

USLegal Pamphlet on Carrying Concealed Weapons



INTRODUCTION

Concealed weapons are weapons, especially handguns, which are kept hidden on one's person, or under one's control. Carrying a concealed weapon is illegal in most states unless the party with the weapon is a law enforcement officer or has a permit to carry a concealed weapon.

A weapon is defined under various federal, state, and local laws, which vary by jurisdiction. A weapon is generally something used to injure, defeat, or destroy and may cover many types of instruments, such as a blackjack, slingshot, billy club, metal knuckles, dagger, knife, pistol, revolver, or any other firearm, razor with an unguarded blade, and any metal pipe or bar used or intended to be used in a club, among others.

A number of states allow law-abiding citizens to carry concealed weapons after obtaining the proper permits. These are often referred to as "concealed carry" laws. For example, one state allows a concealed carry permit to be issued to anyone who is at least 21 years old, has lived in the state at least 45 days, the county or adjacent county for 30 days, completes a 12-hour firearms training course, and passes criminal and mental health background checks. Some states restrict concealed carried weapons to a single handgun, whereas others permit multiple handguns or martial arts weapons to be carried. Some states, referred to as "opt-out" states, allow citizens to carry a concealed weapon, while allowing places open to the public to post a notice banning concealed weapons on the premises. Requirements for such signs vary by state. Requirements for permits to carry a concealed weapon vary by state as well, but they usually require a minimum age, completion of a safety

course, and prohibit felons or those found mentally unstable or guilty of certain crimes to obtain a permit, among other requirements.

THE SECOND AMENDMENT

The Second Amendment states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." Whether this was intended to apply to ordinary citizens, rather than specifically for something such as our current National Guard remains a highly debated topic. The original intent and purpose of the Second Amendment was to preserve and guarantee the pre-existing right of individuals to keep and bear arms.

Controversy exists as to the application of the Second Amendment to gun control laws. Gun rights advocates believe that the Second Amendment to the Constitution prohibits any and all gun control. Gun control advocates stress that the Second Amendment only preserves the right to

bear arms that are pre-existing, but is not a grant to bear arms

METHODS OF CONCEALMENT

Measures need to be taken to comply with requirements that a weapon be concealed, such as avoiding printing. Printing means that you can see the firearm through the clothing whether you can physically see through it or your clothing rests on it or gets caught on it so that it is noticeably a concealed weapon. Many firearms manufactures create smaller firearms mainly for the purpose of concealed carry, which are much easier to conceal than a full size handgun. Holsters are also specially manufactured to conceal weapons.

PERMIT LAWS

Currently, 48 out of the 50 U.S. States allow some type of concealed weapon permit which allows a person to carry a concealed weapon. Alaska and Vermont do not issue a permit, you must only meet their requirements. Some of these 48 states are Shall

Issue which means that if you meet their requirements then they will issue you a concealed weapon permit. Other states are May Issue, which means they have discretion over who gets a license even if you meet their requirements. For more details on the permit requirements of individual states and other state-specific data, please see the information at the following links:

http://www.usacarry.com/concealed_carry_permit_information.html

<http://www.nraila.org/GunLaws/Federal/Read.aspx?id=74>

http://www.lcav.org/content/recent_developments_policies.asp#CarryingFirearms

There are many different types of handguns you can use as a concealed weapon once you have your CCW permit or meet your state's requirements.

PERMIT REQUIREMENTS

Some states require concealed carry applicants to participate in a training course, which includes a

classroom at a minimum. Depending on the state, a practical component during which the attendee shoots the weapon for the purpose of demonstrating safety and proficiency, may be required. Such courses are often completed in one to two days. The classroom topics typically include firearm mechanics and terminology, concealed carry legislation and limitations, liability issues, carry methods and safety, home defense, methods for managing and defusing confrontational situations, and practice of gun handling techniques without firing the weapon.

EXCEPTIONS

Even in areas where concealed carrying is permitted, there may be legal restrictions on where a person may carry a concealed weapon, unless state law overrides a business posting that no firearms are allowed. Typical examples include the prohibition of concealed carry in:

-Public or private elementary and secondary schools. Te Federal Gun-Free

School Zones Act of 1990 allows an exception for individuals carrying under a state-issued permit, but carrying concealed weapons in school buildings and/or on school property is banned in some states that allow permits.

-Establishments that sell alcohol. Bans vary by state- some bans apply to all establishments such as retail liquor stores and supermarkets, others ban carrying weapons in businesses that sell alcohol "by the drink" for on-site consumption, such as restaurants, or others may require the entity to meet the state's definition of a "bar" or "nightclub".

-Government buildings
This ban would include sites such as a State Capitol, courthouses, police stations, federal buildings, post offices, etc.

-Public accommodations
This ban would apply to theaters, concert halls, polling places, state fairs, public parks, stadiums and other public event venues.

RECIPROCITY

Attempts have been made in the United States Congress to enact

legislation to compel complete reciprocity for concealed carry licenses. However, opponents of national reciprocity have pointed out that this legislation would effectively require states with higher standards of permit issuance (training courses, safety exams, good cause, etc.) to honor permits from states with more liberal issuance policies, and states that do not currently allow concealed handgun carry would be required to allow it. Most proposed federal reciprocity legislation contains no provisions to prevent someone whose concealed carry permit has been revoked or suspended in one state from obtaining one in another state.

Federal legislation exempts current and retired law enforcement officers from most state concealed weapon statutes. Any qualified law enforcement officer with proper identification can carry a concealed weapon, overruling state concealed weapons laws to the contrary. Under the federal law, a qualified law enforcement officer is

defined as a current employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and who has the statutory powers of arrest. In addition, the law enforcement officer must:

- be authorized by the agency to carry a firearm
 - meet the agency's necessary qualifications to carry a firearm
 - be in good standing with the agency
 - not be under the influence of alcohol or drugs
 - not be prohibited by federal law from carrying a firearm
- The federal legislation defines a qualified retired law enforcement officer as anyone who retired from service with a public agency as a law enforcement officer as defined above and did so in good standing. In addition, the individual must:
- have been a law enforcement officer a total of at least 15 years

- have completed the employer's required probationary period, if retiring due to a service-connected disability
- have a nonforfeitable right to benefits under the retirement plan of a law enforcement agency
- have met, during the most recent 12-month period, at his or her own expense, the same standards for training and qualification to carry a firearm as are required for active law enforcement officers in his or her resident state
- not be under the influence of alcohol or drugs
- not be prohibited by federal law from carrying a firearm

CARRYING WEAPONS IN VEHICLES

The theory allowing weapons to be kept in a vehicle, especially if kept in a ready state, is often referred to as the "traveler assumption". Under the traveler assumption, a law enforcement officer must assume a person carrying a weapon in their car is transporting it, rather than using it as probable cause for an arrest based on an assumption that the person intends to commit a crime. Some

state laws have specified that a person traveling is exempt from the concealed carry statute, but due to ambiguity in the definition of "traveling", room for interpretation by law enforcement officers and the courts has existed.

The traveler assumption is sometimes advanced along with the "Castle Doctrine", which states generally that "a man's home is his castle, and he has the right not to be forced to retreat from it, and to defend it with deadly force if such need arises". The two doctrines may be argued together in cases such as a carjacking, where a person could be justified under such a combination of laws in using deadly force to repel the attack, and, keeping a ready to use firearm in the vehicle in order to do so.

Laws regarding concealed carry of firearms in vehicles vary from state to state, and even within some jurisdictions within a given state, as some state laws do not include pre-emption over local ordinances regarding firearms.