply to the manufacture, importation, exportation and transfer of guns by licensed dealers. Although manufacture is not highly regulated, strict guidelines are imposed on imported guns. Some states have imposed additional standards, but these apply only to guns manufactured within those states.

The federal government regulates gun sales through licensed firearm dealers. These laws identify particular types of firearms that dealers cannot sell or groups of people to whom dealers cannot transfer guns. In many cases, these regulations do not apply to transactions between private citizens.

Certain conditions under which a person may possess and use a firearm also are covered by federal law. These regulations pertain to the carrying of concealed firearms, storing and transporting guns, and hunting; they also provide for enhanced sentences for individuals who commit a crime with a gun.

Federal law also mandates gun control policies for schools. The Gun-Free Schools Act of 1994 requires states to establish mandatory expulsion policies for students bringing guns, bombs, grenades, rockets or missiles to school. School districts are required to report the number of students expelled and the types

of weapons used in any incident on school grounds. States may expand their policies to include other weapons as well.

## Federal definitions

**Ammunition:** cartridge cases, primers, bullets or propellant powder designed for use in any firearm

**Antique firearm:** any firearm manufactured before 1898 that has a matchlock, flintlock, percussion cap or similar type of ignition system. Also includes replica firearms that are not designed to fire conventional rimfire or centerfire ammunition, or that use conventional rimfire or centerfire fixed ammunition that is no longer manufactured in the United States or is not readily available in ordinary channels of commercial trade.

**Armor-piercing ammunition:** projectile used in a handgun and constructed entirely — excluding the presence of other trace substances — from one or more of the following: tungsten alloys, steel, iron, brass, bronze, beryllium copper or depleted uranium. Also includes full-jacketed handgun projectiles larger than .22 caliber whose jacket weight is greater than 25 percent of the total weight. This term does not include shotgun ammunition required by federal or state hunting regulations; frangible projectiles designed for target shooting; or projectiles determined as primarily intended for sporting purposes or industrial purposes including those used in oil and gas well perforating devices.

**Dealer:** any federally licensed person engaged in the business of selling or repairing firearms, or making special barrels, stocks or trigger mechanisms. Pawnbrokers are included.

**Destructive device:** any explosive, incendiary, or poison gas bomb, grenade or rocket possessing a propellant charge of more than four ounces; missiles with an explosive or incendiary charge of more than one-quarter ounce; and mines or similar devices. Also includes any weapon or combination of parts — regardless of name — possessing a barrel bore

greater than one-half inch in diameter and designed to or readily converted to expel projectiles by explosive action. This term does not include antiques; devices intended for use in signaling, pyrotechnic, line throwing or safety; surplus ordinances sold, loaned or given by the secretary of the Army; rifles that the owner intends to use solely for sporting, recreational or cultural purposes; or shotguns and shotgun shells determined particularly suitable for sporting purposes.

**Firearm:** designates any device designed to or readily converted to expel any type of projectile by the action of an explosive. Includes starter guns, frames, receivers, silencers or any destructive device. This definition does not include antique firearms.

**Handgun:** a short stock firearm that can be held and fired with one hand. Includes any combination of parts from which such a firearm may be assembled.

**Large capacity ammunition feeding device:** magazine, belt, drum, feed strip or similar device that has the capacity to accept or may be readily converted to accept more than 10 rounds of ammunition, manufactured after the enactment of the 1994 Violent Crime Control and Law Enforcement Act. This term does not describe attached tubular devices capable of accepting only .22 caliber rimfire ammunition.

**Machine gun:** a weapon designed or modified to automatically fire more than one shot of ammunition in a single trigger pull

**Rifle:** a weapon with a rifled bore intended to be fired from the shoulder using energy from a fixed explosive in a metallic cartridge to expel a single projectile per trigger pull

**School zone:** incorporates all of the area within 1,000 feet of the grounds of a public, parochial or private school

**Semiautomatic assault weapon:** any rifle that can accept a detachable magazine and has at least two of the following features: folding or telescoping stock; pistol grip that conspicuously protrudes beneath the action of the weapon; bayonet mount; flash suppressor or threaded barrel designed to accommodate a flash suppressor; or a grenade launcher. Any handgun that can accept a detachable magazine and has at least two of the following features: ammunition magazine that attaches to the outside of the pistol grip; threaded barrel capable of accepting an extender, flash suppressor, forward handgrip or silencer; shroud attachment that partially or completely encircles the barrel and permits the shooter to hold the firearm with the nontrigger hand without being burned; manufactured weight of 50 ounces or more when unloaded; or a semiautomatic version of an automatic. Any shotgun that has at least two of the following features: folding or telescoping stock; pistol grip that conspicuously protrudes beneath the action of the weapon; fixed magazine capacity in excess of five rounds; or an ability to accept a detachable magazine. Also includes any caliber firearm including copies or duplicates known as: Norinco, Mitchell and Poly Technologies Avtomat Kalashnikovs; Action Arms Israeli Military Industries UZI and Galil; Beretta Ar70 (SC-70); Colt AR-15; Fabrique National FN/FAL, FN/LAR and FNC; SWD M-10, M-11, M-11/9 and M-12; Steyr AUG; INTRATEC TEC-9, TEC-DC9 and TEC-22; or revolving cylinder shotguns similar to the Street Sweeper and Striker 12.

**Semiautomatic rifle:** repeating rifle that uses energy from the cartridge firing to extract the fired cartridge case and chamber the next round. These weapons fire one shot of ammunition per trigger pull.

**Short-barreled rifle:** rifle with a barrel length less than 16 inches or an overall length less than 26 inches

**Short-barreled shotgun:** shotgun with a barrel



length less than 18 inches or an overall length less than 26 inches

**Shotgun:** smooth bore weapon intended to be fired from the shoulder using energy from an explosive in a fixed shotgun shell to expel either a number of ball shot or a single projectile per trigger pull

**Silencer:** device or any combination of parts intended for silencing, muffling or diminishing the firing of a gun. Also known as a “muffler.”

## **Gun dealers and makers must be licensed**

All firearm dealers and manufacturers are required to obtain a federal license. Applicants for a dealer’s license must be at least 21 years old, legally able to engage in interstate or foreign commerce of firearms and ammunition, not have violated any provision of the federal Gun Control Act, certify that their business will comply with state and local laws, and notify local law enforcement of their application. Prospective dealers are photographed, fingerprinted and submit to a criminal background check.

Dealership licenses are good for three years and cost \$200 for the first issuance and \$90 for renewal. Firearm manufacturers pay a fee of \$50 for their three-year license, while manufacturers of ammunition pay \$10 per year. The Bureau of Alcohol, Tobacco and Firearms maintains a list of all licensed dealers and manufacturers.

Licensed dealers are required to keep records and report on certain firearm transactions. These activities include:

- Documenting purchaser name, age and place of residence
- Notifying the Bureau of Alcohol, Tobacco and Firearms, and state and local law enforcement agencies of the sale to any one individual of two or more handguns at one time or during any five consecutive business days. Law enforcement

agencies may keep these records only for up to 20 days.

- Turning over all records to the Bureau of Alcohol, Tobacco and Firearms upon going out of business
- Reporting any theft to the Bureau of Alcohol, Tobacco and Firearms within 48 hours of its occurrence
- Responding immediately to gun trace requests from the Bureau of Alcohol, Tobacco and Firearms

## **Possession governed by federal law**

The primary federal law governing firearms, the 1968 Gun Control Act, seeks to restrict the possession of firearms based on a person’s age, criminal background or mental incompetence; to channel trade in firearms through federally licensed dealers; and to ban the importation of certain firearms not suitable for sporting purposes, as well as handguns known as “Saturday night specials.”

The act was amended in 1986 to ban the importation of individual parts for Saturday night specials, along with the sale, transfer and possession of machine guns. Buyers of machine guns made before 1986 must complete an application process that includes a transfer tax of \$200 per weapon.

In 1994, the Brady Bill established a five-day waiting period before the sale or transfer of a handgun can be completed through a federally licensed dealer. It also called for law enforcement agencies to conduct background checks on purchasers during the waiting period to determine whether they fall within a federally prohibited category, but the U.S. Supreme Court recently held this requirement to be unconstitutional. The dealer must still file the purchase application with the appropriate law enforcement agency and wait five days before issuing the handgun.

## Laws spell out prohibited categories

Federal regulations stipulating the manufacture, sale or possession of certain types of guns are broad and define specific firearms by characteristics rather than by name. Prohibited guns include any that are not detectable by airport security devices; not registered as required by the National Firearms Act, which covers certain firearms considered to be “gangster weapons”; not readily adaptable or recognized as being suitable for sporting purposes, including Saturday night specials and assault rifles; machine guns made after 1986; semiautomatic weapons; and magazines that hold more than 10 rounds of ammunition.

Federal law also prohibits certain categories of people from shipping, transporting, receiving or possessing firearms or from having guns transferred to them by licensed dealers. These categories include people who:

- Are adjudicated mentally incompetent
- Are controlled substance users or addicts
- Have been convicted of a misdemeanor crime of domestic violence
- Have been dishonorably discharged from the military
- Are fugitives from justice
- Are illegal aliens
- Have been indicted or convicted of crimes punishable by a term of imprisonment exceeding one year
- Have renounced their U.S. citizenship
- Are subject to a court order restraining them from harassing, stalking or threatening another person or their children

- Are younger than 18 years old

## Minnesota guidelines

Statutes pertaining to the possession of firearms and related criminal penalties specific to Minnesota are listed below.

### Minnesota definitions

**Antique firearm:** any firearm manufactured before 1899 that has a matchlock, flintlock, percussion cap or similar type of ignition system. Also includes replica firearms that are not designed to fire conventional rimfire or centerfire ammunition, or use conventional rimfire or centerfire ammunition not readily available in ordinary channels of commercial trade.

**Big game animal:** includes deer, moose, elk, bear, antelope and caribou

**Concealed weapon:** not defined in statute

**Dangerous weapon:** any device or instrument capable of producing death or great bodily harm, including combustible or flammable liquid, fire and loaded or unloaded firearms

**Deadly weapon:** not defined in statute. See **dangerous weapon**.

**Felony:** a crime other than an enhanced gross misdemeanor for which a sentence of imprisonment exceeding one year may be imposed

**Firearm:** not defined in statute

**Gross misdemeanor:** any crime other than a felony or misdemeanor in which a sentence of imprisonment up to one year, a fine up to \$3,000 or both may be imposed.

**Handgun:** not defined in statute. See **pistol**.

**Machine gun:** a firearm that can automatically discharge more than one ammunition round in a single trigger pull

**Metal penetrating bullets:** 9 mm, .25, .32, .357, .38, .41, .44 or .451 caliber handgun ammunition that has a hardened core equal to the minimum of the maximum attainable hardness by solid red metal alloys, which purposely reduces the normal expansion or mushrooming of the bullet's shape upon impact. Excludes bullets composed of lead or lead alloys and copper or brass jacket bullets with lead or lead alloy cores.

**Misdemeanor:** a crime for which a sentence of imprisonment up to 90 days, a fine up to \$700 or both may be imposed

**Muzzle-loader:** not defined in statute

**Pistol:** a gun with an overall length less than 26 inches, which is designed to be fired using one hand. In the case of a shotgun or rifle, any gun with a barrel length less than 18 inches or 16 inches, respectively. These guns expel projectiles by the action of an explosive, spring, elastic band, carbon dioxide, air or other gas, or vapor. Also known as a "handgun."

**Reckless discharge:** not defined in statute

**Replica firearm:** a facsimile or toy version of a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher or other firearm

**Rifle:** not defined in statute

**Saturday night special:** a pistol comprised of any of the following: materials having a melting point less than 1,000 degrees Fahrenheit; substances with an ultimate tensile strength of less than 55,000 pounds per square inch; or powdered metal that has a density less than 7.5 grams per cubic centimeter

**Semiautomatic military-style assault weapon:** any of the following firearms: Avtomat

Kalashnikov; Beretta AR-70 and BM-59; Colt AR-15; Daewoo Max-1 and Max-2; Famas MAS; Fabrique Nationale FN-LAR and FN-FNC; Galil; Heckler & Koch HK-91, HK-93, and HK-94; Ingram MAC-10 and MAC-11; INTRATEC TEC-9; Sigarms SIG 550SP and SIG 551SP; SKS with a detachable magazine; Steyr AUG; Street Sweeper and Striker-12; USAS-12; Uzi; or Valmet M76 and M78. Also includes any other firearm model identical or nearly identical to those listed above. A firearm is not considered a semiautomatic military-style assault weapon if it is generally recognized as particularly suitable for or readily adaptable to sporting purposes.

**Silencer:** a device designed to muffle or silence the firing of a gun

**Short rifle:** not defined in statute

**Short shotgun:** a firearm with a barrel length less than 18 inches or an overall length less than 26 inches

**Shotgun:** a smooth bore gun intended to be discharged from the shoulder. Shotguns expel single shells containing a number of ball shot with trigger pull.

**Small game animal:** includes game birds, gray and fox squirrels, cottontail and jack rabbits, snowshoe hare, raccoon, lynx, bobcat, red and gray foxes, fisher, pine marten, opossum, badger, cougar, wolverine, muskrat, mink, otter and beaver

**Transferee permit:** not defined in statute

**Weapon:** not defined in statute

## **Minnesota possession: prohibited persons**

Aside from the federal categories, Minnesota law prohibits certain other categories of people from shipping, transporting, receiving or possessing firearms or from having guns transferred to them by

licensed dealers. These categories include people who:

- Have been charged with committing a crime of violence and placed in a diversion program, unless they complete the diversion program and the charges are dropped
- Have been committed to a treatment facility for chemical dependency, unless treatment has been completed
- Have been convicted of assault, domestic assault or violating a domestic abuse order for protection, unless three years have elapsed with no further convictions
- Have been convicted of domestic assault or violating a domestic abuse order for protection while in possession of a firearm. Possession may be limited from three years up to the remainder of the offender's life.
- Have been convicted or found delinquent of a violent crime, unless 10 years have elapsed with no further convictions
- Have been convicted of any drug-related violations
- Are found incompetent to stand trial by reason of mental illness, unless that person has a doctor's certificate indicating they no longer suffer from their disability
- Have been identified as "mentally ill," "mentally retarded" or "mentally ill and a danger to the public" and confined to a treatment facility, unless they have a doctor's certificate indicating they no longer suffer from their disability
- Are peace officers informally admitted to a treatment facility for chemical dependency, unless they have a discharge certificate issued by the head of the facility

- Have undergone hospitalization or treatment for habitual controlled substance or marijuana use, unless they have a doctor's certificate or other proof indicating they have not abused chemicals during the last two years

- Are under 18 years of age, unless under the direct supervision of a parent or guardian; participating in target practice on a firing range, military drill, a training course or competition; or are 14 or older and have completed a state-approved marksmanship and safety course

### **Minnesota possession: prohibited firearms**

The manufacture, sale or possession of the following is illegal in Minnesota:

- Guns without a serial number or manufacturer's identification number
- Silencers

### **Minnesota possession: prohibited places**

Possession of the following is further prohibited in Minnesota, even with a concealed weapons permit:

- Any weapon, BB gun or replica firearm on school property or within a courthouse complex
- Dangerous weapons in any state building within the Capitol area, other than the National Guard Armory
- A BB gun, semiautomatic military-style weapon, rifle or shotgun in any public place, even if the person has a permit to carry a concealed weapon

## Minnesota possession: school zones

Students who bring a weapon to school are automatically expelled for at least one year and referred to juvenile justice authorities; however, this policy may be modified on a case-by-case basis. The definition of *weapon* for this purpose is expanded beyond the federal definition to include replica firearms and BB guns.

Students found delinquent of possessing a weapon on school grounds have either their driver's license cancelled or driving privileges denied until age 18.

## Minnesota possession: purchase requirements

<b>Weapons:</b>	handguns and semiautomatic military-style assault weapons
<b>Waiting period:</b>	7 days
<b>Instant check:</b>	no
<b>Permit required:</b>	transferee or concealed weapons
<b>Permit validity:</b>	1 year
<b>Fee charged:</b>	none

A concealed weapons or transferee permit is required to purchase a handgun or semiautomatic military-style assault weapon. To obtain a transferee permit, firearm purchasers must undergo a seven-day waiting period and application process. The waiting period may be waived for individuals who already have a valid concealed weapons or transferee permit.

Transferee permits are not required for:

- Obtaining antique firearms
- Transfers among licensed dealers or ordered by a court
- Loans of a firearm for up to one day
- Transporting a firearm for repair, reconditioning or

remodeling

- Teachers loaning firearms to students taking a course in marksmanship or safety
- Loans between persons at a firearm collectors exhibit
- Loans for up to 12 hours between persons lawfully engaged in hunting or target shooting
- Loans between employers and employees or among employees in a business that requires carrying a firearm. Employees must have valid concealed weapon permits.

Purchasers outside one of the above categories are required to fill out an application, which firearm dealers submit to local law enforcement within three days. Law enforcement officials then have five days to complete a background check and notify the applicants of their eligibility to purchase. A record of all denied transferee permit applications is kept by law enforcement officials. Applicants denied a permit can appeal to district court. If they are deemed eligible to possess a handgun or semiautomatic weapon, they may request that no record of their application and receipt of the weapon be kept. At this point, the transfer report would be given back to the applicants.

Once obtained, transferee permits allow an individual to purchase handguns and semiautomatic assault weapons for one year without having to go through the waiting period and application process again. There is no limit on the number of guns an individual may purchase at a given time or during the year. Transferee permits also are available by applying directly to law enforcement officials.

## Minnesota possession: concealed weapons

<b>Cost:</b>	none
<b>Type:</b>	discretionary
<b>Validity:</b>	1 year

**Waiting period:** law enforcement officials have 21 days to conduct checks

**Weapons:** handguns

A permit is required for individuals to carry a firearm on their person. Applications are submitted to law enforcement officials who have 21 days to complete a criminal history and warrant check. Permits are only granted to people who have proof of completing a firearm safety course; demonstrate a compelling occupational or personal safety hazard; and do not fall into one of the prohibited categories. Law enforcement officials have the discretion to deny applications not demonstrating compelling reasons.

No permit to carry is required for individuals to carry a handgun in the following situations:

- Within their place of business, dwelling, house or on land they own
- From a place of purchase or repair to their dwelling or place of business
- From their dwelling to their place of business
- From their place of business to their dwelling
- While hunting in the woods, fields or upon water
- Transporting the weapon in a motor vehicle, snowmobile or boat if it is unloaded and in a closed case

Furthermore, except when during lawful hunting or at a target range, possession of a rifle or shotgun outdoors is prohibited, unless it is unloaded and either broken down or stored in a secure case.

## Minnesota criminal penalties: felony

**Prohibited action:** use or possession of a firearm within 10 years of a violent crime conviction

**Penalty:** up to 15 years imprisonment, a fine up to \$30,000 or both

**Prohibited action:** recklessly furnishing a dangerous weapon to another person in conscious disregard of a known substantial risk that this person will use it to commit a felony violent crime

**Penalty:** up to 10 years imprisonment, a fine up to \$20,000 or both

**Prohibited action:** supplying a firearm to an individual under 18 years of age without the consent of their parent or guardian, or the police department

**Penalty:** up to 10 years imprisonment, a fine up to \$20,000 or both

**Prohibited action:** use or possession of either a short-barreled shotgun, trigger activator, machine gun or machine gun conversion kit

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** the act of removing or altering the serial number on a firearm and the use or possession of a firearm that does not have a serial number

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** use or possession of any firearm by an individual under 18

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** use or possession of a dangerous weapon in any state building within the Capitol area, other than the National Guard Armory

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** reckless discharge of a firearm toward another person, motor vehicle or building while in or having just exited a motor vehicle

**Penalty:** up to three years imprisonment, fine up to \$6,000 or both. If the car or building is occupied, the penalty increases to a maximum of five years imprisonment, a fine up to \$10,000 or both.

**Prohibited action:** reckless discharge of a firearm at or in a public transit vehicle or facility

**Penalty:** up to three years imprisonment, a fine up to \$6,000 or both. If the vehicle or facility is occupied, the penalty increases to a maximum of five years imprisonment, a fine up to \$10,000 or both.

**Prohibited action:** use of metal-penetrating bullets during the commission of a crime

**Penalty:** up to three years imprisonment, a fine up to \$5,000 or both. The sentence for this must run consecutive to any other criminal sentence imposed.

**Prohibited action:** selling or possessing a silencer

**Penalty:** up to two years imprisonment, a fine up to \$5,000 or both. If done in a school, park or public housing zone, the penalty increases to a maximum of five years imprisonment, a fine up to \$10,000 or both.

**Prohibited action:** intentional discharge of a firearm under circumstances that endanger the safety of another or the reckless discharge of a firearm within a municipality.

**Penalty:** up to two years imprisonment, a fine up to \$5,000 or both. If done in a school, park or public housing zone, the penalty increases to a maximum of five years imprisonment, a fine up to \$10,000 or both.

**Prohibited action:** possession of a dangerous weapon, replica firearm or BB gun within a school zone

**Penalty:** up to two years imprisonment, a fine up to \$5,000 or both

**Prohibited action:** discharging a firearm and failing to render aid in the event that another person

is injured by the gun fire

**Penalty:** if the injured person dies or incurs great bodily harm, up to two years imprisonment, a fine up to \$4,000 or both. If substantial bodily harm results, the offense is a gross misdemeanor with a penalty up to one year of imprisonment, a fine up to \$3,000 or both.

**Prohibited action:** use of replica firearm or BB gun to threaten or cause terror in another person

**Penalty:** imprisonment for up to one year and one day or a fine up to \$3,000

**Prohibited action:** possession of a firearm while committing stalking or harassment

**Penalty:** the firearm is summarily forfeited and the individual may be restricted from possessing a firearm for three years or more

**Prohibited action:** possession of a semiautomatic military-style assault weapon in a public place by an individual under 21 years of age

**Penalty:** statute indicates that this crime is a felony but does not list a specific penalty

## **Minnesota criminal penalties: gross misdemeanor**

**Prohibited action:** discharging a firearm and failing to render aid in the event that another person is injured by the gun fire

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both. If the person dies, the offense becomes a felony.

**Prohibited action:** witnessing the injury of another person by gun fire and failing to render aid

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both. If the witness is not accompanying the shooter, the offense becomes a misdemeanor.

**Prohibited action:** except for those listed under felony criminal penalties, possession of a firearm by persons in all other prohibited categories

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both

**Prohibited action:** carrying a BB gun, rifle or shotgun in a public place without a permit

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both

**Prohibited action:** carrying a pistol in a car, snowmobile, boat or public place without a permit. Law enforcement personnel are exempt.

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both. Second offense is a felony.

**Prohibited action:** teaching or demonstrating to others how to make a firearm capable of causing injury or death with the knowledge that the instruction will be unlawfully employed for civil disorder

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both

**Prohibited action:** transferring a gun to another person who does not have a valid transferee permit

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both

**Prohibited action:** transferring a firearm to an ineligible person who then uses the gun within one year to commit a felony violent crime. This offense involves a reasonable expectation on the part of the person transferring the gun that the transferee will use it to commit a violent crime. Licensed firearm dealers are excluded.

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both

**Prohibited action:** transferring a pistol or semiautomatic military-style assault weapon to a person known to have been denied a concealed weapons or transferee permit because he or she fell within one of the prohibited categories

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both. The violation becomes a felony if the person uses the firearm within one year to commit a felony violent crime.

**Prohibited action:** recklessly or intentionally placing a child under 14 in a situation likely to cause the child harm or death because of access to a loaded firearm

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both. If endangerment results, the offense increases to a felony with a penalty of up to five years' imprisonment, a fine up to \$10,000 or both.

**Prohibited action:** storing a loaded firearm in a location where it is likely that a child could gain access

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both. If the child gains access to the gun and dies from any resulting injuries, the offense increases to a felony.

**Prohibited action:** sale by a licensed dealer of a Saturday night special

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both

**Prohibited action:** compiling or making a Saturday night special

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both

**Prohibited action:** possessing a replica firearm or BB gun on school property

**Penalty:** imprisonment of up to one year, a fine up to \$3,000 or both

## **Minnesota criminal penalties: misdemeanor**

**Prohibited action:** recklessly handling a loaded or unloaded firearm so as to endanger or intentionally point it at another person

**Penalty:** up to 90 days imprisonment, a fine up to \$1,000 or both

**Prohibited action:** failing to turn in a transferee permit within five days of becoming ineligible to possess a firearm

**Penalty:** up to 90 days imprisonment, a fine up to



\$1,000 or both

**Prohibited action:** supplying a firearm, airgun or ammunition to a child under age 14 outside of a municipality and without a parent's consent

**Penalty:** up to 90 days imprisonment, a fine up to \$1,000 or both

**Prohibited action:** violations of background check or waiting period

**Penalty:** up to 90 days imprisonment, a fine up to \$1,000 or both

**Prohibited action:** providing false information on an application to obtain a transferee or concealed weapon permit

**Penalty:** up to 90 days imprisonment, a fine up to \$1,000 or both

### **Minnesota criminal penalties: other**

**Prohibited action:** attempted or actual commission of the following crimes while in possession of a firearm: murder in the first, second and third degrees; manslaughter in the first and second degrees; drive-by shooting; aggravated and simple robbery; criminal sexual conduct; assault in the first, second or third degrees; burglary; arson; kidnapping; false imprisonment; escape from custody; and unlawful possession or use of a firearm.

**Penalty:** mandatory enhanced penalty of three years imprisonment to be added on to the primary offense sentence

**Prohibited action:** arrest for committing a crime against a person

**Penalty:** a judge may order as a condition of release that suspected offenders surrender their firearms and may require them to reside in a residence where no one owns firearms

**Prohibited action:** conviction for first-, second-, third- or fourth-degree assault against a family member while in possession of a firearm

**Penalty:** offenders' firearms are summarily forfeited and their right to possess firearms may be restricted for three years or more

**Prohibited action:** delinquency adjudication for committing a crime while in possession of a firearm

**Penalty:** the firearm is immediately seized and the juvenile is required to complete at least 100 hours of community service

**Prohibited action:** commission of a felony offense by a juvenile age 16 or older while in possession of a firearm

**Penalty:** the prosecutor may designate the youth as an extended jurisdiction juvenile

### **Minnesota hunting and recreation**

Individuals engaging in hunting activities must be able to show proof of firearms safety knowledge. Hunters are required to carry either a firearms safety certificate, previous hunting license or other evidence of completing a hunter safety course in this state or another. The state is required to establish instructional courses to teach firearms safety, and wild mammal and bird identification. A certificate of course completion may not be issued to anyone under the age of 12. Additional guidelines for firearm use in hunting and recreation require that individuals:

- Under 16 may not obtain a small game license but may take small game with a firearm if they are 14 or 15 and have a firearms safety certificate, or are 13 and have a firearms safety certificate and are accompanied by a parent or guardian

- Under 16 cannot obtain a big game license unless they have a firearms safety certificate or are under 14 and accompanied by a parent or guardian

- May not shoot at a big game animal with a firearm across a public highway or from a vehicle, unless they are disabled and have the appropriate permit

- May take big game with either a rifle, shotgun or handgun with at least .23 inch caliber and loaded with a single projectile; ammunition having a case length at least 1.285 inches; with a smooth-bore muzzle-loader incapable of being loaded at the breech that has at least .45 inch caliber; or with a rifled muzzle-loader incapable of being loaded at the breech that has at least .40 inch caliber

- Cannot use a silencer on a firearm for hunting

- Can use a handgun of any caliber to hunt small game

- May not possess a firearm outdoors unless: they are in designated areas for taking big game during open deer hunting season, the firearm and ammunition are authorized for taking big game, and they possess a valid hunting license; the gun is unloaded and contained in a case or trunk of a motor vehicle; the weapon is a shotgun that expels lead- or steel-shot the size of No. 4 buckshot or smaller; the weapon is a handgun or rifle that expels .22 caliber short, long or long rifle cartridges; the weapon is a handgun possessed by a person with a valid permit to carry; or the person in possession of the firearm is on a target range.

## Minnesota storage and transportation

A firearm cannot be transported in a motor vehicle, unless it is unloaded and in either a gun case or the trunk, or the person has a valid concealed weapons permit. Antique firearms are exempt. Loaded firearms must be stored in a location where it is unlikely that a child could gain access to them.

## Montana guidelines

Guidelines pertaining to the possession of firearms and related criminal penalties specific to Montana are listed below.

## Montana definitions

**Antique firearm:** not defined in statute

**Armor-piercing ammunition:** under the guidelines established by the National Institute of Law Enforcement and Criminal Justice in December 1978, any ammunition — if fired from a handgun — that is capable of penetrating bullet-resistant apparel or body armor meeting the Type IIA of Standard NILE-STD-0101.01 requirements formulated by the United States Department of Justice in December 1978

**Big game animal:** not defined in statute. See **game animals**.

**Concealed weapon:** includes any billy, dagger, dirk, knuckles, pistol, revolver, slingshot or sword cane made of any metal or hard substance; knives with a blade four inches in length or longer; razors; or other deadly weapons that are wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon

**Deadly weapon:** not defined in statute

**Felony:** a crime for which a sentence of death or imprisonment exceeding one year may be imposed

**Firearm:** not defined in statute

**Game animals:** includes deer, elk, moose, antelope, caribou, mountain sheep, mountain goats, mountain lions, bears and wild buffalo

**Gross misdemeanor:** statutes do not codify gross misdemeanors

**Handgun:** any firearm originally designed to be fired using one hand, including a pistol or revolver

**Intoxicating substance:** any controlled substance as defined in Title 50, Chapter 32 or alcoholic beverage containing one-half of 1 percent or more alcohol by volume. This definition does not

include nonalcoholic wine or any beverage produced by the same process as beer, ale, port or wine if it contains less than one-half of 1 percent alcohol by volume.

**Machine gun:** any loaded or unloaded weapon regardless of description or name that can rapidly, automatically or semiautomatically discharge more than six shots or bullets from a magazine in a single trigger pull

**Misdemeanor:** a crime for which a sentence of imprisonment in the county jail for any term, a fine or both may be imposed. Also a crime for which a sentence of imprisonment in the state prison for any term up to one year may be imposed.

**Pistol:** not defined in statute. See **handgun**.

**Rifle:** not defined in statute

**Saturday night special:** not defined in statute

**Sawed-off firearm:** any rifle having a barrel length of 16 inches and an overall length of 26 inches or shotgun having a barrel length of 18 inches and an overall length of 26 inches that has had its barrel shortened

**Short rifle:** not defined in statute. See **sawed-off firearm**.

**Short shotgun:** not defined in statute. See **sawed-off firearm**.

**Shotgun:** not defined in statute

**Silencer:** not defined in statute

**Weapon:** not defined in statute

## **Montana possession: prohibited persons**

Aside from the federal categories, Montana law prohibits certain other categories of people from

shipping, transporting, receiving or possessing firearms or from having guns transferred to them by licensed dealers. These categories include people who:

- Are adjudicated unlawful users of intoxicating substances and are under court-ordered incarceration, probation, treatment or education, or other state supervision
- Are adjudicated mentally ill, defective or disabled and still subject to a disposition of the court
- Have not completed a firearms safety course or do not have a valid permit to carry a firearm from another state that requires a firearms safety course
- Have outstanding warrants for their arrest
- Are under 14 unless accompanied by a parent or guardian, or under the supervision of a firearms safety instructor or another adult whom the parent or guardian has authorized

## **Montana possession: prohibited firearms**

The manufacture, sale or possession of the following is illegal in Montana:

- Guns without a serial number or manufacturer's identification number
- Any machine gun
- Short-barreled shotguns
- Silencers

## **Montana possession: prohibited places**

Possession of the following is further prohibited in Montana, even with a concealed weapons permit (except where noted):

- Any firearm on a train, unless the person has a concealed weapons permit
- Any firearm in a school zone, place that sells alcohol, or bank, credit union, savings and loan or similar institution
- Any firearm on school property or within a courthouse complex
- Any firearm in a state building

### Montana possession: school zones

Students who bring a weapon to school are automatically expelled for at least one year; however, this policy may be modified on a case-by-case basis. The federal definition of weapon applies.

### Montana possession: purchase requirements

<b>Weapon:</b>	any firearm
<b>Waiting period:</b>	5 days
<b>Instant check:</b>	no
<b>Permit required:</b>	no
<b>Permit validity:</b>	not applicable
<b>Fee charged:</b>	none

Montana does not have a body of law covering the purchasing of handguns. Procedures as proscribed by federal law apply: purchasers must fill out an application to obtain a gun, which is then forwarded to law enforcement officials. Due to a recent U.S. Supreme Court decision, law enforcement officials are no longer required to conduct a background check, unless they deem necessary. However, the purchaser must still wait five days before obtaining the gun. Possessors of a concealed weapons permit do not have to undergo the five-day waiting period to purchase a gun.

Special purchase conditions exist only for convicted felons who receive an additional sentence for using a

firearm or dangerous weapon to commit their crime. They are subject to life supervision for possessing firearms and have to apply to the court and show good cause in order to obtain one. Notice of their application is sent to the county attorney and sheriff, who may object and demand a hearing. Applicants who are denied permission to purchase a firearm cannot reapply for at least 12 months.

### Montana possession: concealed weapons

<b>Cost:</b>	\$50
<b>Type:</b>	shall-issue
<b>Validity:</b>	4 years
<b>Waiting period:</b>	law enforcement have 60 days to conduct checks
<b>Weapon:</b>	handguns

A permit is required for an individual to “carry or bear” a concealed handgun. Applications are submitted to the county sheriff, who has 60 days to do a criminal history and warrant check. Permits shall be granted to applicants who do not fall into one of the prohibited categories; have proof of completing a firearms safety course; are residents of the state for at least six months; and have valid picture identification.

Law enforcement may deny a permit if there is reasonable cause that the applicant is mentally incompetent or a threat to the peace and good order of the community. Applicants so denied must be given a written explanation and may appeal the denial to district court.

### Montana criminal penalties: felony

**Prohibited action:** conviction of an offense where armor-piercing ammunition was used

**Penalty:** five to 25 years imprisonment. Sentence must run consecutive to any other criminal sentence imposed. Defendants who were under 18, mentally incompetent or an accomplice at the time of the

offense are exempt.

**Prohibited action:** use or possession of a machine gun during the commission of a violent crime

**Penalty:** not less than 20 years imprisonment

**Prohibited action:** use or possession of a machine gun for offensive or aggressive purposes, except those used for scientific purposes or those not usable as a weapon and possessed as a curiosity, ornament or keepsake.

**Penalty:** at least 10 years imprisonment

**Prohibited action:** possessing, manufacturing, transporting, buying or selling a silencer with intent to commit an offense, or with knowledge that another person has such intent. Possession is prima facie evidence of intent to use, which means that the burden of proof is shifted to the defense.

**Penalty:** five to 30 years imprisonment, a fine from \$1,000 to \$20,000 or both

**Prohibited action:** use or possession of a firearm in the commission of an offense

**Penalty:** enhanced penalty of two to 10 years imprisonment. Sentence must run consecutive to any other criminal sentence imposed. Second violations result in an additional four to 20 years imprisonment. Defendants who were under 18, mentally incompetent, acting under unusual and substantial duress or an accomplice are exempt. Additional exemptions include sexual assaults involving victims under 16 and defendants more than three years older where the court determines that treatment poses a better opportunity for the rehabilitation of the defendant and the ultimate protection of the victim and society.

**Prohibited action:** convicted felon possessing a firearm or carrying one without a permit

**Penalty:** two to 10 years imprisonment

**Prohibited action:** providing false information on an application to obtain a concealed weapon permit

**Penalty:** statute indicates that this crime is a felony but does not list a specific penalty

## Montana criminal penalties: misdemeanor

**Prohibited action:** carrying a firearm without a permit

**Penalty:** up to six months imprisonment, a fine up to \$500 or both. The offense becomes a felony if the offender has previous felony convictions.

**Prohibited action:** carrying a weapon on a train

**Penalty:** up to six months imprisonment, a fine up to \$500 or both

**Prohibited action:** providing false information on an application to purchase a gun

**Penalty:** up to six months imprisonment, a fine up to \$500 or both if the application was a sworn document

**Prohibited action:** carrying a firearm in a state, federal or local building, bank, or place licensed to serve alcoholic beverages

**Penalty:** up to six months imprisonment, a fine up to \$500 or both

**Prohibited action:** carrying a concealed weapon while under the influence of an intoxicating substance, regardless of whether the person has a concealed weapons permit

**Penalty:** up to six months imprisonment, a fine up to \$500 or both

**Prohibited action:** removal or alteration of the serial number on a firearm

**Penalty:** up to six months imprisonment, a fine up to \$500 or both

**Prohibited action:** possession of a firearm within a school zone

**Penalty:** up to six months imprisonment, a fine up to \$500 or both

**Prohibited action:** possessing a sawed-off firearm

**Penalty:** up to five days imprisonment, a fine from \$200 to \$500 or both. Second offenses and those involving offenders with previous felony convictions

are charged as felonies with a penalty up to five years imprisonment, a fine up to \$1,000 or both.

**Prohibited action:** knowingly disturbing the peace by firing a gun, except at a shooting range during business hours

**Penalty:** up to 10 days imprisonment, a fine up to \$100 or both

**Prohibited action:** firing a gun within town or city limits, or outside a shooting range

**Penalty:** fine of \$25 or more as determined by the particular city or town

## Montana criminal penalties: other

**Prohibited action:** use or possession of a weapon during the assault of a family member

**Penalty:** seizure of weapon by a peace officer and possible further restriction by the court from possessing the weapon used in the assault

**Prohibited action:** intended or actual use of a weapon to facilitate the sale or manufacture of criminal drugs

**Penalty:** The weapon is subject to criminal forfeiture.

**Prohibited action:** use or possession of a firearm during the commission of an assault

**Penalty:** The court, in issuing a temporary order for protection, may prohibit the defendant from possessing the firearm used in the assault.

**Prohibited action:** commission of certain offenses such as murder, criminal sexual conduct, robbery, assault and arson while using a firearm by a juvenile at least 12 years old

**Penalty:** The youth may be tried as an extended jurisdiction juvenile.

**Prohibited action:** any offense

**Penalty:** The court may impose a requirement of no firearms possession as a condition of release.

## Montana hunting and recreation

A hunting license may not be issued to any person under 18, unless they can show proof of completing a firearms safety course. The state is required to establish instructional courses to teach firearms safety. Individuals must be at least 12 years old to obtain a hunting license. Additional guidelines for firearm use in hunting and recreation hold that a person:

- May not shoot at a big game animal with a firearm across a public highway or from a vehicle, unless the individual is disabled and has the appropriate permit
- Cannot discharge a firearm from a snowmobile
- May not discharge a firearm within 400 yards of the Montana Biological Reserve
- Cannot use a silencer on a firearm for hunting
- Employed as a park ranger is restricted from carrying a firearm while on duty

## Montana storage and transportation

Montana statutes do not set out specific guidelines for the storage and transportation of firearms.

## Nebraska guidelines

Guidelines pertaining to the possession of firearms and related criminal penalties specific to Nebraska are listed below.

## Nebraska definitions

**Antique firearm:** not defined in statute

**Class I felony:** a crime for which a sentence of death may be imposed

**Class I misdemeanor:** a crime for which a sentence up to one year's imprisonment, a fine up to \$1,000 or both may be imposed

**Class IA felony:** a crime for which a sentence of life imprisonment may be imposed

**Class IB felony:** a crime for which a sentence of at least 20 years' to life imprisonment may be imposed

**Class IC felony:** a crime for which a sentence of at least five up to 50 years' imprisonment may be imposed

**Class ID felony:** a crime for which a sentence of at least three up to 50 years' imprisonment may be imposed

**Class II felony:** a crime for which a sentence of at least one up to 50 years' imprisonment may be imposed

**Class II misdemeanor:** a crime for which a sentence up to six months' imprisonment, a fine up to \$1,000 or both may be imposed

**Class III felony:** a crime for which a sentence of at least one up to 25 years' imprisonment, a fine up to \$25,000 or both may be imposed

**Class III misdemeanor:** a crime for which a sentence up to three months' imprisonment, a fine up to \$500 or both may be imposed

**Class IIIA felony:** a crime for which a sentence of at least six months' up to five years' imprisonment, a fine up to \$10,000 or both may be imposed

**Class IIIA misdemeanor:** a crime for which a sentence up to seven days' imprisonment, a fine up to \$500 or both may be imposed

**Class IV felony:** a crime for which a sentence of at least six months' up to five years' imprisonment, a fine up to \$10,000 or both may be imposed

**Class IV misdemeanor:** a crime for which a fine from \$100 to \$500 may be imposed

**Class V misdemeanor:** a crime for which a \$100 fine may be imposed

**Class W misdemeanor:** only pertains to driving while intoxicated convictions

**Concealed weapon:** not defined in statute

**Dangerous instrument:** not defined in statute

**Deadly weapon:** any animate or inanimate firearm, knife, bludgeon or other device, or material capable of producing death or serious bodily injury

**Felony:** a crime classified into eight categories: Class IA, Class IB, Class IC, Class ID, Class II, Class III, Class IIIA and Class IV. See respective definitions for sentences that may be imposed for each class.

**Firearm:** any weapon designed or easily modified to expel projectiles by means of an explosive; includes frames or receivers of any such weapon

**Gross misdemeanor:** Statutes do not codify gross misdemeanors.

**Handgun:** not defined in statute

**Machine gun:** any size or designation of a firearm that can automatically fire more than one shot in a single trigger pull without manual reloading

**Misdemeanor:** a crime classified into seven categories: Class I, Class II, Class III, Class IIIA, Class IV, Class V and Class W. See respective definitions for sentences that may be imposed for each class.

**Pistol:** not defined in statute

**Revolver:** not defined in statute

**Rifle:** not defined in statute

**Saturday night special:** not defined in statute

**Short rifle:** gun with a barrel less than 16 inches in length or an overall length less than 26 inches

**Short shotgun:** firearm a barrel less than 18 inches in length or an overall length less than 26 inches

**Shotgun:** not defined in statute

**Swivel gun:** not defined in statute

### **Nebraska possession: prohibited persons**

Aside from the federal categories of prohibited persons, Nebraska law prohibits persons under the age of 18 from shipping, transporting, receiving or possessing firearms or from having guns transferred to them by licensed dealers unless they are part of the armed services or under the supervision of a parent or guardian.

### **Nebraska possession: prohibited firearms**

The manufacture, sale or possession of guns without a serial number or manufacturer's identification mark is illegal in Nebraska.

### **Nebraska possession: prohibited places**

The following is prohibited in Nebraska:

- Possession of any firearm on school grounds, in a school bus or at a school event
- Carrying any firearm in a wild game preserve

### **Nebraska possession: school zones**

Nebraska follows the terms outlined in the federal Gun-Free Schools Act. No additional conditions or guidelines are set forth.

### **Nebraska possession: purchase requirements**

<b>Weapon:</b>	handgun
<b>Waiting period:</b>	2 days
<b>Instant check:</b>	Legislation has been passed to implement an automated background checking system; however, funds are lacking to institute this system.
<b>Permit required:</b>	transfer certificate
<b>Permit validity:</b>	3 years
<b>Fee charged:</b>	\$3 to \$5

A transfer certificate and valid photo identification are required to purchase a handgun. To obtain a transfer certificate, firearm purchasers in Nebraska are required to submit to a background check and a two-day waiting period. Transfer certificates are not required if the person is a licensed dealer acting with authority of law enforcement, transferring the weapon to a family member or procuring an antique handgun.

Dealers make requests to the State Patrol, which has one day to conduct the check. If the dealer is not contacted by the State Patrol, the handgun sale is completed. Applicants denied purchase are given a written statement indicating the reason. Denials can be appealed for \$10, with the court's decision to be rendered within 30 days.

Transfer certificates cost \$3 when obtained from a licensed dealer. But individuals may apply directly to their police chief or sheriff and pay \$5 to get one. Where application is made directly to law enforcement officials, officers have two days to complete the background check.



## Nebraska possession: concealed weapons

Nebraska prohibits the carrying of concealed firearms, except by law enforcement. The statute does provide a defense for people caught carrying a firearm while engaged in any lawful business, calling or employment in which the circumstances justified the action for the defense of their person, property or family.

## Nebraska criminal penalties: felony

**Prohibited action:** using a deadly weapon to commit a felony offense

**Penalty:** one to 50 years imprisonment. The sentence must run consecutive to any criminal sentence imposed for the primary offense.

**Prohibited action:** intentionally discharging a firearm at an inhabited dwelling, house, building, motor home, camper unit, motor vehicle, or aircraft

**Penalty:** up to 20 years imprisonment, a fine up to \$25,000 or both

**Prohibited action:** possession of a deadly weapon by a felon or fugitive from justice

**Penalty:** up to 20 years imprisonment, a fine up to \$25,000 or both

**Prohibited action:** transferring a firearm to a juvenile, unless it involves a relative at the consent of a parent or guardian, or will be used for sporting purposes or an education program while under adult supervision

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** possession of a firearm that does not have a serial number

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** removing the serial number on

a firearm

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** knowingly using, possessing or disposing of a stolen firearm, unless the intention was to return it to the lawful owner

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** possession or transportation of a machine gun. Peace officers, members of the U.S. armed services and National Guard, and persons qualified under federal law to possess are exempt.

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** providing false information on an application to purchase a firearm

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

**Prohibited action:** teaching or demonstrating to others how to make a firearm capable of causing injury or death with the knowledge that the instruction will be unlawfully employed for civil disorder

**Penalty:** up to five years imprisonment, a fine up to \$10,000 or both

## Nebraska criminal penalties: misdemeanor

**Prohibited action:** carrying a concealed weapon

**Penalty:** up to one year of imprisonment, a fine up to \$1,000 or both. Second and subsequent offenses are charged as felonies and carry a penalty of up to five years imprisonment, a fine up to \$10,000 or both.

**Prohibited action:** violations of background check and waiting period

**Penalty:** up to one year of imprisonment, a fine up to \$1,000 or both

**Prohibited action:** use or possession of a firearm by a person under 18, unless they are a member of the armed services or under the supervision of a parent or guardian

**Penalty:** up to three months imprisonment, a fine up to \$500 or both

**Prohibited action:** discharging any type of weapon that uses compressed gas as a propellant from a public highway, road or bridge

**Penalty:** up to three months imprisonment, a fine up to \$500 or both

**Prohibited action:** failure to register a tranquilizer gun with the county sheriff

**Penalty:** up to three months imprisonment, a fine up to \$500 or both

**Prohibited action:** carrying any type of firearm within the boundaries of a state wild game refuge, preserve or sanctuary

**Penalty:** up to three months imprisonment, a fine up to \$500 or both

**Prohibited action:** possessing or carrying a firearm on a snowmobile

**Penalty:** up to three months imprisonment, a fine up to \$500 or both. Second and subsequent offenses carry a penalty of up to six months imprisonment, a fine up to \$1,000 or both.

**Prohibited action:** possession of a firearm anywhere on school grounds, in a school vehicle or at a school-sponsored event, unless the person is a member of the armed forces; a peace officer on duty or in training; or receiving instruction under adult supervision; or the firearm is unloaded in a private vehicle operated by an adult

**Penalty:** forfeiture of the firearm to law enforcement officials for use as evidence and subsequently destroyed, and a fine from \$100 to \$500

## Nebraska criminal penalties: other

**Prohibited action:** killing or fatally wounding another person by aiming and firing a gun at them

**Penalty:** The offender may not obtain a hunting permit for 10 years after the incident.

## Nebraska hunting and recreation

Any person born after January 1, 1977, is required to complete a firearm hunter education program. The Nebraska Game and Park Commission is required to establish and administer these instructional courses. Individuals completing at least 10 hours of coursework receive a certificate of completion. The commission also may set forth regulations and limitations on the hunting and killing of deer relating to the type, caliber and other specifications of firearms and ammunition used. Additional guidelines for firearm use in hunting and recreation hold that a person:

- Must register all tranquilizer guns with the county sheriff
- Found physically or mentally unfit to carry a firearm may not obtain a hunting license
- Cannot use a rifle, pistol, revolver, swivel gun or shotgun larger than 10 gauge to hunt game birds
- Cannot carry any type of firearm or hunt any animal within the boundaries of a state wild game refuge, preserve or sanctuary

## Nebraska storage and transportation

Handguns may be transported in a vehicle as long as they are stored in a locked glove compartment or the trunk of the vehicle. Shotguns also may be transported in a vehicle if they are unloaded and stored in a case

Abiding by these practices will exempt an individual from concealed-carry law violations.

## South Dakota guidelines

Guidelines pertaining to the possession of firearms and related criminal penalties specific to South Dakota are listed below.

### South Dakota definitions

**Antique firearm:** any firearm manufactured before 1899 that has a matchlock, flintlock, percussion cap or similar type of ignition system; also includes replica firearms that are not designed to fire conventional rimfire or centerfire ammunition, or use conventional rimfire or centerfire ammunition not readily available in ordinary channels of commercial trade

**Basic game:** not defined in statute

**Big game:** includes all cloven-hoofed wild animals and wild turkey

**Class A felony:** a crime for which a sentence of death or life imprisonment in the state penitentiary may be imposed. A lesser sentence cannot be given for this felony type.

**Class B felony:** a crime for which a sentence of life imprisonment in the state penitentiary may be imposed. A lesser sentence cannot be given for this felony type.

**Class 1 felony:** a crime for which a sentence of life imprisonment in the state penitentiary and a fine of \$25,000 may be imposed

**Class 1 misdemeanor:** a crime for which a sentence of one year's imprisonment in a county jail, a fine of \$1,000 or both may be imposed

**Class 2 felony:** a crime for which a sentence of 25 years' imprisonment in the state penitentiary and a fine of \$25,000 may be imposed

**Class 2 misdemeanor:** a crime for which a sentence of 30 days' imprisonment in a county jail, a fine of \$2,000 or both may be imposed

**Class 3 felony:** a crime for which a sentence of 15 years' imprisonment in the state penitentiary and a fine of \$15,000 may be imposed

**Class 4 felony:** a crime for which a sentence of 10 years' imprisonment in the state penitentiary and a fine of \$10,000 may be imposed

**Class 5 felony:** a crime for which a sentence of five years' imprisonment in the state penitentiary and a fine of \$5,000 may be imposed

**Class 6 felony:** a crime for which a sentence of two years' imprisonment in the state penitentiary, a fine of \$2,000 or both may be imposed

**Concealed weapon:** a firearm that is totally hidden from view. If any part of the firearm is capable of being seen, it is not concealed.

**Deadly weapon:** not defined in statute

**Dangerous weapon:** any animate or inanimate device or instrument capable of producing death or serious bodily harm

**Felony:** a crime classified into eight categories: Class A, Class B, Class 1, Class 2, Class 3, Class 4, Class 5 and Class 6. See respective definitions for sentences that may be imposed for each class. The court also may require felony offenders to make restitution to the victim, in addition to imposing the sentence described for each felony class.

**Firearm:** any weapon that uses gunpowder to discharge a projectile

**Gross misdemeanor:** Statutes do not codify

gross misdemeanors.

**Machine gun:** any size or designation of a firearm that can automatically fire two or more cartridges in a single trigger pull without manual reloading

**Misdemeanor:** a crime classified into two categories: Class 1 and Class 2. See respective definitions for sentences that may be imposed for each class. Except in cases where particular punishments are prescribed by law, offenses identified simply as misdemeanors are considered Class 2. The court may require misdemeanor offenders to make restitution to the victim, in addition to imposing the sentence described for each misdemeanor class.

**Muzzle-loading rifle:** not defined in statute

**Nongame animals:** includes wildlife species not legally classified game species, fur-bearers, and threatened or endangered species

**Pistol:** firearm with a barrel less than 16 inches long, designed to expel projectiles using an explosive

**Predatory animals:** includes coyotes and foxes

**Revolver:** not defined in statute

**Rifle:** not defined in statute

**Short rifle:** gun with a barrel less than 16 inches long or an overall length less than 26 inches

**Short shotgun:** gun with one or more barrels less than 18 inches long or an overall length less than 26 inches

**Shotgun:** not defined in statute

**Stun gun:** a battery-powered, pulsed electrical device of high voltage and low or no amperage that can disrupt the central nervous system and cause a person to temporarily lose voluntary muscle control

## South Dakota possession: prohibited persons

Aside from the federal categories, South Dakota law prohibits certain other categories of people from shipping, transporting, receiving or possessing firearms or from having guns transferred to them by licensed dealers. These categories include people who:

- Have a history of violence
- Are found to be a "danger to others or their self" or judged mentally incompetent within the last 10 years
- Are habitually intoxicated or drugged
- Have had any violation of the firearms control statutes or committed a crime while in possession of a firearm within the last two years
- Are not residents of the county or municipality for at least 30 days
- Are not U.S. citizens or legal residents of the country for at least two years
- Have pled guilty or nolo contendere to, or have been convicted of a violent crime within the past 15 years
- Are under 18 years of age, unless under the direct supervision of a parent, guardian or licensed gun safety instructor; are on premises owned by a parent or family member; or using the gun for farming, ranching, hunting, trapping, target shooting or gun safety instruction

## South Dakota possession: prohibited firearms

The manufacture, sale or possession of the following is illegal in South Dakota:

- Guns without a serial number or manufacturer's identification number

- Short-barreled shotguns

- Silencers

### **South Dakota possession: prohibited places**

Anyone may possess a handgun in their own home or place of business. Possession of the following is prohibited in South Dakota, even with a concealed weapon permit (except where noted):

- Any firearm on school property or within a county courthouse or county jail. Law enforcement, officers of the court, judges, magistrates, state officials, members of the armed forces and persons lawfully carrying of firearms to hunting, gun safety training or other lawful purposes are exempt.

- Any firearm in a place licensed to sell alcoholic beverages, even if the person has a permit to carry concealed weapons

- Any firearm on a snowmobile, motorcycle or railway train, unless the person is a law enforcement official, has a permit to carry concealed weapons or the weapon is unloaded and in a carrying case

### **South Dakota possession: school zones**

South Dakota follows the federal Gun-Free Schools Act and further prohibits possession of any weapon in a school vehicle.

### **South Dakota possession: purchase requirements**

- **Weapon:** handgun
- **Waiting period:** 2 days
- **Instant check:** no

- **Permit required:** no
- **Permit validity:** not applicable
- **Fee charged:** none

Persons possessing a concealed weapons permit do not have to undergo the waiting period. Others wishing to obtain a handgun must fill out an application, show picture identification and wait 48 hours from the time of sale for delivery of the handgun. Dealers are required to mail or hand deliver the purchaser's application to local law enforcement officials within six hours, so they can conduct a background check. Police maintain records of all handgun purchases from licensed dealers for one year.

### **South Dakota possession: concealed weapons**

- **Cost:** \$6
- **Type:** shall-issue
- **Validity:** 4 years
- **Waiting period:** law enforcement officials have five days to conduct checks
- **Weapon:** handgun

A permit is required for an individual to carry a handgun on their person. Applications are submitted to local law enforcement officials or the county sheriff, who then have five days to complete a background check. Permits shall be issued if the applicant is over 18 years of age; has not been convicted of a felony-level violent crime; is not a habitual alcohol or drug user; has no history of repeated acts of violence; and is not currently adjudged mentally incompetent or has not been found mentally ill within the past 10 years. Denials may be appealed to the circuit court.

Permits are not required for individuals to possess a handgun in their own home, place of business or on land they or a member of their household owns or rents. Permits also are not required for individuals to possess a shotgun or rifle in a car or truck.

## South Dakota criminal penalties: felony

**Prohibited action:** Unintentionally killing another person with a dangerous weapon is manslaughter in the first degree.

**Penalty:** life imprisonment and a \$25,000 fine

**Prohibited action:** possession of a firearm by a prison inmate

**Penalty:** 25 years imprisonment and a \$25,000 fine

**Prohibited action:** using a dangerous weapon to commit burglary is burglary in the first degree

**Penalty:** 25 years imprisonment and a \$25,000 fine

**Prohibited action:** carrying a dangerous weapon while participating in a riot

**Penalty:** 15 years imprisonment and a \$15,000 fine

**Prohibited action:** discharging a firearm toward a structure or motor vehicle

**Penalty:** five years imprisonment and a \$5,000 fine. If bodily injury results from the gun firing, the penalty increases to 10 years imprisonment and a \$10,000 fine.

**Prohibited action:** knowingly furnishing a firearm to a person under 18 who will use it to commit a violent crime

**Penalty:** five years imprisonment and a \$5,000 fine

**Prohibited action:** entering a train while in possession of a weapon

**Penalty:** five years imprisonment and a \$5,000 fine

**Prohibited action:** concealing a dangerous weapon with intent to commit a felony

**Penalty:** five years imprisonment and a \$5,000 fine

**Prohibited action:** commission of a felony-level offense while in possession of a stun gun

**Penalty:** five years imprisonment and a \$5,000 fine. Second and subsequent offenses carry a penalty of 15 years imprisonment and a \$15,000 fine. This

sentence must run consecutive to any other criminal sentence imposed for the primary offense.

**Prohibited action:** commission of a felony-level offense while in possession of a firearm, including a machine gun or short shotgun

**Penalty:** up to five years imprisonment. Second violations carry a sentence of at least 10 years imprisonment. This sentence must run consecutive to any other criminal sentence imposed for the primary offense.

**Prohibited action:** discharging a firearm from a moving vehicle within a municipality

**Penalty:** two years imprisonment, a fine of \$2,000 or both. If bodily injury results from the discharge, the penalty increases to five years imprisonment and a \$5,000 fine.

**Prohibited action:** possession of a firearm that does not have a serial number

**Penalty:** two years imprisonment, a fine of \$2,000 or both

**Prohibited action:** giving false information on an application to purchase a pistol or obtain a concealed weapon permit

**Penalty:** two years imprisonment, a fine of \$2,000 or both

**Prohibited action:** giving, loaning or selling a firearm to a person prohibited from possessing one

**Penalty:** two years imprisonment, a fine of \$2,000 or both

**Prohibited action:** providing a firearm to a jail inmate

**Penalty:** two years imprisonment, a fine of \$2,000 or both

**Prohibited action:** use or possession of a firearm within 15 years of having been convicted of a violent crime

**Penalty:** two years imprisonment, a fine of \$2,000 or both

## South Dakota criminal penalties: misdemeanor

**Prohibited action:** use or possession of a firearm by a person under 18 years of age, unless a parent, guardian or licensed gun safety instructor is present; the minor is on property owned by a parent or family member; or the gun is being used for farming, ranching, hunting, trapping, target shooting, or gun safety instruction

**Penalty:** up to one year of imprisonment, a fine of \$1,000 or both

**Prohibited action:** selling a pistol without following the appropriate legal procedures

**Penalty:** up to one year of imprisonment, a fine of \$1,000 or both

**Prohibited action:** possession of a weapon on school grounds or in a school vehicle

**Penalty:** up to one year of imprisonment, a fine of \$1,000 or both

**Prohibited action:** carrying a concealed pistol or revolver in a car without a permit. Off-duty State Patrol officers are exempt.

**Penalty:** up to one year of imprisonment, a fine of \$1,000 or both

**Prohibited action:** possession of a loaded firearm while intoxicated

**Penalty:** up to one year of imprisonment, a fine of \$1,000 or both

**Prohibited action:** possession of a loaded firearm in a county courthouse

**Penalty:** up to one year of imprisonment, a fine of \$1,000 or both

**Prohibited action:** reckless discharge of a firearm

**Penalty:** up to one year of imprisonment, a fine of \$1,000 or both

**Prohibited action:** violations of the background check or waiting period

**Penalty:** up to one year of imprisonment, a fine of \$1,000 or both

**Prohibited action:** possession of a firearm while operating a snowmobile or motorcycle, unless it is unloaded and carried in a case. Law enforcement and conservation officers are exempt.

**Penalty:** up to 30 days imprisonment, a fine of \$200 or both

**Prohibited action:** hunting or carrying a firearm within a state game preserve or refuge

**Penalty:** up to 30 days imprisonment, a fine of \$200 or both

**Prohibited action:** issuing a hunting license to a person under 16 years of age, unless they show a competency certificate, hunter safety or education course certificate from another state, or a hunting license from a previous year

**Penalty:** up to 30 days imprisonment, a fine of \$200 or both

**Prohibited action:** using a rifle or handgun to hunt birds, except for wild turkeys

**Penalty:** up to 30 days imprisonment, a fine of \$200 or both

**Prohibited action:** using fully automatic firearms to hunt game

**Penalty:** up to 30 days imprisonment, a fine of \$200 or both

**Prohibited action:** using self-loading or auto-loading firearms that hold more than six cartridges to hunt big game animals

**Penalty:** up to 30 days imprisonment, a fine of \$200 or both

**Prohibited action:** using a muzzle-loading rifle that discharges projectiles less than .44 inches in diameter

**Penalty:** up to 30 days imprisonment, a fine of \$200 or both

**Prohibited action:** using buckshot, a single ball or

a rifled slug weighing less than one-half of an ounce to hunt big game

**Penalty:** up to 30 days imprisonment, a fine of \$200 or both

## **South Dakota hunting and recreation**

No person under the age of 12 may obtain a hunting license. Individuals 12 to 16 years old cannot engage in hunting activities unless they present a certificate of competency, a hunter safety certificate from another state or hunting license from a previous year and are accompanied by a parent, guardian or other responsible adult. The Department of Game, Fish and Parks is required to make arrangements with schools to establish courses for the safe handling of firearms and to train and pay instructors to teach these courses.

## **South Dakota storage and transportation**

Firearms may be transported in a vehicle if they are kept in the trunk, other closed compartment or in a closed container that is too big to conceal on the person.

## **References**

Montana Legislative Services Division. *Montana Code Annotated*. Helena, 1996.

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