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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 435

01/28/2021 Authored by Munson

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 that a person may not be denied the right to

1.3 purchase, own, possess, or carry a firearm solely on the basis that the person is

1.4 enrolled as a patient in the medical cannabis registry; amending Minnesota Statutes

1.5 2020, sections 624.712, by adding subdivisions; 624.713, subdivision 1; 624.714,

1.6 subdivision 6; 624.7142, subdivision 1; 624.7151; proposing coding for new law

1.7 in Minnesota Statutes, chapter 624.

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

1.9 Section 1. Minnesota Statutes 2020, section 624.712, is amended by adding a subdivision

1.10 to read:

1.11 Subd. 13. **Medical cannabis.** "Medical cannabis" has the meaning given in section

1.12 152.22, subdivision 6.

1.13 Sec. 2. Minnesota Statutes 2020, section 624.712, is amended by adding a subdivision to

1.14 read:

1.15 Subd. 14. **Qualifying medical condition.** "Qualifying medical condition" has the meaning

1.16 given in section 152.22, subdivision 14.

1.17 Sec. 3. Minnesota Statutes 2020, section 624.712, is amended by adding a subdivision to

1.18 read:

1.19 Subd. 15. **Qualifying patient.** "Qualifying patient" has the meaning given to the term

1.20 "patient" in section 152.22, subdivision 9.

2.1 Sec. 4. Minnesota Statutes 2020, section 624.713, subdivision 1, is amended to read:

2.2 Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess  
2.3 ammunition or a pistol or semiautomatic military-style assault weapon or, except for clause  
2.4 (1), any other firearm:

2.5 (1) a person under the age of 18 years except that a person under 18 may possess  
2.6 ammunition designed for use in a firearm that the person may lawfully possess and may  
2.7 carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual  
2.8 presence or under the direct supervision of the person's parent or guardian, (ii) for the  
2.9 purpose of military drill under the auspices of a legally recognized military organization  
2.10 and under competent supervision, (iii) for the purpose of instruction, competition, or target  
2.11 practice on a firing range approved by the chief of police or county sheriff in whose  
2.12 jurisdiction the range is located and under direct supervision; or (iv) if the person has  
2.13 successfully completed a course designed to teach marksmanship and safety with a pistol  
2.14 or semiautomatic military-style assault weapon and approved by the commissioner of natural  
2.15 resources;

2.16 (2) except as otherwise provided in clause (9), a person who has been convicted of, or  
2.17 adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in  
2.18 this state or elsewhere, a crime of violence. For purposes of this section, crime of violence  
2.19 includes crimes in other states or jurisdictions which would have been crimes of violence  
2.20 as herein defined if they had been committed in this state;

2.21 (3) a person who is or has ever been committed in Minnesota or elsewhere by a judicial  
2.22 determination that the person is mentally ill, developmentally disabled, or mentally ill and  
2.23 dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has  
2.24 ever been found incompetent to stand trial or not guilty by reason of mental illness, unless  
2.25 the person's ability to possess a firearm and ammunition has been restored under subdivision  
2.26 4;

2.27 (4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or  
2.28 gross misdemeanor violation of chapter 152, unless three years have elapsed since the date  
2.29 of conviction and, during that time, the person has not been convicted of any other such  
2.30 violation of chapter 152 or a similar law of another state; or a person who is or has ever  
2.31 been committed by a judicial determination for treatment for the habitual use of a controlled  
2.32 substance or marijuana, as defined in sections 152.01 and 152.02, unless the person's ability  
2.33 to possess a firearm and ammunition has been restored under subdivision 4;

3.1 (5) a person who has been committed to a treatment facility in Minnesota or elsewhere  
3.2 by a judicial determination that the person is chemically dependent as defined in section  
3.3 253B.02, unless the person has completed treatment or the person's ability to possess a  
3.4 firearm and ammunition has been restored under subdivision 4. Property rights may not be  
3.5 abated but access may be restricted by the courts;

3.6 (6) a peace officer who is informally admitted to a treatment facility pursuant to section  
3.7 253B.04 for chemical dependency, unless the officer possesses a certificate from the head  
3.8 of the treatment facility discharging or provisionally discharging the officer from the  
3.9 treatment facility. Property rights may not be abated but access may be restricted by the  
3.10 courts;

3.11 (7) a person, including a person under the jurisdiction of the juvenile court, who has  
3.12 been charged with committing a crime of violence and has been placed in a pretrial diversion  
3.13 program by the court before disposition, until the person has completed the diversion program  
3.14 and the charge of committing the crime of violence has been dismissed;

3.15 (8) except as otherwise provided in clause (9), a person who has been convicted in  
3.16 another state of committing an offense similar to the offense described in section 609.224,  
3.17 subdivision 3, against a family or household member or section 609.2242, subdivision 3,  
3.18 unless three years have elapsed since the date of conviction and, during that time, the person  
3.19 has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242,  
3.20 subdivision 3, or a similar law of another state;

3.21 (9) a person who has been convicted in this state or elsewhere of assaulting a family or  
3.22 household member and who was found by the court to have used a firearm in any way  
3.23 during commission of the assault is prohibited from possessing any type of firearm or  
3.24 ammunition for the period determined by the sentencing court;

3.25 (10) a person who:

3.26 (i) has been convicted in any court of a crime punishable by imprisonment for a term  
3.27 exceeding one year;

3.28 (ii) is a fugitive from justice as a result of having fled from any state to avoid prosecution  
3.29 for a crime or to avoid giving testimony in any criminal proceeding;

3.30 (iii) is an unlawful user of any controlled substance as defined in chapter 152. The use  
3.31 of medical cannabis by a patient enrolled in the medical cannabis registry under sections  
3.32 152.22 to 152.37 does not constitute the unlawful use of a controlled substance under this  
3.33 item;

4.1 (iv) has been judicially committed to a treatment facility in Minnesota or elsewhere as  
4.2 a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the  
4.3 public, as defined in section 253B.02;

4.4 (v) is an alien who is illegally or unlawfully in the United States;

4.5 (vi) has been discharged from the armed forces of the United States under dishonorable  
4.6 conditions;

4.7 (vii) has renounced the person's citizenship having been a citizen of the United States;  
4.8 or

4.9 (viii) is disqualified from possessing a firearm under United States Code, title 18, section  
4.10 922(g)(8) or (9), as amended through March 1, 2014;

4.11 (11) a person who has been convicted of the following offenses at the gross misdemeanor  
4.12 level, unless three years have elapsed since the date of conviction and, during that time, the  
4.13 person has not been convicted of any other violation of these sections: section 609.229  
4.14 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated  
4.15 by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child);  
4.16 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71  
4.17 (riot); or 609.749 (harassment or stalking). For purposes of this paragraph, the specified  
4.18 gross misdemeanor convictions include crimes committed in other states or jurisdictions  
4.19 which would have been gross misdemeanors if conviction occurred in this state;

4.20 (12) a person who has been convicted of a violation of section 609.224 if the court  
4.21 determined that the assault was against a family or household member in accordance with  
4.22 section 609.2242, subdivision 3 (domestic assault), unless three years have elapsed since  
4.23 the date of conviction and, during that time, the person has not been convicted of another  
4.24 violation of section 609.224 or a violation of a section listed in clause (11); or

4.25 (13) a person who is subject to an order for protection as described in section 260C.201,  
4.26 subdivision 3, paragraph (d), or 518B.01, subdivision 6, paragraph (g).

4.27 A person who issues a certificate pursuant to this section in good faith is not liable for  
4.28 damages resulting or arising from the actions or misconduct with a firearm or ammunition  
4.29 committed by the individual who is the subject of the certificate.

4.30 The prohibition in this subdivision relating to the possession of firearms other than  
4.31 pistols and semiautomatic military-style assault weapons does not apply retroactively to  
4.32 persons who are prohibited from possessing a pistol or semiautomatic military-style assault  
4.33 weapon under this subdivision before August 1, 1994.

5.1 The lifetime prohibition on possessing, receiving, shipping, or transporting firearms and  
5.2 ammunition for persons convicted or adjudicated delinquent of a crime of violence in clause  
5.3 (2), applies only to offenders who are discharged from sentence or court supervision for a  
5.4 crime of violence on or after August 1, 1993.

5.5 Participation as a patient in the medical cannabis registry under sections 152.22 to 152.37  
5.6 does not disqualify the person from possessing firearms and ammunition under this section.

5.7 For purposes of this section, "judicial determination" means a court proceeding pursuant  
5.8 to sections 253B.07 to 253B.09 or a comparable law from another state.

5.9 Sec. 5. Minnesota Statutes 2020, section 624.714, subdivision 6, is amended to read:

5.10 Subd. 6. **Granting and denial of permits.** (a) The sheriff must, within 30 days after the  
5.11 date of receipt of the application packet described in subdivision 3:

5.12 (1) issue the permit to carry;

5.13 (2) deny the application for a permit to carry solely on the grounds that the applicant  
5.14 failed to qualify under the criteria described in subdivision 2, paragraph (b); or

5.15 (3) deny the application on the grounds that there exists a substantial likelihood that the  
5.16 applicant is a danger to self or the public if authorized to carry a pistol under a permit.

5.17 (b) Failure of the sheriff to notify the applicant of the denial of the application within  
5.18 30 days after the date of receipt of the application packet constitutes issuance of the permit  
5.19 to carry and the sheriff must promptly fulfill the requirements under paragraph (c). To deny  
5.20 the application, the sheriff must provide the applicant with written notification and the  
5.21 specific factual basis justifying the denial under paragraph (a), clause (2) or (3), including  
5.22 the source of the factual basis. The sheriff must inform the applicant of the applicant's right  
5.23 to submit, within 20 business days, any additional documentation relating to the propriety  
5.24 of the denial. Upon receiving any additional documentation, the sheriff must reconsider the  
5.25 denial and inform the applicant within 15 business days of the result of the reconsideration.  
5.26 Any denial after reconsideration must be in the same form and substance as the original  
5.27 denial and must specifically address any continued deficiencies in light of the additional  
5.28 documentation submitted by the applicant. The applicant must be informed of the right to  
5.29 seek de novo review of the denial as provided in subdivision 12.

5.30 (c) Upon issuing a permit to carry, the sheriff must provide a laminated permit card to  
5.31 the applicant by first class mail unless personal delivery has been made. Within five business  
5.32 days, the sheriff must submit the information specified in subdivision 7, paragraph (a), to  
5.33 the commissioner for inclusion solely in the database required under subdivision 15,

6.1 paragraph (a). The sheriff must transmit the information in a manner and format prescribed  
6.2 by the commissioner.

6.3 (d) Within five business days of learning that a permit to carry has been suspended or  
6.4 revoked, the sheriff must submit information to the commissioner regarding the suspension  
6.5 or revocation for inclusion solely in the databases required or permitted under subdivision  
6.6 15.

6.7 (e) Notwithstanding paragraphs (a) and (b), the sheriff may suspend the application  
6.8 process if a charge is pending against the applicant that, if resulting in conviction, will  
6.9 prohibit the applicant from possessing a firearm.

6.10 (f) A sheriff shall not deny an application for a permit to carry solely because the applicant  
6.11 is a patient enrolled in the medical cannabis registry under sections 152.22 to 152.37 and  
6.12 uses medical cannabis for a qualifying medical condition.

6.13 Sec. 6. Minnesota Statutes 2020, section 624.7142, subdivision 1, is amended to read:

6.14 Subdivision 1. **Acts prohibited.** A person may not carry a pistol on or about the person's  
6.15 clothes or person in a public place:

6.16 (1) when the person is under the influence of a controlled substance, as defined in section  
6.17 152.01, subdivision 4;

6.18 (2) when the person is under the influence of a combination of any two or more of the  
6.19 elements named in clauses (1) and (4);

6.20 (3) when the person is under the influence of an intoxicating substance as defined in  
6.21 section 169A.03, subdivision 11a, and the person knows or has reason to know that the  
6.22 substance has the capacity to cause impairment;

6.23 (4) when the person is under the influence of alcohol;

6.24 (5) when the person's alcohol concentration is 0.10 or more; ~~or~~

6.25 (6) when the person's alcohol concentration is less than 0.10, but more than 0.04-; or

6.26 (7) when the person is enrolled as a patient in the medical cannabis registry under sections  
6.27 152.22 to 152.37, uses medical cannabis, and knows or has reason to know that the medical  
6.28 cannabis used by the person has the capacity to cause impairment.

7.1 Sec. 7. Minnesota Statutes 2020, section 624.7151, is amended to read:

7.2 **624.7151 STANDARDIZED FORMS.**

7.3 By December 1, 1992, the commissioner shall adopt statewide standards governing the  
7.4 form and contents, as required by sections 624.7131 to 624.714, of every application for a  
7.5 pistol transferee permit, pistol transferee permit, report of transfer of a pistol, application  
7.6 for a permit to carry a pistol, and permit to carry a pistol that is granted or renewed on or  
7.7 after January 1, 1993.

7.8 Every application for a pistol transferee permit, pistol transferee permit, report of transfer  
7.9 of a pistol, application for a permit to carry a pistol, and permit to carry a pistol that is  
7.10 received, granted, or renewed by a police chief or county sheriff on or after January 1, 1993,  
7.11 must meet the statewide standards adopted by the commissioner. Notwithstanding the  
7.12 previous sentence, neither failure of the Department of Public Safety to adopt standards nor  
7.13 failure of the police chief or county sheriff to meet them shall delay the timely processing  
7.14 of applications nor invalidate permits issued on other forms meeting the requirements of  
7.15 sections 624.7131 to 624.714.

7.16 Any form used for the purpose of approving or disapproving a person from purchasing,  
7.17 owning, possessing, or carrying a firearm that inquires about the applicant's use of controlled  
7.18 substances shall specifically authorize a qualifying patient to refrain from reporting the use  
7.19 of medical cannabis.

7.20 Sec. 8. **[624.7152] MEDICAL CANNABIS USERS.**

7.21 (a) A person may not be denied the right to purchase, own, possess, or carry a firearm  
7.22 solely on the basis that the person is a qualifying patient.

7.23 (b) A state or local agency may not access a database containing the identities of  
7.24 qualifying patients to obtain information for the purpose of approving or disapproving a  
7.25 person from purchasing, owning, possessing, or carrying a firearm.

7.26 (c) A state or local agency may not use information gathered from a database containing  
7.27 the identities of qualifying patients to obtain information for the purpose of approving or  
7.28 disapproving a person from purchasing, owning, possessing, or carrying a firearm.

7.29 (d) A state or local agency may not inquire about a person's status as a qualifying patient  
7.30 for the purpose of approving or disapproving the person from purchasing, owning, possessing,  
7.31 or carrying a firearm.