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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 437

01/28/2021

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The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act

1.2 relating to public safety; providing for a cause of action when a person who is

1.3 prohibited from carrying a firearm on a property suffers a loss by not having the

1.4 firearm; amending Minnesota Statutes 2020, section 624.714, subdivision 17;

1.5 proposing coding for new law in Minnesota Statutes, chapter 624.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2020, section 624.714, subdivision 17, is amended to read:

1.8 Subd. 17. **Posting; trespass.** (a) A person carrying a firearm on or about his or her person

1.9 or clothes under a permit or otherwise who remains at a private establishment knowing that

1.10 the operator of the establishment or its agent has made a reasonable request that firearms

1.11 not be brought into the establishment may be ordered to leave the premises. A person who

1.12 fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense

1.13 must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of

1.14 this subdivision is not subject to forfeiture.

1.15 (b) As used in this subdivision, the terms in this paragraph have the meanings given.

1.16 (1) "Reasonable request" means a request made under the following circumstances:

1.17 (i) the requester has prominently posted a conspicuous sign at every entrance to the

1.18 establishment stating that a person prohibited from carrying the firearm is under the custodial

1.19 responsibility of the requester, according to section 624.7195 and containing the following

1.20 language: "(INDICATE IDENTITY OF OPERATOR) BANS GUNS IN THESE

1.21 PREMISES."; or

2.1 (ii) the requester or the requester's agent personally informs the person that guns are
2.2 prohibited in the premises and demands compliance and that the person is under the custodial
2.3 responsibility of the requester according to section 624.7195.

2.4 (2) "Prominently" means readily visible and within four feet laterally of the entrance
2.5 with the bottom of the sign at a height of four to six feet above the floor.

2.6 (3) "Conspicuous" means lettering in black arial typeface at least 1-1/2 inches in height
2.7 against a bright contrasting background that is at least 187 square inches in area.

2.8 (4) "Private establishment" means a building, structure, or portion thereof that is owned,
2.9 leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose.

2.10 (c) The owner or operator of a private establishment may not prohibit the lawful carry
2.11 or possession of firearms in a parking facility or parking area.

2.12 (d) The owner or operator of a private establishment may not prohibit the lawful carry
2.13 or possession of firearms by a peace officer, as defined in section 626.84, subdivision 1,
2.14 paragraph (c), within the private establishment or deny the officer access thereto, except
2.15 when specifically authorized by statute. The owner or operator of the private establishment
2.16 may require the display of official credentials issued by the agency that employs the peace
2.17 officer prior to granting the officer entry into the private establishment.

2.18 (e) ~~This subdivision does not apply to private residences.~~ The lawful possessor of a
2.19 private residence may prohibit firearms, and provide notice thereof, in any lawful manner.

2.20 (f) A landlord may not restrict the lawful carry or possession of firearms by tenants or
2.21 their guests.

2.22 (g) Notwithstanding any inconsistent provisions in section 609.605, and except as
2.23 provided in section 624.7195, this subdivision sets forth the exclusive criteria to notify a
2.24 permit holder when otherwise lawful firearm possession is not allowed in a private
2.25 establishment and sets forth the exclusive penalty for such activity.

2.26 (h) This subdivision does not apply to a security guard acting in the course and scope
2.27 of employment. The owner or operator of a private establishment may require the display
2.28 of official credentials issued by the company, which must be licensed by the Private Detective
2.29 and Protective Agent Services Board, that employs the security guard and the guard's permit
2.30 card prior to granting the guard entrance into the private establishment.

2.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.1 Sec. 2. [624.7195] CAUSE OF ACTION.

3.2 Subdivision 1. **Legislative intent.** It is the intent of the legislature to balance the right
3.3 of self-defense of a person who is authorized to carry a firearm under section 624.714 or
3.4 other law or who is not prohibited under section 624.713 or other law from carrying a firearm
3.5 with the right of a property owner or entity to exercise control of the property and prohibit
3.6 the lawful carry or possession of firearms.

3.7 Subd. 2. **Property owner responsibility.** (a) A property owner or entity who prohibits
3.8 the carrying of firearms by a person who is otherwise authorized to carry a firearm or who
3.9 is not otherwise prohibited from carrying a firearm shall assume absolute custodial
3.10 responsibility for the safety and defense of the unarmed person while the person is located
3.11 on the owner's or entity's property that is posted with a sign prohibiting firearms.

3.12 (b) The responsibility of the property owner or entity for the safety and defense of any
3.13 person who is otherwise authorized to carry a firearm or who is not otherwise prohibited
3.14 from carrying a firearm extends to the conduct of other invitees, trespassers, employees of
3.15 the person or entity, vicious animals, wild animals, and defensible man-made and natural
3.16 hazards.

3.17 (c) For the purposes of this section, the following terms have the meanings given them:

3.18 (1) "firearm" has the meaning given in section 609.666; and

3.19 (2) "property" means real property and any appurtenant building or structure.

3.20 Subd. 3. **Cause of action.** A person who may otherwise lawfully carry a firearm or who
3.21 is not otherwise prohibited from carrying a firearm and who is injured, suffers bodily injury
3.22 or death, incurs economic loss or expense, property damage, or any other compensable loss,
3.23 that could have been avoided by carrying a firearm, as the result of conduct occurring on
3.24 property with a posted written notice that prohibits firearms shall have a civil cause of action
3.25 against the owner or entity that exercises control over the property on which the written
3.26 notice was posted. In addition to any other damages authorized by law, the person may be
3.27 awarded reasonable attorney fees, expert witness costs, and other costs necessary to bring
3.28 the cause of action.

3.29 Subd. 4. **Limitation.** The statute of limitations for an action under this section is two
3.30 years from the date of the occurrence of the conduct which gave rise to damages under this
3.31 section.

3.32 Subd. 5. **Signs.** Any notice or signage that prohibits firearms as provided in subdivision
3.33 3 shall also contain language stating that any person on the posted property who is authorized

4.1 to carry a firearm or who is not prohibited from carrying a firearm is under the custodial
4.2 responsibility of the property owner or entity that has posted a sign on the property. Failure
4.3 of a sign to provide the information required by this subdivision does not reduce liability
4.4 for the property owner or entity who exercises control over the property.

4.5 Subd. 6. **Evidence.** To prevail in an action brought under this section, a person must
4.6 show by a preponderance of the evidence that:

4.7 (1) the person owned a firearm, was otherwise authorized to carry a firearm or was not
4.8 otherwise prohibited from carrying a firearm at the time of the incident giving rise to the
4.9 action;

4.10 (2) the person did not carry the firearm on the property where the incident occurred
4.11 because of the written notice under subdivision 5;

4.12 (3) the injury, death, economic loss or expense, property damage, or other compensable
4.13 loss was caused as a result of the conduct that occurred on the property and could have been
4.14 avoided if the person was allowed to carry a firearm onto the property; and

4.15 (4) the property owner or entity exercising control over the property was not required
4.16 by state or federal law to post the notice, but posted the notice by choice.

4.17 Subd. 7. **Interpretation.** This section shall be liberally construed to carry out its purpose.

4.18 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to incidents
4.19 occurring on or after that date.