

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 308

02/04/2013 Authored by Simonson and Schoen

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

1.1 A bill for an act
1.2 relating to public safety; requiring a permit to purchase, own, possess, or use
1.3 body armor; providing criminal penalties for purchase, ownership, possession, or
1.4 use of body armor without a permit; proposing coding for new law in Minnesota
1.5 Statutes, chapter 609.

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

1.7 Section 1. **[609.488] BODY ARMOR.**

1.8 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this
1.9 subdivision have the meanings given them.

1.10 (b) "Body armor" means a personal protective body covering, worn alone or as a
1.11 complement to another product or garment, that is designed and made of any material or
1.12 combination of materials to prevent, resist, deflect, or deter the penetration of the material
1.13 by a dangerous weapon.

1.14 (c) "Crime of violence" has the meaning given in section 624.712, subdivision 5.

1.15 (d) "Peace officer" has the meaning given in section 626.84, subdivision 1.

1.16 (e) "Correctional officer" has the meaning given in section 241.026, subdivision 1.

1.17 Subd. 2. **Permit required; penalty.** (a) A person, other than a peace officer,
1.18 correctional officer, or corrections agent, who purchases, owns, possesses, or uses body
1.19 armor without first having obtained a permit under subdivision 4 is guilty of a misdemeanor.

1.20 (b) A person who is convicted of a second or subsequent violation of paragraph (a)
1.21 is guilty of a gross misdemeanor.

1.22 (c) A person with a prior felony conviction for a crime of violence who violates
1.23 paragraph (a) is guilty of a felony.

1.24 Subd. 3. **Display of permit; penalty.** (a) The holder of a permit to purchase,
1.25 own, possess, or use body armor must have the permit card and a driver's license,

state identification card, or other government-issued photo identification in immediate possession at all times when purchasing, owning, possessing, or using the body armor and must display the permit card and identification document upon lawful demand by a peace officer. A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, body armor purchased, owned, possessed, or used in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to purchase, own, possess, or use the body armor at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

(d) Upon the request of a peace officer, a permit holder shall disclose to the officer whether or not the permit holder is currently using the body armor.

Subd. 4. **Application for permit.** (a) Applications by Minnesota residents for permits to purchase, own, possess, or use body armor shall be made to the chief of police of an organized full-time police department of the municipality where the applicant resides or to the county sheriff if there is no local chief of police. Nonresidents, as defined in section 171.01, subdivision 42, may apply to any chief of police or sheriff.

(b) A chief of police or sheriff shall issue a permit to an applicant if the applicant:

(1) is likely to use body armor in a safe and lawful manner; and

(2) has reasonable need for the protection provided by body armor.

(c) The chief of police or sheriff shall consider the following when issuing a permit under paragraph (b):

(1) the applicant's employment;

(2) the applicant's safety; and

(3) any other circumstances justifying the applicant's purchase, possession, ownership, or use of body armor.

(d) The chief of police or sheriff may charge a new application processing fee in an amount not to exceed the actual and reasonable direct cost of processing the application or \$100, whichever is less. Of this amount, \$10 must be submitted to the commissioner and deposited into the general fund.

(e) The commissioner of public safety shall determine the form and manner of the application, permit, and new application and renewal processes under this subdivision and subdivision 5.

Subd. 5. **Permit renewal.** A permit to purchase, own, possess, or use body armor issued under this section expires five years after the date of issue. It may be renewed in

the same manner and under the same criteria which the original permit was obtained, subject to the following procedures:

(1) no earlier than 90 days prior to the expiration date on the permit, the permit holder may renew the permit by submitting to the appropriate chief of police or sheriff an application and a renewal processing fee not to exceed the actual and reasonable direct cost of processing the application or \$75, whichever is less. Of this amount, \$5 must be submitted to the commissioner and deposited into the general fund. The chief of police or sheriff must process the renewal application in accordance with this section; and

(2) a permit holder who submits a renewal application packet after the expiration date of the permit, but within 30 days after expiration, may renew the permit as provided in clause (1) by paying an additional late fee of \$10.

The renewal permit is effective beginning on the expiration date of the prior permit to purchase, own, possess, or use body armor.

Subd. 6. Revocation. (a) The chief of police of the municipality or the sheriff of the county where the application was submitted, or of the county of the permit holder's current residence, may file a petition with the district court in that county, for an order revoking a permit on the grounds that:

(1) the applicant does not meet the criteria under subdivision 4; or

(2) there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to purchase, own, possess, or use body armor under a permit. Incidents of alleged criminal misconduct that are not investigated and documented may not be considered.

(b) An order shall be issued only if the chief of police or sheriff meets the burden of proof and the criteria under subdivision 4. If the court denies the petition, the court must award the permit holder reasonable costs and expenses, including attorney fees.

Subd. 7. Appeal. Any person aggrieved by denial or revocation of a permit may appeal by petition to the district court having jurisdiction over the county or municipality where the application was submitted. The petition must list the chief of police or sheriff as the respondent. The district court must hold a hearing at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review.

Subd. 8. Investigation. The chief of police or sheriff must check, by means of electronic data transfer, criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System and the National Instant Criminal Background Check System. The chief of police or sheriff shall also make a reasonable effort to check other available and relevant federal, state, or local record-keeping systems. The chief of police or sheriff must obtain commitment

4.1 information from the commissioner of human services as provided in section 245.041 or, if
4.2 the information is reasonably available, as provided by a similar statute from another state.

4.3 Subd. 9. **Exceptions.** A permit is not required under subdivision 2, when the
4.4 person is:

4.5 (1) wearing body armor provided by a peace officer for the person's safety or
4.6 protection while the person is being transported or accompanied by a peace officer;

4.7 (2) possessing body armor while acting as a confidential informant or witness
4.8 engaged by a law enforcement agency for a legitimate law enforcement purpose; or

4.9 (3) a member of the National Guard or a reserve component or active duty member
4.10 of the United States armed forces and is on active service as defined under section 190.05,
4.11 subdivision 5.

4.12 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes
4.13 committed on or after that date.