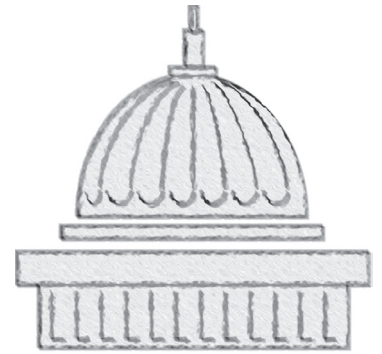


F. NRA / ILA Firearms Laws for

SOUTH DAKOTA

(As of June, 2010)



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A SYNOPSIS OF STATE LAWS ON PURCHASE, POSSESSION AND CARRYING OF FIREARMS.

QUICK REFERENCE CHART

	Rifles and Shotguns	Handguns
Permit to Purchase	No	No*
Registration of Firearms	No	No
Licensing of Owners	No	No
Permit to Carry	No	Yes

*48-hour waiting period. Police record purchases from dealers.

STATE CONSTITUTIONAL PROVISION

“The right of the citizens to bear arms in defense of themselves and the state shall not be denied.” Article VI, Section 24.

PURCHASE

South Dakota allows residents of contiguous states and residents of this state, not otherwise precluded by any applicable laws, to purchase, sell, trade, convey, deliver or transport rifles, shotguns, ammunition, reloading components, or firearms accessories in South Dakota and in states contiguous to South Dakota.

The buyer must complete an application to purchase a handgun from a federally licensed firearms dealer (FFL) if he does not possess a valid carrying permit.

The seller must within 6 hours, mail or hand deliver the application to the police chief of the municipality or sheriff of the county of which the purchaser is a resident. The duplicate shall be returned to the seller by the police chief or sheriff and the original shall be retained by him for a period of one year.

When a pistol is delivered it must be unloaded and securely wrapped.

POSSESSION

No state permit is required to possess a shotgun, rifle or handgun.

A person under 18 may not possess a pistol. This prohibition does not apply when a minor has the consent of his parent or guardian and the minor:

- is in the presence of his parent or guardian;
- is on premises owned or leased by him or his parent, guardian or immediate family member;

- is in the presence of a licensed or accredited gun safety instructor, or
- is using the pistol for farming, ranching, trapping, target shooting, or gun safety instruction.

No person who has been convicted in this state or elsewhere of a crime of violence or a felony may possess or have control of a firearm. This does not apply to any person who was last discharged from prison, jail, probation or parole more than fifteen years prior to the commission of the principal offense.

No person who has been convicted of any misdemeanor crime involving an act of domestic violence may possess or have control of a firearm for a period of one year from the date of conviction. At the end of the one-year period, any civil rights lost as a result of this provision shall be restored. Any person who has lost their right to possess or have control of a firearm as a result of a misdemeanor conviction involving an act of domestic violence, prior to July 1, 2005, shall be restored to those civil rights one year after July 1, 2005. Once eligible under this statute, a person convicted under this section may petition the convicting court for an order reflecting the restoration of any firearm rights lost if the person has not been convicted within the prior year of a crime for which firearms rights have been lost.

CARRYING

No person shall carry a pistol concealed in any vehicle or concealed on or about his person, without a license to carry. The issuing authority for a permit to carry is the sheriff of a county in which the applicant resides.

The permit shall be issued if the applicant is:

- at least 18 years of age;
- has not been convicted of a felony or crime of violence;
- is not a habitual drunkard or drug user;
- has no history of repeated acts of violence;
- has not been found in the previous ten years to be a “danger to others or a danger to self”;
- is not currently adjudged mentally incompetent or has not been found in the previous 10 years to be mentally ill;
- has been a resident of the county for at least 30 days preceding application;
- is a citizen of the United States;
- has not been convicted of a misdemeanor or felony of-

fence within the preceding 5 years under the South Dakota weapon laws, firearm control laws or controlled substance laws;

- is not a fugitive from justice.

Prior to issuing the permit, the sheriff shall execute a background investigation, including a criminal history check, of every applicant for the purposes of verify the qualifications of the applicant pursuant to the requirements. A background investigation is defined as a computer check of available on-line records.

A temporary permit to carry shall be issued within 5 days of application to a person who satisfies the above standards. The original copy of an application for a permit shall serve as the temporary permit until the permit is issued. All permit denials may be appealed to the circuit court.

The permit is valid for 4 years. The fee for a permit to carry is \$10.00.

A permittee may not carry a concealed pistol into:

- an establishment licensed to serve alcoholic beverages on the premises if the establishment derives more than 50% of its sales from alcoholic beverages,
- a county courthouse,
- an elementary or secondary school premises, including school vehicles or buildings,
- a snowmobile, unless firearm is unloaded and entirely enclosed in a carrying case,
- a game preserve or refuge unless the permit holder is:
 - o on a public highway and the firearm is enclosed in a case; or
 - o a resident within the preserve or refuge and is carrying the firearm to use against non-game and predatory animals or birds on his or her own premises.

A permit is not required to carry an unloaded handgun if it is carried in the trunk or other closed compartment of a vehicle or if it is in a closed container, which is too large to be effectively concealed on the person or within his clothing. This container may be carried in a vehicle or in any other manner.

A permit is not required to possess a handgun in one's dwelling house or place of business or on land owned or rented by him or by a member of his household.

It is lawful to carry a loaded shotgun or rifle in a car or truck.

CONTROLLED WEAPONS

The term "controlled weapon" is defined to include machine guns, silencers, and short shotguns.

No person shall possess a controlled weapon unless he:

- is a law enforcement officer or member of the armed forces of the U.S. or of the South Dakota National Guard acting in the lawful discharge of his duties;
- has a valid state or federal license or has registered the weapon with the proper authority; or

- possesses the machine gun briefly after having found it or taken it from an aggressor.

ANTIQUES AND REPLICAS

An "antique firearm" is defined as any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured before 1899 and any replica of a firearm if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the U.S. and which is not readily available in the ordinary channels of commercial trade.

The weapon laws of South Dakota are not applicable to antique firearms or those firearms that have been permanently altered so they are incapable of discharge.

MISCELLANEOUS

No county, municipality, or township may pass any ordinance that restricts possession, transportation, sale, transfer, ownership, manufacture or repair of firearms or ammunition or their component.

No state agency, political subdivision, official, agent or employee of any state agency may knowingly keep or cause to be kept any list, record, or registry of privately owned firearm or registry of holders of permits to carry a concealed pistol.

No person, other than a law enforcement officer, shall have in his or her possession any firearm or airgun on any school premises or in any school vehicle or in any building or premises used for school functions. This does not apply to firearms or airguns at firing ranges, gun shows, and duly supervised schools or sessions for training in the use of firearms.

No person shall possess a firearm on which the manufacturer's serial number has been changed, altered, removed or obliterated. This does not apply if the owner or possessor of the firearms has applied for a new serial number with the director of criminal investigation.

It is unlawful for any person to recklessly discharge a firearm.

No person shall set a device designed to activate a weapon upon being tripped or approached and leave it unmarked or unattended by a competent person.

Firearms manufacturers, distributors, and sellers are not liable for injury caused by firearms because of use of the firearm by another. The potential of a firearm to cause serious injury, damage, or death as a result of normal function does not constitute a defective condition of the product.

SOURCES: S.D. Codified Laws §§ 7-18A-36, 8-5-13, 9-19-20, 13-32-7, 22-1-2, 22-14-5 et.seq., 23-7-1 et.seq., 32-20-6.6, 32-20A-11.

CAUTION: Firearm laws are subject to frequent change and court interpretation. This summary is not intended as legal advice or restatement of law. This summary does not include federal or local laws, ordinances or regulations. For any particular situation, a licensed local attorney must be consulted for an accurate interpretation. **YOU MUST ABIDE WITH ALL LAWS: STATE, FEDERAL AND LOCAL.**

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