



2021 South Dakota Legislature

Senate Bill 100

SENATE STATE AFFAIRS ENGROSSED

Introduced by: **Senator Cammack**

1 **An Act to continue the prohibition on the seizure of firearms and ammunitions.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That a NEW SECTION be added:

4 **34-48A-5.2. Governmental authority--Emergencies--Limitations related to**
 5 **firearms and weapons.**

6 Except as otherwise provided in this section, no state agency, political subdivision,
 7 or any elected or appointed official or employee of this state or of a political subdivision
 8 may, under any governmental authority or color of law exercised pursuant to this chapter,
 9 including any statutorily authorized response to disaster, war, acts of terrorism, or
 10 emergencies of whatever kind or nature:

11 (1) Prohibit, regulate, or curtail the otherwise lawful possession, carrying, sale,
 12 transportation, transfer, defensive use, or other lawful use of any:

13 (a) Firearm, including any component or accessory;

14 (b) Ammunition, including any component or accessory;

15 (c) Ammunition-reloading equipment and supplies; or

16 (d) Personal weapons other than firearms;

17 (2) Seize, commandeer, or confiscate in any manner, any:

18 (a) Firearm, including any component or accessory;

19 (b) Ammunition, including any component or accessory;

20 (c) Ammunition-reloading equipment and supplies; or

21 (d) Personal weapons other than firearms;

22 (3) Suspend or revoke a permit to carry a concealed pistol issued pursuant to chapter
 23 23-7, except as expressly authorized in that chapter;

24 (4) Refuse to accept an application for a permit to carry a concealed pistol, provided
 25 the application has been properly completed in accordance with chapter 23-7;

1 (5) Close or limit the operating hours of any entity engaged in the lawful selling or
2 servicing of any firearm, including any component or accessory; ammunition,
3 including any component or accessory; ammunition-reloading equipment and
4 supplies; or personal weapons other than firearms, unless the closing or limitation
5 of hours applies equally to all forms of commerce within the jurisdiction;

6 (6) Close or limit the operating hours of any indoor or outdoor shooting range; or

7 (7) Place restrictions or quantity limitations on any entity regarding the lawful sale or
8 servicing of any:

9 (a) Firearm, including any component or accessory;

10 (b) Ammunition, including any component or accessory;

11 (c) Ammunition-reloading equipment and supplies; or

12 (d) Personal weapons other than firearms.

13 Nothing in this section precludes a law enforcement officer, who is acting in the
14 lawful discharge of the officer's official duties and with or without a warrant, from
15 temporarily disarming a lawfully detained person, if the officer reasonably believes that
16 doing so is immediately necessary for the protection of the officer or another person.
17 Unless the officer takes the person into custody for engaging in criminal activity or for
18 observation, or unless the officer seizes the item as evidence pursuant to a criminal
19 investigation, the officer shall return any item seized to the person.

20 Nothing in this section precludes a political subdivision that owns an indoor gun
21 range, open to the public, from closing the indoor range for the period during which a
22 certified range safety officer is unavailable, if the normal operating procedure of the range
23 requires the presence of such a person.

24 Any person aggrieved by a violation of this section may file an action for damages,
25 injunctive relief, or other appropriate redress in the circuit court having jurisdiction over
26 the county in which the aggrieved person resides or in which the violation occurred.