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Minnesota Firearms Laws

A Guide for Legislators

October 1994

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This guidebook describes state laws regulating the possession and use of firearms.

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Introduction

Minnesota Firearms Laws describes Minnesota laws that regulate the possession or use of firearms or provide penalties for criminal acts involving firearms. These laws currently are widely-scattered throughout Minnesota Statutes. The purpose of this guidebook is to collect these laws into a single document and, thereby, give legislators both an overview of current state policies and laws concerning firearms as well as a convenient reference aid.

Unless otherwise noted, all citations are to Minnesota Statutes 1994.

Gun Control Act

Overview of the Act

The Gun Control Act governs the possession of firearms generally, the transfer of pistols and semiautomatic military-style assault weapons, and the carrying of pistols. Under the act, certain categories of individuals are prohibited from possessing firearms. Persons who are eligible to possess a firearm must either have a permit to purchase a pistol or semiautomatic military-style assault weapon or must undergo a background check before being permitted to purchase the weapon. Additionally, persons who wish to carry a pistol wherever they go must obtain a separate permit to carry the weapon.
M.S. §§624.711 to 624.717

The law contains a list of specific, named weapons that are included within the definition of "semiautomatic military-style assault weapon" and provides that weapons that are substantially similar to these named weapons are also included in the definition. To assist persons in complying with the law, the superintendent of the Bureau of Criminal Apprehension is required to publish annually an up-to-date authoritative list of weapons included within this definition. M.S. 624.712, subd. 7

Eligibility to Possess a Firearm

With certain limited exceptions, the following individuals are not eligible to possess a firearm:

- ▶ persons under the age of 18 (this prohibition is limited to pistols and semiautomatic military-style assault weapons);
- ▶ persons who have been convicted of or adjudicated for a crime of violence or a felony-level drug offense, unless ten years have elapsed since sentence discharge or restoration of civil rights, whichever occurs first, and during that time the person has not been convicted of another such offense;
- ▶ persons who are or have been confined as mentally ill, mentally ill and dangerous, or mentally retarded under the Civil Commitment Act, or who have ever been found incompetent to stand trial or not guilty by reason of mental illness, unless they have satisfactory proof that they are no longer so disabled;

- ▶ persons who have been convicted of a nonfelony drug offense or who are or have been institutionalized as chemically dependent, unless they have satisfactory proof that they have not abused alcohol or drugs for two years;
- ▶ persons who have been charged with a crime of violence and placed in a pretrial diversion program, unless they have completed the diversion program and the charges have been dismissed;
- ▶ persons who have been convicted of nonfelony domestic assault or repeat assault, unless three years have elapsed since the conviction and, during that time, the person has not been convicted of another similar offense;
- ▶ persons who have been convicted of domestic assault and who were found by the court to have used a firearm during the commission of the assault, for the time period determined by the sentencing court. This time period must be not less than three years and may last the person's lifetime;
- ▶ persons who have been convicted of a felony punishable by more than two years imprisonment (other than crimes of violence) whose civil rights have not yet been restored;
- ▶ persons who are currently charged with a felony punishable by more than two years imprisonment (this prohibition is limited to pistols and semiautomatic military-style assault weapons); and
- ▶ persons who are fugitives from justice, unlawful users of controlled substances, or illegal aliens, or who have been dishonorably discharged from the United States armed forces or have renounced United States citizenship.

*(Gross Misdemeanor
or Felony)*

Violation of these possession prohibitions is punishable as a gross misdemeanor; except that illegal possession of a pistol or assault weapon by a minor and illegal possession of a firearm by a person convicted of a crime of violence are punishable as five-year felonies. M.S. 624.713

**Purchasing or
Transferring a
Pistol or Assault
Weapon**

A person who wishes to purchase a pistol or assault weapon from a federally-licensed firearms dealer must either obtain a transferee permit from the local police chief or sheriff or submit to a background check to determine eligibility to possess the weapon. A person need not obtain a transferee permit if the person already possesses a valid permit to carry a pistol. M.S. 624.7131 and 624.7132

Transferee permits. Any person may apply for a transferee permit by submitting an application to the local police chief or sheriff containing certain personal information about the applicant, including a statement that the applicant is not prohibited from possessing a pistol or assault weapon. The application also must contain an authorization for the release of relevant mental health commitment information to the investigating law enforcement agency. The law enforcement agency must then investigate the applicant's eligibility to possess the weapon and either issue the permit or deny the application within seven days of the application. No fee may be charged for the investigation or the issuance of the permit.

A permit may be denied only if the law enforcement agency determines that the applicant is prohibited from possessing the pistol or assault weapon and provides the applicant written reasons for the denial. The applicant may appeal a denial decision to the appropriate district court. Once granted, a permit is valid statewide and may be renewed annually.

A transferee permit becomes void if the permit holder becomes prohibited from possessing a pistol or an assault weapon after receiving the permit. In such a case, the permit must be returned to the issuing authority within five days. Failure to return the permit without good cause is a misdemeanor.

(Misdemeanor)

Transferee permits are not transferable; anyone who transfers a permit to another person is guilty of a misdemeanor.

*(Gross
Misdemeanor)*

Additionally, it is a gross misdemeanor to knowingly make a false statement in order to obtain a transferee permit.
M.S. 624.7131

**Purchasing a Pistol
or Assault Weapon
without a Permit.**

If a pistol or assault weapon purchaser does not have a transferee permit at the time of sale, the federally-licensed firearms dealer may not transfer the weapon to the purchaser immediately. Instead, the firearms dealer must submit a transfer report to the police chief or sheriff in the area where the purchaser resides, containing the same information required on the transferee permit application form.

Upon receipt of the transfer report, the law enforcement agency must investigate to determine whether the purchaser is prohibited from possessing a pistol or assault weapon. Unless the law enforcement agency waives all or part of the waiting period, the dealer may not transfer the weapon to the purchaser for five business days, nor transfer the weapon to the purchaser at all if the agency identifies the purchaser as ineligible to possess the weapon. If no notice of disqualification is received within five business days, the pistol or assault weapon may be delivered to the purchaser. Moreover, additional transfers of weapons may be made between the parties for 30 days after the first weapon was delivered without filing additional transfer reports. A notice of disqualification may be appealed to the local district court.

(Misdemeanor)

It is a misdemeanor for a federally-licensed firearms dealer to transfer a pistol or assault weapon to any person whom he or she does not know personally or who does not present evidence of identity. It is also a misdemeanor to fail to provide evidence of identity to a federally-licensed firearms dealer.

*(Gross
Misdemeanor)*

It is a gross misdemeanor: (1) for a federally-licensed firearms dealer to transfer or knowingly transfer a pistol or assault weapon in violation of the transfer report requirements; (2) to become a transferee in violation of the law or knowingly make a false statement in order to become a transferee; or (3) for a federally-licensed firearms dealer to transfer a pistol or assault weapon to a transferee, knowing the transferee has made such a false statement.

(Felony)

It is a felony for a federally-licensed firearms dealer to transfer a pistol or assault weapon to a minor in violation of the law or to transfer such a weapon to a minor, knowing the minor has made a false statement in order to obtain the weapon. M.S. 624.7132

*(Gross Misdemeanor;
Felony)*

It is a gross misdemeanor for any person, including a private party, to intentionally transfer a pistol or assault weapon to another knowing that the transferee has been found ineligible by a law enforcement agency to possess the weapon or knowing that the transferee is disqualified from possessing the weapon. The violation becomes a felony if the transferee possesses or uses the weapon in furtherance of a violent felony within one year after the transfer. The penalty does not apply if the transferee subsequently becomes eligible to possess the weapon before using or possessing it in the commission of a crime.

M.S. 624.7141

**Carrying a Pistol
without a Permit.**

State law prohibits any person, other than a law enforcement officer or a correctional guard who is performing assigned duties, from carrying a pistol in a motor vehicle or in a public place without obtaining a "permit to carry." A permit to carry is not required to carry the pistol in the following situations:

- ▶ in one's home, place of business, or on one's land;
- ▶ from the place of purchase to one's home or place of business;
- ▶ from one's home or place of business to a repair shop;
- ▶ between one's home and place of business;
- ▶ in the woods, fields, or on the waters of this state for hunting or target shooting in a safe area; or
- ▶ in a motor vehicle, snowmobile, or boat if the pistol is unloaded and in a secured box or package.

An application for a permit to carry may be made to the local police chief or sheriff, setting forth personal information about the applicant and containing a statement that the applicant is not prohibited from possessing a pistol. The application also must contain an authorization for the release of relevant mental health commitment information to the investigating law enforcement agency. The law enforcement agency may charge a fee of up to ten dollars to cover the cost of the background check, and may grant the permit only if:

- ▶ the applicant is not prohibited from possessing a pistol or semiautomatic military-style assault weapon;

- ▶ the applicant has a firearms safety certificate or other satisfactory proof of ability to safely use the pistol; and
- ▶ the applicant has an occupation or personal safety hazard requiring the permit to carry.

If granted, the permit must specify the activities for which it is valid. However, there may not be any restrictions on the number of pistols the person may carry. If the application is not granted or denied within 21 days, it is deemed granted. Denials must be in writing and must specify the reasons for the denial. A denial may be appealed to the local district court.

*(Gross
Misdemeanor)*

The permit may be renewed annually. It becomes void if the permit holder becomes prohibited from possessing a pistol after the permit was issued. In such a case, the permit must be returned to the issuing authority within five days and failure to do so without good cause is a gross misdemeanor.

*(Gross
Misdemeanor)*

Any person who carries a pistol without a permit to carry or who knowingly makes a false statement to obtain a permit to carry is guilty of a gross misdemeanor.

(Felony)

A second or subsequent offense is a five-year felony.

(Misdemeanor)

In addition, it is a misdemeanor for a permit holder to engage in activities other than those for which the permit was issued.

M.S. 624.714

Eligibility to Possess a Firearm

Pistols or Assault Weapons: Minors

No person under the age of 18 may possess a pistol or semiautomatic military-style assault weapon unless the person:

- ▶ is in the actual presence or under the direct supervision of a parent or guardian;
- ▶ is possessing the weapon for military drill purposes;
- ▶ is using the weapon in an approved and supervised target practice range; or
- ▶ has completed a state-approved marksmanship and safety program.

M.S. 624.713

Firearms: Persons under Age 16

No child under 16 years of age may possess a firearm without being accompanied by a parent or guardian unless he or she:

- ▶ is on the parent or guardian's residential property;
- ▶ is participating in an adult-supervised target shooting program;
- ▶ is participating in a firearms safety program or is traveling to or from the program;
- ▶ is 14 years old or older and has a firearms safety certificate from the Department of Natural Resources.

M.S. 97B.021

Firearms: Certain Convicted Criminal Offenders

Convicted violent criminals. A person who has been convicted of or adjudicated for a crime of violence in Minnesota or elsewhere may not possess a firearm unless ten years have elapsed since the person was restored to civil rights or the person's sentence expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. **M.S. 624.713**

Other convicted felons. A person who has been convicted of any other type of felony punishable by more than two years imprisonment may not possess a firearm unless the person's civil rights have been restored. **M. S. 624.713**

Convicted drug offenders. No person who has been convicted in Minnesota or elsewhere of a nonfelony-level drug offense may possess a firearm unless the person possesses a doctor's certificate or other satisfactory proof that the person has not abused drugs in the past two years. **M.S. 624.713**

Repeated assaults. No person who has been convicted of assault in Minnesota or elsewhere within three years of a previous assault conviction may possess a pistol unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other assault crime. **M.S. 609.224, subd. 3**

Domestic assault. No person who has been convicted of domestic assault in Minnesota or elsewhere may possess a pistol unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other assault crime. If, however, the sentencing court determined that the person used a firearm in any way during the commission of the domestic assault, the sentencing court may prohibit the person from possessing any type of firearm for at least three years and up to the remainder of the person's life. **M.S. 609.224, subd. 3; 624.713**

**Firearms: Certain
Offenders Charged
With Crimes or in
Pretrial Diversion
Programs**

A person who is presently charged with any felony punishable by more than two years imprisonment may not receive, ship, or transport any pistol or semiautomatic military-style assault weapon. A person who has been charged with committing a crime of violence and placed in a pretrial diversion program may not possess any type of firearm until the person has completed the diversion program and the criminal charges have been dismissed. **M.S. 624.713**

**Firearms: Persons
with a History of
Mental Illness or
Chemical
Dependency**

Mental illness or retardation. A person who has been confined in a treatment facility under the civil commitment law as mentally ill, mentally retarded, or mentally ill and dangerous, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness may not possess a firearm unless the person has a doctor's certificate or other satisfactory proof that the person is no longer suffering from any of these disabilities.

Chemical dependency. A person who has been committed or confined as chemically dependent under the civil commitment law may not possess a firearm unless the person has completed treatment. No peace officer who has been informally admitted as chemically dependent to a treatment facility under the civil commitment law may possess a firearm unless the peace officer has a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the facility. Finally, no illegal user of controlled substances may possess a firearm.

Drug dependency. A person who has been hospitalized or committed for treatment for the habitual use of drugs may not possess a firearm unless the person possesses a doctor's certificate or other satisfactory proof that the person has not abused drugs in the past two years. **M.S. 624.713**

**Firearms: Other
Prohibited
Categories**

The following persons may not possess firearms in Minnesota: fugitives from justice; illegal aliens; persons who have been dishonorably discharged from the United States armed forces; and persons who have renounced United States citizenship. **M.S. 624.713**

**Firearms:
Nonresident Alien**

A nonresident alien may not possess a firearm except to take game as a nonresident under the game and fish laws. **M.S. 624.719**

Illegal Firearms

Silencers *(Felony)*

It is a felony to sell or possess any device designed to muffle or silence the discharge of a firearm. The maximum penalty for this offense is two years imprisonment and/or a \$5,000 fine; however, if the offense is committed in or near a school, park or public housing property, the maximum penalty is five years imprisonment and/or a \$10,000 fine. **M.S. 609.66, subd. 1a**

Machine Guns, Short-barreled Shotguns, Machine Gun Conversion Kits, and Trigger Activators *(Felony)*

It is a felony, with certain limited exceptions, to own, possess, or operate a machine gun, short-barreled shotgun, trigger activator, or machine gun conversion kit. The maximum penalty for this offense is five years imprisonment and/or a \$10,000 fine. **M.S. 609.67**

Saturday Night Specials *(Gross Misdemeanor)*

It is a gross misdemeanor for a federally-licensed firearms dealer to sell, or for any person to manufacture or assemble, in whole or in part, a "Saturday night special" pistol. **M.S. 624.716** A "Saturday night special" pistol means any pistol (other than an antique firearm, air gun, or toy gun) that is made of any of the following materials:

- ▶ any material having a melting point of less than 1,000 degrees Fahrenheit;
- ▶ any material having an ultimate tensile strength of less than 55,000 pounds per square inch; or
- ▶ any powdered metal having a density of less than 7.5 grams per cubic centimeter.

M.S. 624.712

Firearm Safety and Training Requirements

Transporting a Firearm in a Motor Vehicle

No person may transport a firearm in a motor vehicle unless the firearm is unloaded and in a closed gun case, or is unloaded and in the closed trunk of the motor vehicle. These requirements do not apply to pistols carried in compliance with the Gun Control Act nor to disabled persons who transport the firearm for hunting purposes in compliance with the game and fish laws.

M.S. 97B.045

Transporting a Firearm in a Private Airplane

No person may carry a firearm in a private airplane unless the firearm is unloaded and in a closed gun case, or is unloaded and in the closed baggage area of the aircraft. Exceptions apply to certain hunting activity otherwise authorized by law and to pilots, law enforcement officers and military personnel who are engaged in official duties. **M.S. 360.075, subd. 1**

Firearms Dealer Security Measures

All federally licensed firearms dealers who operate a retail business establishment (excluding the dealer's home) in which pistols are sold must comply with certain security measures designed to reduce the risk of burglary. These security measures are established in statute and in standards adopted by the Commissioner of Public Safety and are different for small firearms dealers (up to 50 pistols displayed for sale at a time) and large firearms dealers. **M.S. 624.7161**

Duty to Render Aid to Shooting Victim

A person who discharges a firearm and knows or should know that the discharge has caused bodily harm to another person must immediately investigate the extent of the injuries and render immediate reasonable assistance to the injured person. A person who violates this duty is subject to criminal penalties that vary according to the extent of the shooting victim's injuries. A person who witnesses a shooting incident is subject to the same duty to investigate and render aid and is also subject to criminal penalties for failing to do so. **M.S. 609.662**

**Firearms Safety
Course and
Certificate**

The Commissioner of Natural Resources is responsible for administering and supervising firearms safety courses throughout the state which provide instruction in commonly accepted principles of safety in hunting and handling common hunting firearms. The commissioner shall issue a firearms safety certificate to a person who satisfactorily completes the course. All persons born after December 31, 1979 must have a firearms safety certificate, an equivalent certificate, or a previously-issued hunting license as a prerequisite to obtaining a hunting license in this state. A firearms safety certificate may not be issued to a person under 12 years old. **M.S. 97B.015 and 97B.020**

**Replica Firearm
Warning Label**

It is unlawful for a retailer to sell a replica firearm unless a warning label is attached to the package advising buyers of the criminal penalties that apply to the unlawful use of the replica firearm. A "replica firearm" is a facsimile or toy version of a firearm that reasonably appears to be an actual firearm.
M.S. 325F.81

**Innkeeper May
Eject Guests With
Firearms
(Misdemeanor)**

An innkeeper may remove or cause to be removed from the hotel or refuse to admit any guest or other person who the innkeeper reasonably believes has brought a firearm onto the premises. It is a misdemeanor for any person to refuse to depart from a hotel after having been requested to leave for this reason.
M.S. 327.73

**Surety Bond for
Carrying Pistol or
Other Dangerous
Weapon**

A person who carries a pistol or other dangerous weapon without reasonable cause to fear injury to person, property, or family members may, upon the complaint of another person having reason to fear injury or breach of the peace, be required to post a surety bond for up to six months. **M.S. 625.16**

**Firearms Training
for Private
Detectives and
Protective Agents**

An employee of a private detective or protective agent who carries a weapon in the course of employment must satisfactorily complete training in the safe use of firearms and other weapons and in the legal limitations on the justifiable use of force and deadly force. **M.S. 326.3361**

**Peace Officer
Training in
Firearms/Use of
Deadly Force**

All law enforcement agencies must establish and enforce a written policy governing the lawful use of force and deadly force by its peace officers and part-time peace officers. All law enforcement agencies must also provide instruction in the use of force, deadly force and firearms to all peace officers who are beginning employment with the agency. This instruction must occur before the officer is issued a firearm and allowed to carry it for employment purposes. Additionally, continuing education instruction on these matters must be provided to the agency's peace officers and part-time peace officers at least annually.

M.S. 626.8452

Employment-related Firearms Requirements

**Criminal
Background Check
for Human Services
License**

A person who has been convicted of certain crimes is disqualified from obtaining a foster care or day care license. This disqualification period is at least ten years for persons convicted of a weapons-related crime, such as unlawful use or possession of a dangerous weapon under Minn. Stat. §609.66, setting a spring gun under Minn. Stat. §609.666, or possessing or operating a machine gun or short-barreled shotgun under Minn. Stat. §609.67. **M.S. 245A.04**

**Criminal
Background Check
of Private Detective
and Protective
Agency Employees**

Applicants for a private detective or protective agent license and employees of such business entities must submit to a criminal background check as a prerequisite to licensure or employment. Additionally, an applicant for employment as a security guard must submit to a criminal background check as a prerequisite to employment. A prior conviction for, among other things, the crime of unlawfully carrying a weapon will disqualify a license applicant or prospective employee from these occupations. **M.S. 326.336 and 326.3381**

**Criminal
Background Check
for Gambling
Licenses**

Criminal background checks must be conducted on applicants for the following types of gambling licenses: gambling equipment distributor licenses, gambling equipment manufacturer licenses, bingo hall licenses, and lawful gambling manager licenses. A prior conviction for any criminal violation involving the use of a firearm disqualifies an individual from receiving any of these licenses. **M.S. 299L.07; 349.155**

**Licensed Peace
Officers Authorized
to Carry Firearms**

No individual employed or acting as an agent of a political subdivision may carry a firearm while on duty unless the individual is licensed as a peace officer or a part-time peace officer. Reserve officers and deputy constables are specifically prohibited from carrying a firearm while on duty.
M.S. 626.84; 367.40

Reporting and Data Requirements

**Data on Purchase
and Transfer of
Firearms**

All data relating to the purchase and transfer of firearms and applications for a permit to carry a firearm that are collected by government agencies are classified as private data under the Data Practices Act. **M.S. 13.36**

**Arrest Data and
Response or
Incident Data**

Data collected by law enforcement agencies pursuant to an arrest, a response to a request for service, or a law enforcement action taken at the agency's own initiative are classified as public data, including whether any weapons were used by the agency or other individual. **M.S. 13.82, subs. 2 and 4**

**Identification Data
from Local Law
Enforcement
Agencies**

All law enforcement agencies must collect identification data about arrested persons and forward it to the Bureau of Criminal Apprehension (BCA). The data must include, among other things, information regarding whether the arrested individual was carrying a concealed firearm or other dangerous weapon at the time of the arrest. **M.S. 299C.10**

**Reports of
Dangerous Weapon
Incidents on School
Property**

Each elementary and secondary school must file a report with the Commissioner of Education twice a year documenting incidents involving the use of a dangerous weapon on school property or on school buses while the bus is transporting students. The report must, among other things, describe the type of dangerous weapon used in the incident. The commissioner must compile this information and report it annually to the Commissioner of Public Safety, the Criminal and Juvenile Justice Information Policy Group, and the legislature. **M.S. 121.207**

**Reports on
Criminal Cases
Involving a Firearm**

Every county attorney must collect information on prosecutions involving the use or possession of a firearm to which the mandatory minimum sentencing law (M.S. 609.11) applies. The information must include: whether the case was charged or dismissed, whether the defendant was convicted, and whether the mandatory minimum sentence was imposed or waived. The information must be forwarded annually to the Sentencing Guidelines Commission and the Commission must publish a summary and analysis of the data in its annual report.

M.S. 244.09; 609.11

The office of strategic and long-range planning must report to the legislature annually on the number of persons arrested, charged, convicted, and sentenced for firearms-related violations.

M.S. 4A.06

**Report of Firearm
Discharge by
Security Guard**

Each discharge of a firearm by a security guard in the course of employment, other than for training purposes, must be reported to the local sheriff or chief of police. These reports must be forwarded to the Bureau of Criminal Apprehension and a summary of the reports must be published by the BCA annually.

M.S. 299C.22

**Report of Health
Professionals on
Gunshot Wounds**

All health professionals must immediately report to the local police department or sheriff any gunshot wound that the health professional is called upon to treat or bandage. The law enforcement agency must investigate the circumstances under which the gunshot wound occurred. If the gunshot wound occurred in connection with hunting or target shooting, the results of the investigation must be reported to the Commissioner of Natural Resources.

M.S. 626.52 and 626.553

**Report of Firearm
Discharge by Peace
Officer**

Each discharge of a firearm by a peace officer, other than for training purposes or to kill a sick, injured, or dangerous animal, must be reported to the Commissioner of Public Safety. The commissioner shall forward the report to the Board of Peace Officers Standards and Training. The report must detail the reason for and the circumstances surrounding the firearm discharge. The Commissioner of Public Safety must report summary information regarding these firearm discharges annually to the legislature.

M.S. 626.553

Regulation of Firearms by Local Governments

State Law Preemption of Local Firearm Regulations

State law preempts all authority of local governments to regulate firearms, ammunition, or their respective components, except for the following regulations:

Exceptions:

- ▶ local governments may regulate the discharge of firearms;
- ▶ local governments may adopt regulations identical to state law;
- ▶ school districts may regulate conduct involving firearms and ammunition occurring on school grounds, in school buildings and buses, and during school programs and activities; and
- ▶ local governments may adopt zoning ordinances governing the location of businesses where firearms are sold by a federally licensed firearms dealer.

M.S. 471.633-471.635

Crimes Relating to Firearms

(Note: many of the criminal offenses described in this section also cover other prohibited acts that do not involve the possession or use of a firearm.)

Bringing a Firearm into a Correctional Facility or State Hospital (Felony)

Any person who brings or sends a firearm, weapon, or explosive into a state or local correctional facility or into a state hospital without the consent of the facility head is guilty of a felony. Maximum penalty: five years imprisonment (local facility) or ten years imprisonment (state facility). **M.S. 243.55 and 641.165**

Discharge over Cemetery Grounds (Gross Misdemeanor)

It is a gross misdemeanor to discharge a firearm upon or over the grounds of a cemetery or authenticated Indian burial ground without authority from the cemetery trustees, state archaeologist, or Indian Affairs Intertribal Board. **M.S. 307.08**

**Discharge from an
Airplane**
(Misdemeanor)

It is a misdemeanor to discharge a firearm in or from any airplane unless the discharge is permitted by state hunting laws or the person discharging the firearm is the pilot, a peace officer, or a member of the military engaged in the performance of duty. **M.S. 360.075**

**Mandatory
Minimum Sentences
for Certain Felonies
Committed with a
Firearm**

A person who is convicted of a violent felony or a felony-level drug offense must be sentenced to a mandatory minimum prison sentence if the person or an accomplice possessed or used a firearm to commit the offense. The mandatory minimum prison sentence is three years for a first-time offense and five years if the person has a previous conviction for possessing or using a firearm during the commission of one of these offenses. The law contains procedures allowing the judge or the prosecutor to waive the mandatory minimum sentence when mitigating circumstances are present; however, the mandatory minimum sentence may not be waived for persons who are repeat offenders subject to the five year minimum. **M.S. 609.11**

**Possession of
Firearm by
Convicted Felon**

A person who has been convicted of a crime of violence who ships, transports, possesses, or receives a firearm during the ten-year period following restoration of civil rights or sentence discharge is guilty of a felony. Maximum penalty: three years imprisonment and/or \$6,000 fine. **M.S. 609.165**

**Manslaughter in the
Second Degree**
(Felony)

A person commits manslaughter in the second degree if the person causes the death of another person or that of an unborn child by: (1) shooting another with a firearm or other dangerous weapon as a result of negligently believing the victim to be a deer or other animal; or (2) setting a spring gun or other similar dangerous weapon or device. Maximum penalty: ten years imprisonment and/or \$20,000 fine. **M.S. 609.205; 609.2665**

**Assault in the
Second Degree**
(Felony)

A person commits assault in the second degree if the person assaults another with a dangerous weapon. Maximum penalty: ten years imprisonment and/or \$20,000 if substantial bodily harm to the victim results; otherwise seven years imprisonment and/or \$14,000 fine. **M.S. 609.222**

**Aggravated
Robbery**
(Felony)

A person commits aggravated robbery in the first degree if the person commits a robbery while armed with a dangerous weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon. Maximum penalty: 20 years imprisonment and/or \$35,000 fine

A person commits aggravated robbery in the second degree if the person commits a robbery and implies, by word or act, possession of a dangerous weapon. Maximum penalty: 15 years imprisonment and/or \$30,000 fine. **M.S. 609.245**

**Depriving Another
of Custodial or
Parental Rights**
(Felony)

A person who deprives another of parental or custodial rights to a child by concealing, taking, or failing to return the child to the child's parent or lawful custodian is subject to an increased criminal penalty if the person possessed a dangerous weapon while committing the criminal act. Maximum penalty: four years imprisonment and/or \$8,000 fine. **M.S. 609.26**

**Criminal Sexual
Conduct in the First
and Second Degree**
(Felony)

A person commits criminal sexual conduct in the first or second degree if the person engages in sexual conduct with another while armed with a dangerous weapon and uses the weapon to cause the victim to submit. Maximum penalty: 30 years imprisonment and/or \$40,000 fine (first degree; sexual penetration); 25 years imprisonment and/or \$35,000 fine (second degree; sexual contact). **M.S. 609.342; 609.343**

**Child
Endangerment;
Access to Firearms**
*(Gross
Misdemeanor)*

It is a gross misdemeanor to intentionally or recklessly cause a child under the age of 14 to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm. **M.S. 609.378, subd. 1**

**Obstruction of
Legal Process or
Arrest**
(Felony)

A person who obstructs legal process or obstructs, resists, or interferes with a peace officer while the officer is performing official duties is subject to an increased penalty if the person takes or attempts to take the peace officer's firearm from the officer's possession without the officer's consent. Maximum penalty: five years imprisonment and/or \$10,000 fine. **M.S. 609.50**

Theft of a Firearm
(*Felony*)

A person who commits theft is subject to an increased penalty if the property stolen was a firearm. Maximum penalty: 20 years imprisonment and/or \$35,000 fine. **M.S. 609.52**

Burglary
(*Felony*)

A person who commits a burglary is subject to an increased penalty if the person committed the offense while possessing a dangerous weapon or another article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon. Maximum penalty: 20 years imprisonment and/or \$35,000 fine. **M.S. 609.582**

Dangerous Weapon Offenses

The following crimes involving firearms are misdemeanors; except that they are gross misdemeanors if the act was committed on or near school, park, or public housing property:

(*Misdemeanor/Gross Misdemeanors*)

- ▶ recklessly handling or using a gun so as to endanger the safety of another;
- ▶ intentionally pointing a gun, whether loaded or unloaded, at another; and
- ▶ outside a municipality and without parental or guardian consent, furnishing a child under the age of 14 with a firearm or ammunition.

(*Gross Misdemeanor*)

It is a gross misdemeanor for a person, other than a federally-licensed firearms dealer, to transfer a pistol or semiautomatic military-style assault weapon to another without complying with the transfer requirements of the gun control act if the transferee possesses or uses the firearm within the next year in furtherance of a felony crime of violence, and if the transferee was prohibited from possessing the weapon at the time of the transfer or it was reasonably foreseeable at the time of the transfer that the transferee was likely to use or possess the firearm in furtherance of a felony crime of violence.

The following crimes are felonies, punishable by various maximum penalties, depending on the offense:

(*Felony*)

- ▶ selling or possessing a silencer;
- ▶ intentionally discharging a firearm under circumstances that endanger the safety of another;

- ▶ recklessly discharging a firearm within a municipality;
- ▶ within a municipality and without prior parental or guardian consent or the consent of the local police department, furnishing a minor with a firearm or ammunition;
- ▶ recklessly furnishing another with a dangerous weapon in conscious disregard of a known substantial risk that the weapon will be used in furtherance of a violent felony;
- ▶ possessing, storing, or keeping a dangerous weapon, or using or brandishing a replica firearm or BB gun on elementary or secondary school property or in a school bus while it is transporting students (certain exceptions apply);
- ▶ recklessly discharging a firearm at or toward a person, motor vehicle, or building while in or having just exited from a motor vehicle;
- ▶ possessing a dangerous weapon, ammunition, or explosives within any courthouse complex or any state building within the capitol complex area (other than the National Guard Armory), unless included within a specified exception.

M.S. 609.66

**Removal or
Alteration of
Firearm Serial
Number**

(Felony)

Whoever obliterates, removes, or alters the serial number of a firearm, or receives or possesses a firearm, the serial number of which has been obliterated, altered, or removed is guilty of a felony. Maximum penalty: five years imprisonment and/or \$10,000 fine. **M.S. 609.667**

**Set Guns, Swivel
Guns, and Spring
Guns**

*(Gross
Misdemeanor)*

Whoever takes deer with the assistance of a set gun or swivel gun is guilty of a gross misdemeanor. Whoever sets a spring gun may be sentenced to up to six months imprisonment and/or up to a \$700 fine. **M.S. 97B.321; 609.661; 609.665**

**Riot in the First or
Second Degree**
(Felony)

A person who commits the crime of riot is subject to increased penalties if the person is armed with a dangerous weapon during commission of the crime. Maximum penalty: 20 years imprisonment and/or \$35,000 if a death results; otherwise five years imprisonment and/or \$10,000 fine. **M.S. 609.71**

Terroristic Threats
*(Gross
Misdemeanor)*

A person commits the crime of terroristic threats if the person displays, exhibits, brandishes, or otherwise employs a replica firearm or a BB gun in a threatening manner and causes or attempts to cause terror in another person or acts in reckless disregard of the risk of causing such terror. Maximum penalty: one year imprisonment and/or \$3,000 fine. **M.S. 609.713**

Harassment
(Felony)

A person who commits the crime of harassment is subject to an increased penalty if the person possesses a dangerous weapon at the time of the offense. **M.S. 609.749**

**Shooting at a
Railroad Train**
*(Gross
Misdemeanor)*

A person who intentionally shoots a firearm at any portion of a railroad train so as to endanger the safety of another is guilty of a gross misdemeanor. **M.S. 609.85**

**Shooting at a Public
Transit Vehicle or
Facility**
(Felony)

A person who recklessly discharges a firearm at any portion of a public transit vehicle or transit facility is guilty of a felony. Maximum penalty: five years imprisonment and/or \$10,000 fine if the vehicle or facility is occupied; otherwise, three years imprisonment and/or \$6,000 fine. **M.S. 609.855**

**Dangerous
Exhibitions**
*(Gross
Misdemeanor)*

It is a misdemeanor to aim a firearm or allow a firearm to be aimed at any person as part of an exhibition of skill in a place of amusement or other place or building. **M.S. 624.63**

**Carrying a BB Gun,
Rifle, or Shotgun in
a Public Place**
*(Felony; Gross
Misdemeanor)*

A person who carries a BB gun, rifle, or shotgun in a public place is guilty of a gross misdemeanor, unless the act is included in one of several statutory exceptions. If the person is under the age of 21 and carries an semiautomatic military-style assault weapon in a public place, the penalty becomes a felony punishable by up to five years imprisonment and/or \$10,000 fine. **M.S. 624.7181**

Forfeiture and Confiscation of Firearms

Firearm Knowingly Used to Commit Hunting Law Violation

A conservation officer may confiscate a firearm that is used with the owner's knowledge to unlawfully take wild animals. **M.S. 97A.221**

Firearm Unlawfully Possessed by Person under Age 16

If a firearm is unlawfully possessed by a person under age 16, a law enforcement officer must seize the firearm and place it in the custody of the local conservation officer. The firearm must be returned to the person from whom it was seized if the person presents a firearms safety certificate to the conservation officer. Such a certificate must be presented within 90 days after the start of the first firearms training course offered in the county after the seizure. If not, the firearm becomes contraband and is forfeited to the state. **M.S. 97B.021**

Weapons Used to Commit a Crime

Any weapon used in furtherance of any criminal code violation, controlled substance offense, or violation of chapter 624 is contraband and may be summarily (*i.e.* without a judicial proceeding) forfeited by the law enforcement agency upon the owner's or possessor's conviction for the crime. **M.S. 609.5316**

Weapons and Ammunition Found in Proximity to Drugs

Firearms, ammunition and firearms accessories may be forfeited administratively if they are found:

- ▶ in a conveyance device used or intended for use to commit a felony drug offense;
- ▶ on or in proximity to a person from whom a felony-level amount of drugs was seized; or
- ▶ on the premises where drugs were seized and in proximity to the drugs, if the possession or sale of the drugs would be a felony offense.

The law enforcement agency is permitted to seize the property immediately and send a notice to the owner stating that the property will be forfeited unless the property claimant files a demand within 60 days for a judicial forfeiture hearing. If the demand is filed, the judicial forfeiture procedures must be followed. If no demand for judicial forfeiture is filed, the property is forfeited. **M.S. 609.5314**

**Firearms Used to
Commit Domestic
Assault**

When a person is convicted of domestic assault, the court must determine whether the defendant used a firearm in any way during commission of the assault. If so, the court must order that the firearm be summarily forfeited. **M.S. 609.224, subd. 3**

**Possession of
Firearm by
Nonresident Alien**

A nonresident alien may not possess a firearm except to take game as a nonresident under the game and fish laws. A firearm possessed in violation of this provision is contraband and may be confiscated. **M.S. 624.719**

**Surrender of
Firearm as a
Condition of
Pretrial Release**

When a person is arrested for committing a crime against the person, the judge before whom the arrested person is taken may order, as a condition of pretrial release, that the person surrender to the local law enforcement agency all firearms, destructive devices, and other dangerous weapons he or she owns or possesses. If the charges are not filed or are dismissed, or if the person is acquitted, the weapons must be returned.

Firearms Laws Affecting Minors

Hunting Licenses

A person under the age of 16 may not obtain a small game license but may take small game by using a firearm if the person is a resident:

- ▶ age 14 or 15 who possesses a firearms safety certificate;
- ▶ age 13 who possesses a firearms safety certificate and is accompanied by a parent or guardian; or
- ▶ age 12 or under who is accompanied by a parent or guardian.

M.S. 97A.451

**Possession of a
Pistol or Assault
Weapon by a Minor**

No person under the age of 18 may possess a pistol or semiautomatic military-style assault weapon unless the person (a) is in the actual presence or under the direct supervision of a parent or guardian, (b) is possessing the weapon for military drill purposes, (c) is using the weapon in an approved and supervised target practice range, or (d) has completed a state-approved marksmanship and safety program. **M.S. 624.713**

**Possession of a
Firearm by a
Person under Age
16**

No child under 16 years of age may possess a firearm without being accompanied by a parent or guardian unless he or she (a) is on the parent or guardian's residential property, (b) is participating in an adult-supervised target shooting program, (c) is participating in a firearms safety program or is traveling to or from the program, or (d) is 14 years old or older and has a firearms safety certificate from the Department of Natural Resources. (The possession of pistols and semiautomatic military-style assault weapons by a minor is governed by Minn. Stat. §624.713.) **M.S. 97B.021**

**Certification to
Adult Court for
Firearms Offenses**

The law presumes that a juvenile court proceeding shall be certified to adult court for criminal prosecution if the juvenile was 16 or 17 years old at the time of the alleged offense and if the court finds probable cause to believe the juvenile used a firearm to commit a felony offense. (Effective 1/1/95)
M.S. 260.125

**Committing a
Delinquent Act with
a Firearm**

If a juvenile is adjudicated delinquent for committing an unlawful act, the juvenile court must determine whether the juvenile possessed a firearm at the time of the offense, the court must order immediate seizure of the firearm and must order the juvenile to perform at least 100 hours of community work service unless the juvenile is placed out-of-home in a residential treatment program or juvenile correctional facility. Furthermore, if the court finds that the juvenile committed the unlawful act on school property or in a school bus and possessed any type of dangerous weapon at the time of the offense, the court must order that the juvenile's driver's license be canceled or driving privileges denied until the juvenile's 18th birthday.
M.S. 260.185, subd. 1a

**Mandatory
Community Work
Service**

**Driver's License
Cancellation**

**Juvenile Court
Disposition Orders
Transmitted to
School Authorities**

A juvenile offender's probation officer must transmit a copy of the juvenile court's disposition order to school authorities when a juvenile enrolled in the school is adjudicated delinquent for any act involving the possession or use of a dangerous weapon.
M.S. 260.161

**Child
Endangerment;
Access to Firearms
(Gross
Misdemeanor)**

It is a gross misdemeanor to intentionally or recklessly cause a child under the age of 14 to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm. It is also a gross misdemeanor to negligently store or leave a loaded firearm in a location where the person knows or should know that a child under the age of 14 is likely to gain access, unless reasonable steps are taken to secure the firearm against access by the child. Firearms dealers must post a conspicuous warning to firearms purchasers advising them of these criminal penalties. A dealer who fails to do so is guilty of a petty misdemeanor.
M.S. 609.378, subd. 1; 609.666; 624.7162

(Petty Misdemeanor)

**Furnishing a Minor
with a Firearm
(Misdemeanor)**

It is a misdemeanor to furnish a child under the age of 14 with a firearm or ammunition outside a municipality and without parental or guardian consent.

*(Gross
Misdemeanor)*

The crime becomes a gross misdemeanor if the act occurs on or near school property, park property, or public housing property.

(Felony)

Within a municipality, it is a ten-year felony to furnish a minor with a firearm or ammunition without the prior consent of the minor's parent or guardian or of the local police department.
M.S. 609.66, subds. 1 and 1c

**Display of Handgun
Ammunition
(Petty Misdemeanor)**

It is a petty misdemeanor to display handgun ammunition for sale to the public in a manner that makes the ammunition directly accessible to minors who are not employees or agents of the store, unless the ammunition is under observation by store employees or the store takes reasonable steps to exclude minors from the vicinity of the ammunition display. Ammunition that is displayed in an enclosed display case or behind a counter is not directly accessible to minors. **M.S. 609.663**

Department of Natural Resources; Selected Regulations

**Careless Use of
Firearm; Fire
Hazard**
(Misdemeanor)

It is a misdemeanor to carelessly use a firearm and, thereby, start a fire that endangers or causes damage to the property of another person or the state. **M.S. 88.195, subd. 4**

**Hunting on Game
Refuges**

Unless specifically authorized by the Commissioner of Natural Resources, no person may take a wild animal, except fish, within a state game refuge, nor may any person carry a firearm within a refuge unless the firearm is unloaded and either contained in a gun case or broken down. **M.S. 97A.09³**

Muskrat Farms

A person who is licensed to operate a muskrat farm may take and trap the muskrats at any time and in any manner except by firearm or by spear. **M.S. 97A.111**

**Firearm; Hunting
Law Violation**

A conservation officer may confiscate a firearm that is used with the owner's knowledge to unlawfully take wild animals.
M.S. 97A.221

Firearms Inspection
(Misdemeanor)

It is a misdemeanor to refuse to submit to an inspection of one's firearm by a conservation officer while in the field. A violator may also be subject to civil damages and injunctive relief.
M.S. 97A.251; 97A.301

**Hunting Prohibited
in Certain Areas**

A person may not take a wild animal with a firearm in the following areas:

- ▶ within 500 feet of a building located on private agricultural land or on a public right-of-way if the building is occupied by human beings or livestock, unless the written permission of the owner or occupant is obtained;
- ▶ within 500 feet of a stockade or corral containing livestock, without the written permission of the owner; or

- ▶ within 200 feet of a building occupied by human beings on non-agricultural land without the oral permission of the owner or occupant.

M.S. 97B.001, subd. 7

**Firearms Safety
Course and
Certificate**

The Commissioner of Natural Resources is responsible for administering and supervising firearms safety courses throughout the state which provide instruction in commonly accepted principles of safety in hunting and handling common hunting firearms. The commissioner shall issue a firearms safety certificate to a person who satisfactorily completes the course. All persons born after December 31, 1979 must have a firearms safety certificate, an equivalent certificate, or a previously-issued hunting license as a prerequisite to obtaining a hunting license in this state. A firearms safety certificate may not be issued to a person under 12 years old. **M.S. 97B.015 and 97B.020**

**Possession of a
Firearm by a
Person under Age
16**

No child under 16 years of age may possess a firearm without being accompanied by a parent or guardian unless he or she (a) is on the parent or guardian's residential property, (b) is participating in an adult-supervised target shooting program, (c) is participating in a firearms safety program or is traveling to or from the program, or (d) is 14 years old or older and has a firearms safety certificate from the Department of Natural Resources. (The possession of pistols and semiautomatic military-style assault weapons by a minor is governed by Minn. Stat. §624.713.) **M.S. 97B.021**

**Firearms That May
be Used in Hunting**

State law lists the types of firearms and ammunition that may and may not be used to take big and small game. **M.S. 97B.031**

**Transporting a
Firearm in a Motor
Vehicle**

No person may transport a firearm in a motor vehicle unless the firearm is unloaded and in a closed gun case, or is unloaded and in the closed trunk of the motor vehicle. These requirements do not apply to pistols carried in compliance with the Gun Control Act nor to disabled persons who transport the firearm for hunting purposes in compliance with the game and fish laws. **M.S. 97B.045**

**No Discharging
Firearms**

No person may discharge a firearm at a big game animal or decoy on or across an improved public highway or within the right-of-way of an improved public highway. Unless the person has a special permit, no person may take a wild animal with a firearm from a motor vehicle. **M.S. 97B.055**

**No Hunting while
Intoxicated**

*(Gross
Misdemeanor)*

It is a gross misdemeanor to take wild animals with a firearm while under the influence of alcohol or a controlled substance. A person who is convicted of this offense is ineligible to have a firearms hunting license for five years. **M.S. 97B.065; 97A.421**

**No Hunting between
Evening and
Morning**

A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning hours set by the Commissioner of Natural Resources. **M.S. 97B.075**

**No Artificial Lights
to Locate Wild
Animals**

A person may not, while possessing a loaded firearm, use an artificial light to spot, locate, or take a wild animal unless the person is taking raccoons or tending traps in accordance with law. **M.S. 97B.081**

**No Hunting Big
Game by Archery;
Possession of
Firearm**

A person may not take big game by archery while in possession of a firearm with one exception: a person may take bear by archery while possessing a handgun. **M.S. 97B.211**

**No Snares, Traps,
Set Guns, and
Swivel Guns**

A person may not take deer with the aid of a snare, trap, set gun, or swivel gun. **M.S. 97B.321**

Miscellaneous Firearms-related Laws

Definition of Dangerous Weapon

"Dangerous weapon" means:

- ▶ any firearm, whether loaded or unloaded;
- ▶ any device designed as a weapon and capable of producing death or great bodily harm;
- ▶ any combustible or flammable liquid, or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm; or
- ▶ any fire that is used to produce death or great bodily harm.

M.S. 609.02, subd. 6

Definition of Deadly Force

"Deadly force" means force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing, death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force. **M.S. 609.066, subd. 1**

Definition of Firearm

"Firearm" means a gun that discharges shot or a projectile by means of an explosive, a gas, or compressed air. **M.S. 97A.015**

Permissive Inference of Firearm Possession in Motor Vehicle

The presence of a firearm in a passenger automobile permits the factfinder to infer knowing possession of the firearm by the driver or person in control of the automobile. This permissive inference does not apply:

- ▶ to a licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;
- ▶ to any person in the automobile if one of them legally possesses a firearm; or

- ▶ when the firearm is concealed on the person of one of the occupants.

M.S. 609.672

**Attorney General
May Assist City
Attorneys in
Prosecuting
Firearms Offenses**

A city attorney in the metropolitan area may request the attorney general to assist in the prosecution of nonfelony firearms offenses. **M.S. 487.25**