

## State of Minnesota

## HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **1434**

03/04/2015 Authored by Anderson, M.; Dill; Cornish; Metsa; Swedzinski and others

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

03/16/2015 Adoption of Report: Placed on the General Register as Amended  
Read Second Time

1.1 A bill for an act  
 1.2 relating to firearms; repealing prohibitions on the possession and use of  
 1.3 suppressors; requiring chief law enforcement officers to complete federal  
 1.4 certifications relating to suppressors in a timely manner; providing for an appeal  
 1.5 process for denial of certification; amending Minnesota Statutes 2014, sections  
 1.6 97B.031, subdivision 4; 609.66, subdivision 1a, by adding a subdivision;  
 1.7 repealing Minnesota Statutes 2014, section 609.66, subdivision 1h.

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

1.9 Section 1. Minnesota Statutes 2014, section 97B.031, subdivision 4, is amended to read:

1.10 Subd. 4. **Silencers prohibited Suppressors.** ~~Except as provided in section 609.66,~~  
 1.11 ~~subdivision 1h, a person may not own or possess a silencer for a firearm or a firearm~~  
 1.12 ~~equipped to have a silencer attached. Nothing in this section prohibits the lawful use of a~~  
 1.13 ~~suppressor or the possession of a firearm equipped to have a suppressor attached, as~~  
 1.14 ~~defined in section 609.66, subdivision 1a, paragraph (c), while hunting.~~

1.15 Sec. 2. Minnesota Statutes 2014, section 609.66, subdivision 1a, is amended to read:

1.16 Subd. 1a. **Felony crimes; silencers prohibited suppressors; reckless discharge.**

1.17 (a) ~~Except as otherwise provided in subdivision 1h,~~ Whoever does any of the following is  
 1.18 guilty of a felony and may be sentenced as provided in paragraph (b):

1.19 (1) sells or has in possession ~~any device designed to silence or muffle the discharge~~  
 1.20 ~~of a firearm~~ a suppressor that is not lawfully possessed under federal law;

1.21 (2) intentionally discharges a firearm under circumstances that endanger the safety  
 1.22 of another; or

1.23 (3) recklessly discharges a firearm within a municipality.

1.24 (b) A person convicted under paragraph (a) may be sentenced as follows:

2.1 (1) if the act was a violation of paragraph (a), clause (2), or if the act was a violation  
2.2 of paragraph (a), clause (1) or (3), and was committed in a public housing zone, as defined  
2.3 in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision  
2.4 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not  
2.5 more than five years or to payment of a fine of not more than \$10,000, or both; or

2.6 (2) otherwise, to imprisonment for not more than two years or to payment of a fine  
2.7 of not more than \$5,000, or both.

2.8 (c) As used in this subdivision, "suppressor" means any device for silencing, muffling,  
2.9 or diminishing the report of a portable firearm, including any combination of parts,  
2.10 designed or redesigned, and intended for use in assembling or fabricating a firearm silencer  
2.11 or firearm muffler, and any part intended only for use in such assembly or fabrication.

2.12 Sec. 3. Minnesota Statutes 2014, section 609.66, is amended by adding a subdivision  
2.13 to read:

2.14 Subd. 1i. **Chief law enforcement officer certification; certain firearms.** (a) As  
2.15 used in this subdivision:

2.16 (1) "chief law enforcement officer" means any official or designee; the Bureau  
2.17 of Alcohol, Tobacco, Firearms and Explosives; or any successor agency, identified by  
2.18 regulation or otherwise as eligible to provide any required certification for the making  
2.19 or transfer of a firearm;

2.20 (2) "certification" means the participation and assent of the chief law enforcement  
2.21 officer necessary under federal law for the approval of the application to transfer or make  
2.22 a firearm; and

2.23 (3) "firearm" has the meaning given in the National Firearms Act, United States  
2.24 Code, title 26, section 5845(a).

2.25 (b) If a chief law enforcement officer's certification is required by federal law or  
2.26 regulation for the transfer or making of a firearm, the chief law enforcement officer must,  
2.27 within 15 days of receipt of a request for certification, provide the certification if the  
2.28 applicant is not prohibited by law from receiving or possessing the firearm or is not the  
2.29 subject of a proceeding that could result in the applicant being prohibited by law from  
2.30 receiving or possessing the firearm. If the chief law enforcement officer is unable to make  
2.31 a certification as required by this section, the chief law enforcement officer must provide  
2.32 the applicant a written notification of the denial and the reason for the determination.

2.33 (c) In making the certification required by paragraph (b), a chief law enforcement  
2.34 officer or designee may require the applicant to provide only the information that is  
2.35 required by federal or state law to identify the applicant and conduct a criminal history

3.1 background check, including a check of the National Instant Criminal Background  
3.2 Check System, or to determine the disposition of an arrest or proceeding relevant to the  
3.3 applicant's eligibility to lawfully possess or receive a firearm. A person who possesses  
3.4 a valid carry permit is presumed to be qualified to receive certification. A chief law  
3.5 enforcement officer may not require access to or consent for an inspection of any private  
3.6 premises as a condition of making a certification under this section.

3.7 (d) A chief law enforcement officer is not required to make any certification under  
3.8 this section known to be untrue, but the officer may not refuse to provide certification based  
3.9 on a generalized objection to private persons or entities making, possessing, or receiving  
3.10 firearms or any certain type of firearm, the possession of which is not prohibited by law.

3.11 (e) Chief law enforcement officers and their employees who act in good faith are  
3.12 immune from liability arising from any act or omission in making a certification as  
3.13 required by this section.

3.14 (f) An applicant whose request for certification is denied may appeal the chief law  
3.15 enforcement officer's decision to the district court that is located in the city or county in  
3.16 which the applicant resides or maintains an address of record. The court must review the  
3.17 chief law enforcement officer's decision to deny the certification de novo. The court must  
3.18 order the chief law enforcement officer to issue the certification and award court costs and  
3.19 reasonable attorney fees to the applicant, if the court finds that: (1) the applicant is not  
3.20 prohibited by law from receiving or possessing the firearm; (2) the applicant is not the  
3.21 subject of a proceeding that could result in a prohibition; and (3) no substantial evidence  
3.22 supports the chief law enforcement officer's determination that the chief law enforcement  
3.23 officer cannot truthfully make the certification.

3.24 **Sec. 4. REPEALER.**

3.25 Minnesota Statutes 2014, section 609.66, subdivision 1h, is repealed.

**609.66 DANGEROUS WEAPONS.**

Subd. 1h. **Silencers; authorized for law enforcement and wildlife control purposes.** (a) Notwithstanding subdivision 1a, paragraph (a), clause (1), licensed peace officers may use devices designed to silence or muffle the discharge of a firearm for tactical emergency response operations. Tactical emergency response operations include execution of high risk search and arrest warrants, incidents of terrorism, hostage rescue, and any other tactical deployments involving high risk circumstances. The chief law enforcement officer of a law enforcement agency that has the need to use silencing devices must establish and enforce a written policy governing the use of the devices.

(b) Notwithstanding subdivision 1a, paragraph (a), clause (1), an enforcement officer, as defined in section 97A.015, subdivision 18, a wildlife area manager, an employee designated under section 84.0835, or a person acting under contract with the commissioner of natural resources, at specific times and locations that are authorized by the commissioner of natural resources may use devices designed to silence or muffle the discharge of a firearm for wildlife control operations that require stealth. If the commissioner determines that the use of silencing devices is necessary under this paragraph, the commissioner must establish and enforce a written policy governing the use, possession, and transportation of the devices.

(c) Notwithstanding subdivision 1a, paragraph (a), clause (1), a person who is licensed by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives under United States Code, title 18, section 923, as a firearms importer, manufacturer, or dealer, who is acting in full compliance with all federal requirements under that license, may possess devices designed to silence or muffle the discharge of a firearm for the purpose of selling or otherwise transferring in any lawful manner the devices or firearms tested with the devices, to:

- (1) the chief administrator of any federal, state, or local governmental agency;
- (2) the commander or commander's designee of any unit of the United States Armed Forces; or

(3) a person who is licensed by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, under United States Code, title 18, section 923, as a firearms importer, manufacturer, or dealer, who is acting in full compliance with all federal requirements under that license.