



SPONSOR: Sen. Lawson & Rep. Collins
Sens. Hocker, Pettyjohn, Wilson; Rep. D. Short

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 172

AN ACT TO AMEND TITLE 9, TITLE 10, TITLE 11, AND TITLE 22 OF THE DELAWARE CODE RELATING TO CARRYING A CONCEALED DEADLY WEAPON.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1441, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1441. ~~License~~ Authorization to carry concealed deadly weapons.

(a) ~~A person of full age and good moral character desiring to be licensed to carry a concealed deadly weapon for personal protection or the protection of the person's property may be licensed to do so when the following conditions have been strictly complied with:~~

~~(1) The person shall make application therefor in writing and file the same with the Prothonotary of the proper county, at least 15 days before the then next term of the Superior Court, clearly stating that the person is of full age and that the person is desirous of being licensed to carry a concealed deadly weapon for personal protection or protection of the person's property, or both, and also stating the person's residence and occupation. The person shall submit together with such application all information necessary to conduct a criminal history background check. The Superior Court may conduct a criminal history background check pursuant to the procedures set forth in Chapter 85 of Title 11 for the purposes of licensing any person pursuant to this section.~~

~~(2) At the same time the person shall file, with the Prothonotary, a certificate of 5 respectable citizens of the county in which the applicant resides at the time of filing the application. The certificate shall clearly state that the applicant is a person of full age, sobriety and good moral character, that the applicant bears a good reputation for peace and good order in the community in which the applicant resides, and that the carrying of a concealed deadly weapon by the applicant is necessary for the protection of the applicant or the applicant's property, or both. The certificate shall be signed with the proper signatures and in the proper handwriting of each such respectable citizen.~~

~~(3) Every such applicant shall file in the office of the Prothonotary of the proper county the application verified by oath or affirmation in writing taken before an officer authorized by the laws of this State to administer the same, and shall under such verification state that the applicant's certificate and recommendation were read to or by the~~

signers thereof and that the signatures thereto are in the proper and genuine handwriting of each. Prior to the issuance of an initial license the person shall also file with the Prothonotary a notarized certificate signed by an instructor or authorized representative of a sponsoring agency, school, organization or institution certifying that the applicant: (i) has completed a firearms training course which contains at least the below described minimum elements; and (ii) is sponsored by a federal, state, county or municipal law enforcement agency, a college, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The firearms training course shall include the following elements:

- a. Instruction regarding knowledge and safe handling of firearms;
- b. Instruction regarding safe storage of firearms and child safety;
- c. Instruction regarding knowledge and safe handling of ammunition;
- d. Instruction regarding safe storage of ammunition and child safety;
- e. Instruction regarding safe firearms shooting fundamentals;
- f. Live fire shooting exercises conducted on a range, including the expenditure of a minimum of 100 rounds of ammunition;
- g. Identification of ways to develop and maintain firearm shooting skills;
- h. Instruction regarding federal and state laws pertaining to the lawful purchase, ownership, transportation, use and possession of firearms;
- i. Instruction regarding the laws of this State pertaining to the use of deadly force for self defense; and
- j. Instruction regarding techniques for avoiding a criminal attack and how to manage a violent confrontation, including conflict resolution.

(4) At the time the application is filed, the applicant shall pay a fee of \$65 to the Prothonotary issuing the same.

(5) The license issued upon initial application shall be valid for 3 years. On or before the date of expiration of such initial license, the licensee, without further application, may renew the same for the further period of 5 years upon payment to the Prothonotary of a fee of \$65, and upon filing with said Prothonotary an affidavit setting forth that the carrying of a concealed deadly weapon by the licensee is necessary for personal protection or protection of the person's property, or both, and that the person possesses all the requirements for the issuance of a license and may make like renewal every 5 years thereafter; provided, however, that the Superior Court, upon good cause presented to it, may

inquire into the renewal request and deny the same for good cause shown. No requirements in addition to those specified in this paragraph may be imposed for the renewal of a license.

(b) The Prothonotary of the county in which any applicant for a license files the same shall cause notice of every such application to be published once, at least 10 days before the next term of the Superior Court. The publication shall be made in a newspaper of general circulation published in the county. In making such publication it shall be sufficient for the Prothonotary to do the same as a list in alphabetical form stating therein simply the name and residence of each applicant respectively.

(c) The Prothonotary of the county in which the application for license is made shall lay before the Superior Court, at its then next term, all applications for licenses, together with the certificate and recommendation accompanying the same, filed in the Prothonotary's office, on the first day of such application.

(d) The Court may or may not, in its discretion, approve any application, and in order to satisfy the Judges thereof fully in regard to the propriety of approving the same, may receive remonstrances and hear evidence and arguments for and against the same, and establish general rules for that purpose.

(e) If any application is approved, as provided in this section, the Court shall endorse the word "approved" thereon and sign the same with the date of approval. If not approved, the Court shall endorse the words "not approved" and sign the same. The Prothonotary, immediately after any such application has been so approved, shall notify the applicant of such approval, and following receipt of the notarized certification of satisfactory completion of the firearms training course requirement as set forth in paragraph (a)(3) of this section above shall issue a proper license, signed as other state licenses are, to the applicant for the purposes provided in this section and for a term to expire on June 1 next succeeding the date of such approval.

(f) The Secretary of State shall prepare blank forms of license to carry out the purposes of this section, and shall issue the same as required to the several Prothonotaries of the counties in this State. The Prothonotaries of all the counties shall affix to the license, before lamination, a photographic representation of the licensee.

(g) The provisions of this section do not apply to the carrying of the usual weapon by the police or other peace officers.

(h) Notwithstanding any provision to the contrary, anyone retired as a police officer, as "police officer" is defined by § 1911 of this title, who is retired after having served at least 20 years in any law enforcement agency within this State, or who is retired and remains currently eligible for a duty connected disability pension, may be licensed to carry a concealed deadly weapon for the protection of that retired police officer's person or property after that retired police officer's retirement, if the following conditions are strictly complied with:

(1) If that retired police officer applies for the license within 90 days of the date of that retired police officer's retirement, the retired police officer shall pay a fee of \$65 to the Prothonotary in the county where that retired police officer resides and present to the Prothonotary both:

a. A certification from the Attorney General's office, in a form prescribed by the Attorney General's office, verifying that the retired officer is in good standing with the law enforcement agency from which the retired police officer is retired; and

b. A letter from the chief of the retired officer's agency verifying that the retired officer is in good standing with the law enforcement agency from which the retired police officer is retired; or

(2) If that retired police officer applies for the license more than 90 days, but within 20 years, of the date of that retired police officer's retirement, the retired police officer shall pay a fee of \$65 to the Prothonotary in the county where the retired police officer resides and present to the Prothonotary certification forms from the Attorney General's office, or in a form prescribed by the Attorney General's office, that:

a. The retired officer is in good standing with the law enforcement agency from which that retired police officer is retired;

b. The retired officer's criminal record has been reviewed and that the retired police officer has not been convicted of any crime greater than a violation since the date of the retired police officer's retirement; and

c. The retired officer has not been committed to a psychiatric facility since the date of the retired police officer's retirement.

(i) Notwithstanding anything contained in this section to the contrary, an adult person who, as a successful petitioner seeking relief pursuant to Part D, subchapter III of Chapter 9 of Title 10, has caused a protection from abuse order containing a firearms prohibition authorized by § 1045(a)(8) of Title 10 or a firearms prohibition pursuant to § 1448(a)(6) of this title to be entered against a person for alleged acts of domestic violence as defined in § 1041 of Title 10, shall be deemed to have shown the necessity for a license to carry a deadly weapon concealed for protection of themselves pursuant to this section. In such cases, all other requirements of subsection (a) of this section must still be satisfied.

(j) Notwithstanding any other provision of this Code to the contrary, the State of Delaware shall give full faith and credit and shall otherwise honor and give full force and effect to all licenses/permits issued to the citizens of other states where those issuing states also give full faith and credit and otherwise honor the licenses issued by the State of Delaware pursuant to this section and where those licenses/permits are issued by authority pursuant to state law and which afford a reasonably similar degree of protection as is provided by licensure in Delaware. For the purpose of this subsection "reasonably similar" does not preclude alternative or differing provisions nor a different source and process by which

112 eligibility is determined. Notwithstanding the forgoing, if there is evidence of a pattern of issuing licenses/permits to
113 convicted felons in another state, the Attorney General shall not include that state under the exception contained in this
114 subsection even if the law of that state is determined to be "reasonably similar." The Attorney General shall communicate
115 the provisions of this section to the Attorneys General of the several states and shall determine those states whose
116 licensing/permit systems qualify for recognition under this section. The Attorney General shall publish on January 15 of
117 each year a list of all States which have qualified for reciprocity under this subsection. Such list shall be valid for one year
118 and any removal of a State from the list shall not occur without 1 year's notice of such impending removal. Such list shall
119 be made readily available to all State and local law enforcement agencies within the State as well as to all then current
120 holders of licenses issued by the State of Delaware pursuant to this section.

121 ~~(k) The Attorney General shall have the discretion to issue, on a limited basis, a temporary license to carry~~
122 ~~concealed a deadly weapon to any individual who is not a resident of this State and whom the Attorney General determines~~
123 ~~has a short-term need to carry such a weapon within this State in conjunction with that individual's employment for the~~
124 ~~protection of person or property. Said temporary license shall automatically expire 30 days from the date of issuance and~~
125 ~~shall not be subject to renewal, and must be carried at all times while within the State. However, nothing contained herein~~
126 ~~shall prohibit the issuance of a second or subsequent temporary license. The Attorney General shall have the authority to~~
127 ~~promulgate and enforce such regulations as may be necessary for the administration of such temporary licenses. No~~
128 ~~individual shall be issued more than 3 temporary licenses.~~

129 ~~(l) All applications for a temporary license to carry a concealed deadly weapon made pursuant to subsection (k) of~~
130 ~~this section shall be in writing and shall bear a notice stating that false statements therein are punishable by law.~~

131 ~~(m) Notwithstanding any other law or regulation to the contrary, any license issued pursuant to this section shall be~~
132 ~~void, and is automatically repealed by operation of law, if the licensee is or becomes prohibited from owning, possessing or~~
133 ~~controlling a deadly weapon as specified in § 1448 of this title.~~

134 ~~(a) – (m) [Repealed.]~~

135 (n) A person may carry a deadly weapon on or about their person for defense of self, family, home, or State if all
136 of the following applies:

137 (1) The person is 21 years of age or older.

138 (2) The person is not prohibited from purchasing, owning, possessing, or controlling a deadly weapon by the
139 laws of this State or the United States.

140 Section 2. Amend § 1442, Title 11 of the Delaware Code by making deletions as shown by strike through and
141 insertions as shown by underline as follows:

§ 1442. Carrying a concealed deadly weapon; class G felony; class D felony.

~~A person is guilty of carrying a concealed deadly weapon when the person carries concealed a deadly weapon upon or about the person without a license to do so as provided by § 1441 of this title.~~

~~Carrying a concealed deadly weapon is a class G felony, unless the deadly weapon is a firearm, in which case it is a class D felony.~~

~~It shall be a defense that the defendant has been issued an otherwise valid license to carry a concealed deadly weapon pursuant to terms of § 1441 of this title, where:~~

~~(1) The license has expired;~~

~~(2) The person had applied for renewal of said license within the allotted time frame prior to expiration of the license; and~~

~~(3) The offense is alleged to have occurred while the application for renewal of said license was pending before the court.~~

(a) A person is guilty of carrying a concealed deadly weapon when the person carries concealed a deadly weapon on or about their person without authorization to do so under § 1441 of this title.

(b)(1) Except as provided under paragraph (b)(2) of this section, carrying a concealed deadly weapon is a class G felony.

(2) If the deadly weapon is a firearm, carrying a concealed deadly weapon is a class D felony.

Section 3. Amend § 1448A, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448A. Criminal history record checks for sales of firearms.

(e) The provisions of this section ~~shall not apply to:~~ do not apply to any of the following:

(1) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before ~~1898;~~ 1898.

(2) Any replica of any firearm described in paragraph (e)(1) of this section if ~~such replica:~~ one or more of the following applies:

a. ~~Is~~ The replica is not designed or redesigned to use rimfire or conventional centerfire fixed ~~ammunition;~~ or ammunition.

b. ~~Uses~~ The replica uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial ~~trade;~~ trade.

(3) Any shotgun, which is defined as a firearm designed or intended to be fired from the shoulder and designed or made to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the ~~trigger;~~trigger.

(4) The return, by a licensed pawnbroker, of a firearm to the person from whom it was ~~received;~~received.

(5) Transactions in which the potential buyer or transferee ~~holds a valid concealed deadly weapons license pursuant to §§ 1441, 1441A and 1441B of this title; and is a qualified law-enforcement officer, as defined in § 1441A of this title, or a qualified retired law-enforcement officer, as defined in § 1441B of this title.~~

(6) Transactions involving a “law-enforcement officer” as defined by § 222 of this title.

Section 4. Amend § 1448B, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448B. Criminal history record checks for sales of firearms — Unlicensed persons.

(c) The provisions of this section ~~shall not apply to:~~ do not apply to any of the following:

(1) Transactions in which the potential purchaser or transferee is a parent, mother-in-law, father-in-law, stepparent, legal guardian, grandparent, child, daughter-in-law, son-in-law, stepchild, grandchild, sibling, sister-in-law, brother-in-law, spouse, or civil union partner of the seller or ~~transferor;~~transferor.

(2) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before ~~1898;~~1898.

(3) Any replica of any firearm described in paragraph (c)(2) of this section if ~~such replica;~~ one or more of the following applies:

a. ~~Is~~ The replica is not designed or redesigned to use rimfire or conventional centerfire fixed ~~ammunition;~~ or ammunition.

b. ~~Uses~~ The replica uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial ~~trade;~~ trade.

(4) Any muzzle-loading firearm designed for hunting or competitive shooting not requiring a criminal background check pursuant to federal ~~law;~~law.

(5) Transactions in which the potential purchaser or transferee is a qualified law-enforcement officer, as defined in § 1441A of this title, or a qualified retired law-enforcement officer, as defined in § 1441B of this ~~title;~~title.

(6) ~~Transactions in which the potential purchaser or transferee holds a current and valid concealed carry permit issued by the Superior Court of the State of Delaware pursuant to § 1441 of this title.~~[Repealed.]

(7) Transactions in which the prospective buyer or transferee is a bona fide member or adherent of an organized church or religious group, the tenets of which prohibit photographic identification; provided, however, that no unlicensed person shall sell or transfer any firearm to any such person without having conducted a criminal history background check in accordance with subsection (f) of this section hereunder to determine whether the sale or transfer would be in violation of federal or state ~~law~~law.

(8) Transactions involving the sale or transfer of a curio or relic to a licensed collector, as such terms are defined in 27 C.F.R. 478.11, as the same may be amended from time to ~~time~~time.

(9) Transactions involving the sale or transfer of a firearm to an authorized representative of the State or any subdivision thereof as part of an authorized voluntary gun buyback program.

Section 5. Amend § 4376, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4376. Disclosure of expunged records.

(a)(1) Except for disclosure to law-enforcement officers acting in the lawful performance of their duties in investigating criminal activity or for the purpose of an employment application as an employee of a law-enforcement agency, it is unlawful for any person having or acquiring access to an expunged court or law-enforcement agency record to open or review it or to disclose to another person any information from it without an order from the court which ordered the record expunged.

(2) In addition to such other lawful purposes as may be prescribed by law or otherwise, criminal justice agencies shall have access to the following:

a. Records of expunged probations before judgment and past participation in the First Offenders Controlled Substance Diversion Program, First Offenders Domestic Violence Diversion Program, or a court-supervised drug diversion program for the purpose of determining whether a person is eligible for a probation before judgment, under § 4218 of this title; participation in the First Offenders Controlled Substance Diversion Program, under § 4767 of Title 16; participation in the First Offenders Domestic Violence Diversion Program, under § 1024 of Title 10; or participation in a court-supervised drug diversion program.

b. ~~For criminal justice agencies involved in the licensing of individuals to carry a concealed deadly weapon under § 1441 of this title, records of expunged cases for the purpose of determining whether an individual meets the requirements to be granted a license to carry a concealed deadly weapon.~~ [Repealed.]

Section 6. Amend § 330, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 330. General powers and duties.

(d) Notwithstanding subsection (c) of this section, county governments may adopt ordinances regulating the possession of firearms, ammunition, components of firearms, or explosives in police stations and county buildings which contain all of the provisions contained in this subsection. Any ordinance adopted by a county government regulating possession of firearms, ammunition, components of firearms, or explosives in police stations or county buildings shall require that all areas where possession is restricted are clearly identified by a conspicuous sign posted at each entrance to the restricted areas. The sign may also specify that persons in violation may be denied entrance to the building or be ordered to leave the building. Any ordinance adopted by county governments relating to possession in police stations or county buildings shall also state that any person who immediately foregoes entry or immediately exits such building due to the possession of a firearm, ammunition, components of firearms, or explosives shall not be guilty of violating the ordinance. County governments may establish penalties for any intentional violation of such ordinance as deemed necessary to protect public safety. An ordinance adopted by the county government shall not prevent the following in county buildings or police stations:

(1) Possession of firearms, components of firearms, and ammunition or explosives by law-enforcement officers;

(2) Law-enforcement agencies receiving shipments or delivery of firearms, components of firearms, ammunition or explosives;

(3) Law-enforcement agencies conducting firearms safety and training programs;

(4) Law-enforcement agencies from conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;

(5) Compliance by persons subject to protection from abuse court orders;

(6) Carrying firearms and ammunition by persons who hold a valid license pursuant to ~~either § 1441 or § 1441A~~ of Title 11 so long as the firearm remains concealed except for inadvertent display or for self-defense or defense of others;

(7) Officers or employees of the United States duly authorized to carry a concealed firearm;

(8) Agents, messengers and other employees of common carriers, banks, or business firms, whose duties require them to protect moneys, valuables and other property and are engaged in the lawful execution of such duties.

Section 7. Amend § 150., Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 150. Time for appeal from Superior Court in concealed carry permit actions.

Any applicant or licensee may, at any time within 30 days from the date of any adverse decision or action of the Superior Court made pursuant to its administration of the provisions of § 1441 of Title 11, appeal that decision or action to the Supreme Court. [Repealed.]

Section 8. Amend § 111, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 111. Limitation on firearm regulations.

(b) Subsection (a) of this section notwithstanding, municipal governments may adopt ordinances regulating the possession of firearms, ammunition, components of firearms, or explosives in police stations and municipal buildings which contain all of the provisions contained in this subsection. Any ordinance adopted by a municipal government regulating possession of firearms, ammunition, components of firearms, or explosives in police stations or municipal buildings shall require that all areas where possession is restricted are clearly identified by a conspicuous sign posted at each entrance to the restricted areas. The sign may also specify that persons in violation may be denied entrance to the building or be ordered to leave the building. Any ordinance adopted by municipal governments relating to possession in police stations or municipal buildings shall also state that any person who immediately foregoes entry or immediately exits such building due to the possession of a firearm, ammunition, components of firearms, or explosives shall not be guilty of violating the ordinance. Municipal governments may establish penalties for any intentional violation of such ordinance as deemed necessary to protect public safety. An ordinance adopted by the municipal government shall not prevent the following in municipal buildings or police stations:

(1) Possession of firearms, components of firearms, and ammunition or explosives by law-enforcement officers;

(2) Law-enforcement agencies receiving shipments or delivery of firearms, components of firearms, ammunition or explosives;

(3) Law-enforcement agencies conducting firearms safety and training programs;

(4) Law-enforcement agencies from conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;

(5) Compliance by persons subject to protection from abuse court orders;

(6) Carrying firearms and ammunition by persons who hold a valid license pursuant to either § 1441 or § 1441A of Title 11 so long as the firearm remains concealed except for inadvertent display or for self-defense or defense of others;

(7) Officers or employees of the United States duly authorized to carry a concealed firearm; or

292 (8) Agents, messengers and other employees of common carriers, banks, or business firms, whose duties
293 require them to protect moneys, valuables and other property and are engaged in the lawful execution of such duties.

SYNOPSIS

Section 20 of Article I of the Delaware Constitution guarantees that “a person has the right to keep and bear arms for defense of self, family home and state...”. Both the United States Supreme Court and the Delaware Supreme Court have recognized the right of self-defense to be fundamental and to have pre-dated the formation of our country.

As of 2020, there were over 18,600,000 Americans with concealed carry permits and 24,400,000 adults living in states where no permit is required to carry a concealed firearm, which is a 420% increase in the number of adults living in states allowing the public carrying of a firearm since 1988. As of the beginning of 2021, there were 18 states where no permits were required to carry a concealed firearm, 25 states that were considered “shall issue” permit states, and 9 states that were considered “may issue” permit states.

This Act brings Delaware law concerning the carrying of concealed deadly weapons into conformity with Section 20 of Article I of the Delaware Constitution by allowing a person who is 21 years of age or older and not a prohibited person under either Delaware law or the laws of the United States to carry a deadly weapon concealed on or about their person for the purpose of defending self, family, home, and State.

In addition, this Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual and conforming amendments in other provisions of the Delaware Code to account for the removal of the requirement to obtain a license to carry a concealed deadly weapon.

Author: Senator Lawson