Nos. 122951 & 122952 (cons.)

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois
Plaintiff-Appellant,	)	
v.	)	Nos. 16 CM 2509 & 16 CM 637
RONALD GRECO and ISIAH WEBB,	)	The Honorable Alexander F. McGimpsey,
Defendants-Appellees.	)	Judge Presiding

BRIEF AND APPENDIX OF PLAINTIFF-APPELLANT
PEOPLE OF THE STATE OF ILLINOIS

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ORAL ARGUMENT REQUESTED

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POINTS AND AUTHORITIES

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NATURE OF THE CASE

Defendant Ronald Greco was charged with unlawful use of a weapon (UUW), in violation of 720 ILCS 5/24-1(a)(4), and resisting a peace officer, in violation of 720 ILCS 5/31-1. C13 (Greco).[1] Defendant Isiah Webb was charged with a single count of UUW. C14 (Webb). Each defendant filed a motion to dismiss his UUW charge on the ground that the statute was unconstitutional as applied to tasers and stun guns under the Second Amendment to the United States Constitution. C26 (Greco); C28-29 (Webb). In both cases, the circuit court agreed and held that 720 ILCS 5/24-1(a)(4) was facially unconstitutional with respect to stun guns and tasers because it acted as a complete ban on carriage of those weapons. C43-47 (Greco); C63-67 (Webb). The People appealed directly to this Court. C56-57 (Greco); C77-78 (Webb).

ISSUE PRESENTED

Whether requiring stun guns and tasers to be carried "in accordance with the Firearm Concealed Carry Act" violates the Second Amendment to the United States Constitution.

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[1] "C_ (Defendant's Name)" denotes the identified common law record; "R_ (Defendant's Name)" denotes the identified report of proceedings.

JURISDICTION

With leave of this Court, the People filed late notices of appeal after the Circuit Court declared an Illinois statute unconstitutional. Accordingly, this Court has jurisdiction pursuant to Supreme Court Rules 302, 603, and 612(b).

STATUTORY PROVISIONS INVOLVED

In relevant part, the Criminal Code at the time of defendants' crimes provided as follows:

Section 24-1. Unlawful use of a weapon.

(a) A person commits the offense of unlawful use of a weapon when he knowingly:

* * *

> (4) Carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm, except that this subsection (a)(4) does not apply to or affect transportation of weapons that
>
> * * *
>
> (iv) are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act.

720 ILCS 5/24-1.

Due to their length, the relevant portions of the Firearm Concealed Carry Act are reproduced in the appendix to this brief at pages A_-A_.

STATEMENT OF FACTS

The People charged defendant Greco with, *inter alia*, UUW for having a stun gun in his backpack in a public place (Warrenville Grove Forest Preserve). C13 (Greco). Defendant Webb was charged with UUW for carrying a stun gun in his jacket pocket while in public. C14 (Webb). Each defendant filed a motion to dismiss the UUW charge against him, relying on *Caetano v. Massachusetts*, 136 S. Ct. 1027 (2016) (per curiam), in which the Court held that stun guns and tasers are protected by the Second Amendment and overturned a Massachusetts decision upholding that State's ban on the weapons. C26 (Greco); C40-42 (Webb).

The trial court, in substantively identical orders, granted defendants' motions. C43 (Greco); C63 (Webb). The court recognized that *Caetano* concerned a blanket ban on the right to keep stun guns and tasers, whereas Illinois's law merely regulates the right to bear stun guns and tasers in public, but concluded that *People v. Aguilar*, 2013 IL 112116, and *People v. Mosely*, 2015 IL 115872, dictated extending the protections for stun guns and tasers from ownership in the home to carriage in public. C46 (Greco); C66 (Webb). The court rejected the People's contention that UUW does not ban carriage of stun guns and tasers, but rather regulates carriage by requiring that they be carried in accordance with the Concealed Carry Act (CCA). The court concluded that based on the language and purpose of the CCA, it does not apply to stun guns or tasers, or in the alternative, requiring stun guns and tasers to be carried in accordance with the CCA was

not a reasonable regulation because the CCA has no relevance to stun guns and tasers.

The court's reasoning was as follows (C45-46 (Greco); C65-66 (Webb)):

> By its very terms (not to mention the title of the Act itself), the Firearm Concealed Carry Act applies only to concealed firearms or handguns and specifically excludes stun guns or tasers from its statutory authority:
>
> > "Handgun" does not include: (1) a stun gun or taser; ....
>
> 4300 ILCS 66/5. Indeed, the Act is replete with language referencing only concealed firearms or handguns. *See* 720 ILCS 66/5 and 66/10. Without more, the above quoted language of the Firearm Concealed Carry Act appears to compel the conclusion that it is limited only to those who possess firearms, and has no applicability to those who possess stun guns or tasers. But there is more than just the express provisions of the Act.
>
> The very nature and purpose of a license under the Act indicates that it can only logically apply to firearms and not to stun guns or tasers. In order to qualify for a license under the Act, the applicant must complete, among others things, a firearm training course that is focused solely on firearm instruction, safety, operation and marksmanship. 430 ILCS 66/75(b)(c)(d) and (e). Nothing in the required training course is remotely related to the use or operation of a stun gun or taser. *Id.* Moreover, to require an applicant who seeks only to carry a stun gun or taser to complete a course in firearm training without offering any relevant stun gun training seems to present an absurd scenario. This can hardly be the intent of the legislature. To find such an intent would not only require a tortured and unreasonable construction of the language of the Act but also result in illogical and nonsensical requirements in compliance with the Act.
>
> Based on the language and substantive purpose of the Act, this Court finds that the Firearm Concealed Carry Act does not apply to stun guns or tasers and therefore a license under the Act would not operate as a defense to any individual possessing a stun gun outside their land, abode, or business (or invitees thereon). Even were this Court to find the Firearm Concealed Carry Act technically applicable to stun guns or tasers, for the same reasons stated above, this court could not find the requirements of the Act to be meaningful regulation under the Second Amendment simply because the training required to qualify for the concealed carry exemption has no relevance whatsoever to the use of stun guns or tasers. *See Mosley, id.*

ARGUMENT

The circuit court's judgment was wrong for two reasons. First, while the language of the CCA demonstrates that the legislature did not intend that Act to apply to stun guns and tasers, the plain language of the UUW statute demonstrates that General Assembly nonetheless intended for anyone carrying a stun gun or taser to have a concealed carry license (CCL) under the CCA. If someone possesses a CCL, carries his taser or stun gun in a completely or partially concealed manner, and avoids the restricted locations in the CCA, then he is carrying the weapon in accordance with the CCA, and therefore legally. In other words, the UUW statute regulates the carriage of stun guns and tasers, as opposed to banning it.

Second, this regulation is a reasonable one under the Second Amendment. While the circuit court is correct that the firearms training portion of Illinois's licensing system appears to be irrelevant to the carriage of stun guns and tasers, the rest of the system *is* relevant because stun guns and tasers are highly dangerous, sometimes lethal weapons. As with other firearms — tasers and stun guns are firearms according to the UUW statute — it is reasonable for the State to have an opportunity to review an applicant's criminal history and mental well-being, as well as whether he is a danger to himself or others, when he is seeking to carry a dangerous weapon in public. Because requiring a CCL to legally carry a stun gun or taser imposes a relatively modest burden on one's Second Amendment rights, and that burden is closely tied to the government's interest in ensuring the safe, responsible carriage of a dangerous firearm, the UUW provisions

related to stun guns and tasers survive this Court's means-ends analysis under the Second Amendment.

I. Standard of Review

Issues involving the constitutionality of a statute are reviewed *de novo*. *People v. Sharp*e, 216 Ill. 2d 481, 486-87 (2005). "A court must construe a statute so as to affirm its constitutionality, if reasonably possible." *In re Lakisha M.*, 227 Ill. 2d 259, 263 (2008); *see also People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 290-91 (2003); *People v. Greco*, 204 Ill. 2d 400, 406 (2003); *People v. Malchow*, 193 Ill. 2d 413, 418 (2000). If a statute's "construction is doubtful, the doubt will be resolved in favor of the validity of the law attacked." *People v. Fisher*, 184 Ill. 2d 441, 448 (1998) (internal quotations omitted).

II. Requiring Stun Guns and Tasers to be Carried in Accordance with the Concealed Carry Act Does Not Violate the Second Amendment.

The Second Amendment confers two related individual rights: the right to keep arms and the right to bear arms. *See Dist. of Columbia v. Heller*, 554 U.S 570, 582-85 (2008); *McDonald v. Chicago*, 561 U.S. 742, 791 (2010) (applying Second Amendment to states). The right to keep arms is merely the right to possess them, while the right to bear arms is the right to carry them in public for self-defense. *Heller*, 554 U.S. at 582-83; *Aguilar*, 2013 IL 112116, ¶¶ 19-20 (quoting *Moore v. Madigan*, 702 F.3d 933, 942 (7th Cir. 2012)).

A two-step framework governs this Court's analysis of a Second Amendment challenge. *In re Jordan G.*, 2015 IL 116834, ¶ 22. First, this Court must make a

threshold determination whether the regulated activity is protected by the Second Amendment. *Id.*; *see also People v. Chairez*, 2018 IL 121417, ¶¶ 23-30. Here, the regulated conduct — carrying a stun gun or taser in public — clearly falls within the scope of the Second Amendment. *Caetano*, 136 S. Ct. at 1027-28 (Second Amendment applies to stun guns and tasers). And this Court has held that the Second Amendment applies to the right to carry weapons for self-defense outside the home, as well as the right to possess weapons in the home. *Aguilar*, 2013 IL 112116, ¶ 20. Therefore, carriage of a stun gun or taser outside the home is protected by the Second Amendment.

The second step in the Court's inquiry is to examine the restriction the government has chosen to enact as compared to the public benefit it seeks to achieve. *Chairez*, 2018 IL 121417, ¶ 35 (citing *Ezell v. City of Chicago* (*Ezell I*), 651 F.3d 684, 703 (7th Cir. 2011)). Under this second step, "a severe burden on the core Second Amendment right of armed self-defense will require an extremely strong public-interest justification and a close fit between the government's means and its end," but, "laws restricting activity lying closer to the margins of the Second Amendment right, laws that merely regulate rather than restrict, and modest burdens on the right may be more easily justified." *Chairez*, 2018 IL 121417, ¶ 35 (quoting *Ezell I*, 651 F.3d at 708). The rigor of this Court's review "depends on 'how close the law comes to the core of the Second Amendment right and the severity of the law's burden on the right.'" *Chairez*, 2018 IL 121417, ¶ 45 (quoting *Ezell v. City of Chicago* (*Ezell II*), 846 F.3d 888, 892 (7th Cir. 2017)) (quoting *Ezell I*, 651 F.3d at 703))).

"The core protection of the second amendment is the 'right of law-abiding, responsible citizens to use arms in defense of hearth and home.'" *People v. Fields*, 2014 IL App (1st) 130209, ¶ 57 (quoting *Heller*, 554 U.S. at 635). "Although the second amendment guarantee has *some* application in the very different context of possession of firearms in public, 'outside the home, firearms rights have always been more limited, because public safety interests often outweigh individual interests in self-defense.'" *Fields*, 2014 IL App (1st) 130209, ¶ 57 (quoting *United States v. Masciandaro*, 638 F.3d 458, 470 (4th Cir. 2011) (emphasis original)).

Contrary to the lower court's conclusion, the challenged statute is not a complete ban on carrying stun guns and tasers in public. Rather, it is a regulation requiring that these weapons be carried in accordance with the CCA. The interpretation of the UUW statute is subject to *de novo* review. *See People v. Hardman*, 2017 IL 121453, ¶ 19. The "cardinal rule" of statutory interpretation is to give effect to the General Assembly's intent. *Id.* The best indicator of that intent is usually the statutory language given its plain and ordinary meaning. *Id.*

Here, the plain language of the UUW statute provides that it "does not apply to" stun guns or tasers that "are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license." 720 ILCS 5/24-1(a)(4)(iv). The lower court held that the CCA provides no defense for someone carrying a stun gun or taser in public because the CCA excludes stun guns and tasers from its definition of firearms. *See* 430 ILCS 66/5. But the UUW statute clearly

includes stun guns and tasers in *its* definition of firearms when it states that it applies to "any pistol, revolver, stun gun or taser or other firearm." 720 ILCS 5/24-1(a)(4). The *ejusdem generis* canon holds that when a statutory provision includes "other" things immediately following a specifically enumerated list, the "other" things are of the same character as those in the list. *See People v. Davis*, 199 Ill. 2d 130, 138 (2002). So, where the UUW statute lists pistols, revolvers, stun guns and tasers immediately preceding "other firearm," it means that the enumerated items, including stun guns and tasers, are also firearms. While the CCA may not have contemplated allowing the licensed carriage of stun guns and tasers, it is clear from the plain language of the UUW statute that the General Assembly intended to allow their carriage in accordance with the CCA when enacting the statutory provision at issue here. One who carries a stun gun or taser as he would legally carry a handgun — with a valid CCA, fully or partially concealed, not in the prohibited areas listed in section 65 of the CCA — is not guilty of UUW. Therefore, the UUW statute does not ban carriage of stun guns or tasers, but merely regulates their carriage in the same way as "other firearms." *See Krautsack v. Anderson*, 223 Ill. 2d 541, 553 (2006) (courts must give effect to entire statutory scheme).

The State acknowledges the tension between the language of the CCA excluding stun guns and tasers and the language of the UUW statute including them and allowing them to be carried in accordance with the CCA. The Court must, if possible, construe the CCA and UUW statute in harmony. *See People v. Villa*, 2011 IL 110777, ¶ 35. Here it is not only possible to harmonize the language of the two statutes, but it can reasonably be

done in such a way as to affirm the constitutionality of the UUW statute. *See People v. Johnson*, 225 Ill. 2d 573, 584 (2007) (this Court will affirm statute's constitutionality if it is reasonably possible to give statute such an interpretation). The exclusion of stun guns and tasers from the CCA certainly means that a licensee could not be prosecuted under sections 65 or 70 of the CCA, which ban carriage in prohibited areas and while intoxicated. 430 ILCS 66/65; 430 ILCS 66/70. But while the CCA instructs on the rules governing the legal carriage of handguns, the UUW statute states that one can also legally carry a stun gun or taser as long as he abides by those same rules.

And requiring stun guns and tasers to be carried in accordance with the CCA just like any other firearm does not violate the Second Amendment under this Court's sliding means-end analysis. The CCA allows license holders to carry fully or partially concealed firearms in public, so long as they stay out of certain prohibited areas. 430 ILCS 66/10(c); 430 ILCS 66/65. To obtain a CCL, an applicant must submit an application, 430 ILCS 66/30, and pay the requisite fee; as long as the applicant is not disqualified for one of the listed reasons, the CCL "shall issue." 430 ILCS 66/10(a). An applicant can be disqualified if he: lacks a valid firearm owner's ID (FOID) card, has been convicted of a violent misdemeanor within the last five years, has multiple driving under the influence violations within the last five years, is subject to any pending court action that would make him ineligible for a FOID card or CCL, or has been ordered by a court to attend substance abuse treatment within the last five years. 430 ILCS 66/25. Additionally, any law enforcement agency may object to an application if it deems the applicant a danger to

himself or others. 430 ILCS 66/15. Such an objection would be considered by the CCL Review Board. 430 ILCS 66/20. Finally, the applicant must complete firearms training. 430 ILCS 66/25; 430 ILCS 66/75.

This regulatory scheme fits comfortably within the confines of the Second Amendment. *See Berron v. Ill. Concealed Carry Licensing Review Bd.*, 825 F.3d 843, 847 (7th Cir. 2016) (finding Illinois's CCL scheme constitutional). Indeed, many states have much more restrictive laws regulating the public carriage of firearms. In California, for example, whether to issue a concealed carry permit is committed to the discretion of the county sheriff (in other words, a permit "may" issue to a qualified applicant, as opposed to Illinois where it "shall" issue), and the applicant must show "good cause" for issuance of the permit. West's Ann. Cal. Penal Code § 26150(a); *see Peruta v. County of San Diego*, 824 F.3d 919 (9th Cir. 2016) (en banc) (upholding county regulation allowing concealed public carriage of firearms on demonstration of good cause).

The lower court held that even if the licensing system could be constitutionally applied to handguns, it cannot be constitutionally applied to tasers and stun guns "simply because the training required to qualify for the concealed carry exemption has no relevance whatsoever to the use of stun guns or tasers." C46 (Greco); C66 (Webb). But firearm training is just one of the justifications for the regulatory system; the other prerequisites for a CCL readily align with the State's satefy-related interests in regulating public carriage of stun guns and tasers. "Illinois is entitled to check an applicant's record of conviction, and any concerns about his mental health, close to the date the applicant

proposes to go armed on the streets." *Berron*, 825 F.3d at 847. Moreover, the circuit court was wrong to conclude that firearm training has no relevance to tasers and stun guns. The training course must include a minimum of two hours on "All Applicable State and Federal Laws Relating to the Ownership, Storage, Carry and Transportation of a Firearm and appropriate and lawful interaction with law enforcement while transporting or carrying a concealed firearm," 20 Ill. Adm. Code 1231.40, which includes "relevant portions of the Criminal Code of 2012, including but not limited to, use of force in defense of a person [720 ILCS 5/7-1], use of force in defense of dwelling [720 ILCS 5/7-2], use of force in defense of other property [720 ILCS 5/7-3], and unlawful use of a weapon [720 ILCS 5/Art. 24]," 20 Ill. Adm. Code 1231.10. Knowing the law governing the use of a weapon for self-defense, or how to interact safely with law enforcement while carrying a weapon, is necessary whether the weapon in question is a handgun or a taser.

Nor should this Court assume that because tasers and stun guns are typically non-lethal, the State has a dramatically reduced interest in regulating their public carriage. Notably, the General Assembly has explicitly included tasers and stun guns in the FOID Card Act. 430 ILCS 65/2(a)(1) ("No person may acquire or possess any . . . stun gun, or taser within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name by the Department of State Police under the provisions of this Act."). When introducing the bill that added tasers and stun guns to the FOID Card Act, Senator Jeff Schoenberg testified:

> As we've seen increasingly, Taser International is aggressively seeking to market tasers to — to civilians. And it's my view, and this is a view shared by the law enforcement community — by the State Police and others — that if we — since these tasers can administer lethal force — and at a time when police departments across the country and across Illinois are re-evaluating whether or not they should be using them — that certainly at the very minimum, we ought to require the owners to have a FOID Card and to undergo the same kind of background check that anybody who would be purchasing a — a rifle or shotgun, a twenty-four-hour period, would be having.

IL S. Tran. 2005 Reg. Sess. No. 29. Senator Schoenberg was correct: tasers can administer lethal force. Not long before, a Pennsylvania man died when police shot him with a taser, one of fifty such cases between 2001 and 2004. Alex Berenson, *As Police Use of Tasers Soars, Questions Over Safety Emerge*, New York Times (July 18, 2004), https://www.nytimes.com/2004/07/18/us/as-police-use-of-tasers-soars-questions-over-safety-emerge.html (last visited July 23, 2018). More recently, Reuters identified more than 1000 incidents in which persons died after being stunned with a taser by police. Tim Reid, Peter Eisler, Jason Szep, M.B. Pell, *Special Report: As Taser warns of more risks, cities bear a burden in court*, Reuters (August 23, 2017), https://www.reuters.com/article/us-usa-taser-legal-specialreport/special-report-as-taser-warns-of-more-risks-cities-bear-a-burden-in-court-idUSKCN1B315U (last visited July 23, 2018). Indeed, shortly after Illinois added FOID card requirements for tasers and stun guns, Taser International stopped describing its product as non-lethal and instead described it as "less-lethal." *Id.* The company also issued more warnings to police: "In addition to cautioning police about chest shots and cardiac dangers, the company began warning of the risks of using its weapons on people who are old, young, frail, agitated, exhausted or suffering from an

array of health conditions." *Id.* The potentially lethal consequences of shooting someone with a taser are exacerbated by the fact that many assume that "less lethal than a handgun" means "not dangerous at all," resulting in misuse and overuse of the weapon. Following one fatal shooting, the officer, a trained Taser instructor, said that he "did not in [his] wildest dreams expect this kid to die." *Id.* When trained police are struggling with the safe use of tasers and stun guns, it is reasonable under the Second Amendment for the State to apply the relatively modest restrictions of the CCA to civilians who wish to carry them in public.

CONCLUSION

This Court should reverse the judgments of the circuit court.

July 27, 2018

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is fourteen pages.

/s/ Garson S. Fischer
GARSON S. FISCHER
Assistant Attorney General

APPENDIX

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APPEAL TO THE ILLINOIS SUPREME COURT
FROM THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS
Plaintiff/Petitioner

Reviewing Court No: 122951
Circuit Court No: 2016CM002509
Trial Judge: ALEXANDER F MCGIMPSEY

v.

RONALD GRECO
Defendant/Respondent

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APPEAL TO THE ILLINOIS SUPREME COURT
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PEOPLE OF THE STATE OF ILLINOIS
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Reviewing Court No: 122951
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v.

RONALD GRECO
Defendant/Respondent

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APPEAL TO THE ILLINOIS SUPREME COURT
FROM THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS
Plaintiff/Petitioner

Reviewing Court No: 122952
Circuit Court No: 2016CM000637
Trial Judge: ALEXANDER F MCGIMPSEY

v.

ISIAH WEBB
Defendant/Respondent

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APPEAL TO THE ILLINOIS SUPREME COURT
FROM THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS
Plaintiff/Petitioner

Reviewing Court No: 122952
Circuit Court No: 2016CM000637
Trial Judge: ALEXANDER F MCGIMPSEY

v.

ISIAH WEBB
Defendant/Respondent

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DIRECT APPEAL TO THE SUPREME COURT OF ILLINOIS
FROM THE CIRCUIT COURT
OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 16 CM 2509
	)	
RONALD GRECO,	)	
	)	
Defendant.	)	

NOTICE OF APPEAL

An appeal is taken from the order or judgment described below.

(1) Court to which appeal is taken: Illinois Supreme Court

(2) Name and address of appellant's attorney on appeal.
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(3) Date of judgment or order: October 27, 2017

(4) If appeal is not from a conviction, nature of order appealed from: Opinion declaring 720 ILCS 5/24-1(a)(4) as applied to stun guns and tasers unconstitutional.

122951

(5) A copy of the court's opinion is appended to the notice of appeal.

January 19, 2018

Respectfully submitted,

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122951

VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Garson S. Fischer
Garson S. Fischer
Assistant Attorney General

122951

CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. The undersigned certifies that on January 19, 2018, the foregoing **Notice of Appeal** was filed with the Clerk of the Eighteenth Judicial Circuit Court, DuPage County, using the court's electronic filing system, and copies were served upon the following by email:

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DIRECT APPEAL TO THE SUPREME COURT OF ILLINOIS
FROM THE CIRCUIT COURT
OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, v. ISIAH WEBB, Defendant-Appellee.	)))))))))	No. 16 CM 637

NOTICE OF APPEAL

An appeal is taken from the order or judgment described below.

(1) Court to which appeal is taken: Illinois Supreme Court

(2) Name and address of appellant's attorney on appeal.
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STATE OF ILLINOIS **COUNTY OF DU PAGE**
IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

People of the State of Illinois)
Plaintiff,)
)
v.) Case No. 16 CM 2509
)
Ronald Greco)
Defendant.)

OPINION

Defendant is charged with the misdemeanor offense of Unlawful Use of Weapons (UUW) in violation of 720 ILCS 5/24-1(a)(4) which prohibits in relevant part the carrying or possession "in any vehicle or concealed on or about his person.....any pistol, revolver, stun gun or taser or other firearm....[unless]" (iv) "carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act...." Defendant has filed a Motion to Dismiss the charge on the grounds that the portion of 720 ILCS 5/24-1(a)(4) relating to the ban on stun guns or tasers is an unconstitutional infringement of the Second Amendment right to bear arms in the United States Constitution.

At the outset, this Court acknowledges the well settled principle of constitutional analysis that statutes carry a presumption of constitutionality which may only be overcome if the party challenging the statute satisfies the burden to prove the statute is unconstitutional. People v. Aguilar, 2013 IL 112116, 11 15 (2013). This Court also confirms its duty to interpret a statute in a manner consistent with a constitutional construction if such construction can reasonably be concluded. Id. With these principles in mind, the Court examines the statute in question.

Specifically, defendant relies primarily on the recent United States Supreme Court decision in Caetano v. Massachusetts, 136 S. Ct. 1027 (2016) in which the Court held in a *per curiam* opinion that the Second Amendment right to bear arms applies to stun guns which the Court found to fall within the category of "bearable arms" protected by the Second Amendment. In Caetano, the Court rejected the three-part rationale of the Massachusetts Supreme Court as inconsistent with established precedent interpreting the Second Amendment. First, the Court rejected the notion that because stun guns were not of common use at the time of the Second

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Amendment, they did not warrant protection under the Amendment. Second, the Court found the determination that stun guns were dangerous *per se* and unusual was irrelevant to the Second Amendment analyses. Finally, the Court refused to limit the scope of the Second Amendment to only those weapons "useful in warfare" or "readily adaptable to use in the military." Id. at 1027-1028.

The State initially attempts to distinguish Caetano on the grounds that the Massachusetts law relating to stun guns was a complete and "blanket ban" on the possession of stun guns in contrast to Illinois where citizens may possess stun guns while on their land, place of abode, business, or as invitees related thereto. Notwithstanding this distinction, the State's argument unduly restricts the holding in Caetano and misses the mark on its substantive effect on the analysis. Caetano was not decided on the basis of Massachusetts' blanket ban on stun guns but rather on the grounds that stun guns are bearable arms directly within the ambit of the Second Amendment. Just because Massachusetts' outright ban on stun guns was found impermissible does not mean that Illinois' less onerous restrictions on stun guns are per se permissible. The significance of Caetano lies in its clear directive that stun guns, like firearms, are bearable arms and are therefore entitled to the full protection of the Second Amendment.

Despite the fact that stun guns clearly fall within the Second Amendment, however, the question remains whether 720 ILCS 5/24-1(a)(4) constitutes a violation of the protections afforded stun guns as bearable arms or is instead a meaningful regulation of stun guns permissible under the Second Amendment. See People v. Mosley, 2015 IL 115872, ¶36 (2015). In relation to this issue, the State argues that Section 24-1(a) (4), as amended to include the Firearm Concealed Carry Act exemption, comports with Second Amendment jurisprudence as a meaningful regulation of stun guns. Specifically, the State contends that the Firearm Concealed Carry Act, 430 ILCS 66 *et seq*. provides an exception to Section 24-1 (a)(4) which applies equally to stun guns as to firearms. This exemption, the State argues, strikes the proper balance between protecting the right of citizens to bear arms (including stun guns) while also permitting the State to meaningfully regulate these arms. On its face, the State's argument has some technical appeal insofar as the language of Section 24-1(a) (4) provides that compliance with the Firearm Concealed Carry Act is a defense or exemption to the criminal offense of possession outside the person's land, home or business. A more careful review of the specific language of

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the exemption in Section 24-1 (a)(4) and of the express provisions of the Firearm Concealed Cary Act, however, substantially undermines the State's position.

The relevant statutory exemption in Section 24-1(a) (4) (iv) applies only to "weapons that meet one of the following conditions:

> (iv) are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act; .....(emphasis supplied).

The possession, according to the express terms of the exemption, must therefore be in compliance with and under the valid authority of the Firearm Concealed Carry Act to qualify for the exemption. By its very terms (not to mention the title of the Act itself), the Firearm Concealed Carry Act applies only to concealed firearms or handguns and specifically excludes stun guns or tasers from its statutory authority:

> "Handgun" does not include:
> (1) a stun gun or taser;....

4300 ILCS 66/5. Indeed, the Act is replete with language referencing only concealed firearms or handguns. See 720 ILCS 66/5 and 66/10. Without more, the above quoted language of the Firearm Concealed Carry Act appears to compel the conclusion that it is limited only to those who possess firearms, and has no applicability to those who possess stun guns or tasers. But there is more than just the express provisions of the Act.

The very nature and purpose of a license under the Act indicates that it can only logically apply to firearms and not to stun guns or tasers. In order to qualify for a license under the Act, the applicant must complete, among others things, a firearm training course that is focused solely on firearm instruction, safety, operation and marksmanship. 430 ILCS 66/75(b)(c)(d) and (e). Nothing in the required training course is remotely related to the use or operation of a stun gun or taser. Id. Moreover, to require an applicant who seeks only to carry a stun gun or taser to complete a course in firearm training without offering any relevant stun gun training seems to present an absurd scenario. This can hardly be the intent of the legislature. To find such an intent would not only require a tortured and unreasonable construction of the language of the Act but also result in illogical and nonsensical requirements in compliance with the Act.

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Based on the language and substantive purpose of the Act, this Court finds that the Firearm Concealed Carry Act does not apply to stun guns or tasers and therefore a license under the Act would not operate as a defense to any individual possessing a stun gun outside their land, abode, or business (or invitees thereon). Even were this Court to find the Firearm Concealed Carry Act technically applicable to stun guns or tasers, for the same reasons stated above, this court could not find the requirements of the Act to be meaningful regulation under the Second Amendment simply because the training required to qualify for the concealed carry exemption has no relevance whatsoever to the use of stun guns or tasers. See Mosley, id.

Having concluded that the concealed carry exemption does not apply to stun guns, the question remains whether the prohibition of stun guns in Section 24-1(a) (4) is constitutional in light of the Illinois Supreme Court decisions in People v. Aguilar, *supra*, and People v. Mosley, 2015 IL 115872 (2015). Given the similarities in the nature and purpose of firearms and stun guns or tasers as instruments of personal self-defense, this court finds that stun guns/tasers are entitled to at least as much protection under the Second Amendment as that afforded firearms, particularly since stun guns are by their specific nature far less lethal than firearms. Although Aguilar and Mosely held unconstitutional certain sections of the Aggravated Unlawful Use of Weapons statute (720 ILCS 5/24-1.6(a)(1) and (a) (2)), the language of those sections is substantially similar in all relevant aspects to the language here in Section 24-1 (a) (4). This court therefore necessarily concludes that the analysis and reasoning employed in those decisions applies with equal force to the portion of the statute at issue here relating to stun guns and tasers.

In sum, because stun guns and tasers are akin to firearms for purposes of Second Amendment analysis, because the Firearm Concealed Carry Act does not apply as a defense to stun gun or taser possession, and because the constitutional analysis in Aguilar and Mosely applies to the similar language of the offense at issue here, this court holds, pursuant to the reasoning of Aguilar and Mosley, that the portion of 720 ILCS 5/24-1 (a)(4) relating to the ban on stun guns and tasers constitutes an unconstitutional infringement of the rights of citizens to bear arms under the Second Amendment to the United States Constitution.

Finally, for the same reasons expressed in Mosley, this court finds that the portion of 720 ILCS 5/24-1 (a) (4) held unconstitutional herein is severable from the remaining provisions of the statute. Consequently, the court's ruling would not invalidate any other provisions of the statute.

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It is so ordered.

Judge Alexander F. McGimpsey

10/27/17

Date

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STATE OF ILLINOIS **COUNTY OF DU PAGE**

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

People of the State of Illinois)
Plaintiff,)
)
v.) Case No. 16 CM 637
)
Isiah Webb)
Defendant.)

OPINION

Defendant is charged with the misdemeanor offense of Unlawful Use of Weapons (UUW) in violation of 720 ILCS 5/24-1(a)(4) which prohibits in relevant part the carrying or possession "in any vehicle or concealed on or about his person.....any pistol, revolver, stun gun or taser or other firearm....[unless]" (iv) "carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act...." Defendant has filed a Motion to Dismiss the charge on the grounds that the portion of 720 ILCS 5/24-1(a)(4) relating to the ban on stun guns or tasers is an unconstitutional infringement of the Second Amendment right to bear arms in the United States Constitution.

At the outset, this Court acknowledges the well settled principle of constitutional analysis that statutes carry a presumption of constitutionality which may only be overcome if the party challenging the statute satisfies the burden to prove the statute is unconstitutional. People v. Aguilar, 2013 IL 112116, 11 15 (2013). This Court also confirms its duty to interpret a statute in a manner consistent with a constitutional construction if such construction can reasonably be concluded. Id. With these principles in mind, the Court examines the statute in question.

Specifically, defendant relies primarily on the recent United States Supreme Court decision in Caetano v. Massachusetts, 136 S. Ct. 1027 (2016) in which the Court held in a *per curiam* opinion that the Second Amendment right to bear arms applies to stun guns which the Court found to fall within the category of "bearable arms" protected by the Second Amendment. In Caetano, the Court rejected the three-part rationale of the Massachusetts Supreme Court as inconsistent with established precedent interpreting the Second Amendment. First, the Court rejected the notion that because stun guns were not of common use at the time of the Second

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Amendment, they did not warrant protection under the Amendment. Second, the Court found the determination that stun guns were dangerous *per se* and unusual was irrelevant to the Second Amendment analyses. Finally, the Court refused to limit the scope of the Second Amendment to only those weapons "useful in warfare" or "readily adaptable to use in the military." Id. at 1027-1028.

The State initially attempts to distinguish Caetano on the grounds that the Massachusetts law relating to stun guns was a complete and "blanket ban" on the possession of stun guns in contrast to Illinois where citizens may possess stun guns while on their land, place of abode, business, or as invitees related thereto. Notwithstanding this distinction, the State's argument unduly restricts the holding in Caetano and misses the mark on its substantive effect on the analysis. Caetano was not decided on the basis of Massachusetts' blanket ban on stun guns but rather on the grounds that stun guns are bearable arms directly within the ambit of the Second Amendment. Just because Massachusetts' outright ban on stun guns was found impermissible does not mean that Illinois' less onerous restrictions on stun guns are per se permissible. The significance of Caetano lies in its clear directive that stun guns, like firearms, are bearable arms and are therefore entitled to the full protection of the Second Amendment.

Despite the fact that stun guns clearly fall within the Second Amendment, however, the question remains whether 720 ILCS 5/24-1(a)(4) constitutes a violation of the protections afforded stun guns as bearable arms or is instead a meaningful regulation of stun guns permissible under the Second Amendment. See People v. Mosley, 2015 IL 115872, ¶36 (2015). In relation to this issue, the State argues that Section 24-1(a) (4), as amended to include the Firearm Concealed Carry Act exemption, comports with Second Amendment jurisprudence as a meaningful regulation of stun guns. Specifically, the State contends that the Firearm Concealed Carry Act, 430 ILCS 66 *et seq*. provides an exception to Section 24-1 (a)(4) which applies equally to stun guns as to firearms. This exemption, the State argues, strikes the proper balance between protecting the right of citizens to bear arms (including stun guns) while also permitting the State to meaningfully regulate these arms. On its face, the State's argument has some technical appeal insofar as the language of Section 24-1(a) (4) provides that compliance with the Firearm Concealed Carry Act is a defense or exemption to the criminal offense of possession outside the person's land, home or business. A more careful review of the specific language of

the exemption in Section 24-1 (a)(4) and of the express provisions of the Firearm Concealed Cary Act, however, substantially undermines the State's position.

The relevant statutory exemption in Section 24-1(a) (4) (iv) applies only to "weapons that meet one of the following conditions:

> (iv) are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act; .....(emphasis supplied).

The possession, according to the express terms of the exemption, must therefore be in compliance with and under the valid authority of the Firearm Concealed Carry Act to qualify for the exemption. By its very terms (not to mention the title of the Act itself), the Firearm Concealed Carry Act applies only to concealed firearms or handguns and specifically excludes stun guns or tasers from its statutory authority:

> "Handgun" does not include:
> (1) a stun gun or taser;....

4300 ILCS 66/5. Indeed, the Act is replete with language referencing only concealed firearms or handguns. See 720 ILCS 66/5 and 66/10. Without more, the above quoted language of the Firearm Concealed Carry Act appears to compel the conclusion that it is limited only to those who possess firearms, and has no applicability to those who possess stun guns or tasers. But there is more than just the express provisions of the Act.

The very nature and purpose of a license under the Act indicates that it can only logically apply to firearms and not to stun guns or tasers. In order to qualify for a license under the Act, the applicant must complete, among others things, a firearm training course that is focused solely on firearm instruction, safety, operation and marksmanship. 430 ILCS 66/75(b)(c)(d) and (e). Nothing in the required training course is remotely related to the use or operation of a stun gun or taser. Id. Moreover, to require an applicant who seeks only to carry a stun gun or taser to complete a course in firearm training without offering any relevant stun gun training seems to present an absurd scenario. This can hardly be the intent of the legislature. To find such an intent would not only require a tortured and unreasonable construction of the language of the Act but also result in illogical and nonsensical requirements in compliance with the Act.

Based on the language and substantive purpose of the Act, this Court finds that the Firearm Concealed Carry Act does not apply to stun guns or tasers and therefore a license under the Act would not operate as a defense to any individual possessing a stun gun outside their land, abode, or business (or invitees thereon). Even were this Court to find the Firearm Concealed Carry Act technically applicable to stun guns or tasers, for the same reasons stated above, this court could not find the requirements of the Act to be meaningful regulation under the Second Amendment simply because the training required to qualify for the concealed carry exemption has no relevance whatsoever to the use of stun guns or tasers. See Mosley, id.

Having concluded that the concealed carry exemption does not apply to stun guns, the question remains whether the prohibition of stun guns in Section 24-1(a) (4) is constitutional in light of the Illinois Supreme Court decisions in People v. Aguilar, *supra*, and People v. Mosley, 2015 IL 115872 (2015). Given the similarities in the nature and purpose of firearms and stun guns or tasers as instruments of personal self-defense, this court finds that stun guns/tasers are entitled to at least as much protection under the Second Amendment as that afforded firearms, particularly since stun guns are by their specific nature far less lethal than firearms. Although Aguilar and Mosely held unconstitutional certain sections of the Aggravated Unlawful Use of Weapons statute (720 ILCS 5/24-1.6(a)(1) and (a) (2)), the language of those sections is substantially similar in all relevant aspects to the language here in Section 24-1 (a) (4). This court therefore necessarily concludes that the analysis and reasoning employed in those decisions applies with equal force to the portion of the statute at issue here relating to stun guns and tasers.

In sum, because stun guns and tasers are akin to firearms for purposes of Second Amendment analysis, because the Firearm Concealed Carry Act does not apply as a defense to stun gun or taser possession, and because the constitutional analysis in Aguilar and Mosely applies to the similar language of the offense at issue here, this court holds, pursuant to the reasoning of Aguilar and Mosley, that the portion of 720 ILCS 5/24-1 (a)(4) relating to the ban on stun guns and tasers constitutes an unconstitutional infringement of the rights of citizens to bear arms under the Second Amendment to the United States Constitution.

Finally, for the same reasons expressed in Mosley, this court finds that the portion of 720 ILCS 5/24-1 (a) (4) held unconstitutional herein is severable from the remaining provisions of the statute. Consequently, the court's ruling would not invalidate any other provisions of the statute.

It is so ordered.

[signature]

Judge Alexander F. McGimpsey

10/27/17

Date

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/1

66/1. Short title

Effective: July 9, 2013
Currentness

§ 1. Short title. This Act may be cited as the Firearm Concealed Carry Act.

Credits
P.A. 98-63, § 1, eff. July 9, 2013.

430 I.L.C.S. 66/1, IL ST CH 430 § 66/1
Current through P.A. 100-607 of the 2018 Reg. Sess.

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KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/5

66/5. Definitions

Effective: July 9, 2013
Currentness

§ 5. Definitions. As used in this Act:

"Applicant" means a person who is applying for a license to carry a concealed firearm under this Act.

"Board" means the Concealed Carry Licensing Review Board.

"Concealed firearm" means a loaded or unloaded handgun carried on or about a person completely or mostly concealed from view of the public or on or about a person within a vehicle.

"Department" means the Department of State Police.

"Director" means the Director of State Police.

"Handgun" means any device which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas that is designed to be held and fired by the use of a single hand. "Handgun" does not include:

(1) a stun gun or taser;

(2) a machine gun as defined in item (i) of paragraph (7) of subsection (a) of Section 24-1 of the Criminal Code of 2012;

(3) a short-barreled rifle or shotgun as defined in item (ii) of paragraph (7) of subsection (a) of Section 24-1 of the Criminal Code of 2012; or

(4) any pneumatic gun, spring gun, paint ball gun, or B-B gun which expels a single globular projectile not exceeding .18 inch in diameter, or which has a maximum muzzle velocity of less than 700 feet per second, or which expels breakable paint balls containing washable marking colors.

"Law enforcement agency" means any federal, State, or local law enforcement agency, including offices of State's Attorneys and the Office of the Attorney General.

"License" means a license issued by the Department of State Police to carry a concealed handgun.

"Licensee" means a person issued a license to carry a concealed handgun.

"Municipality" has the meaning ascribed to it in Section 1 of Article VII of the Illinois Constitution.

"Unit of local government" has the meaning ascribed to it in Section 1 of Article VII of the Illinois Constitution.

Credits
P.A. 98-63, § 5, eff. July 9, 2013.

430 I.L.C.S. 66/5, IL ST CH 430 § 66/5
Current through P.A. 100-607 of the 2018 Reg. Sess.

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/10

66/10. Issuance of licenses to carry a concealed firearm

Effective: July 10, 2015
Currentness

§ 10. Issuance of licenses to carry a concealed firearm.

(a) The Department shall issue a license to carry a concealed firearm under this Act to an applicant who:

(1) meets the qualifications of Section 25 of this Act;

(2) has provided the application and documentation required in Section 30 of this Act;

(3) has submitted the requisite fees; and

(4) does not pose a danger to himself, herself, or others, or a threat to public safety as determined by the Concealed Carry Licensing Review Board in accordance with Section 20.

(b) The Department shall issue a renewal, corrected, or duplicate license as provided in this Act.

(c) A license shall be valid throughout the State for a period of 5 years from the date of issuance. A license shall permit the licensee to:

(1) carry a loaded or unloaded concealed firearm, fully concealed or partially concealed, on or about his or her person; and

(2) keep or carry a loaded or unloaded concealed firearm on or about his or her person within a vehicle.

(d) The Department shall make applications for a license available no later than 180 days after the effective date of this Act. The Department shall establish rules for the availability and submission of applications in accordance with this Act.

(e) An application for a license submitted to the Department that contains all the information and materials required by this Act, including the requisite fee, shall be deemed completed. Except as otherwise provided in this Act, no later than 90 days after receipt of a completed application, the Department shall issue or deny the applicant a license.

(f) The Department shall deny the applicant a license if the applicant fails to meet the requirements under this Act or the Department receives a determination from the Board that the applicant is ineligible for a license. The Department must notify the applicant stating the grounds for the denial. The notice of denial must inform the applicant of his or her right to an appeal through administrative and judicial review.

(g) A licensee shall possess a license at all times the licensee carries a concealed firearm except:

(1) when the licensee is carrying or possessing a concealed firearm on his or her land or in his or her abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission;

(2) when the person is authorized to carry a firearm under Section 24-2 of the Criminal Code of 2012, except subsection (a-5) of that Section; or

(3) when the handgun is broken down in a non-functioning state, is not immediately accessible, or is unloaded and enclosed in a case.

(h) If an officer of a law enforcement agency initiates an investigative stop, including but not limited to a traffic stop, of a licensee or a non-resident carrying a concealed firearm under subsection (e) of Section 40 of this Act, upon the request of the officer the licensee or non-resident shall disclose to the officer that he or she is in possession of a concealed firearm under this Act, or present the license upon the request of the officer if he or she is a licensee or present upon the request of the officer evidence under paragraph (2) of subsection (e) of Section 40 of this Act that he or she is a non-resident qualified to carry under that subsection. The disclosure requirement under this subsection (h) is satisfied if the licensee presents his or her license to the officer or the non-resident presents to the officer evidence under paragraph (2) of subsection (e) of Section 40 of this Act that he or she is qualified to carry under that subsection. Upon the request of the officer, the licensee or non-resident shall also identify the location of the concealed firearm and permit the officer to safely secure the firearm for the duration of the investigative stop. During a traffic stop, any passenger within the vehicle who is a licensee or a non-resident carrying under subsection (e) of Section 40 of this Act must comply with the requirements of this subsection (h).

(h-1) If a licensee carrying a firearm or a non-resident carrying a firearm in a vehicle under subsection (e) of Section 40 of this Act is contacted by a law enforcement officer or emergency services personnel, the law enforcement officer or emergency services personnel may secure the firearm or direct that it be secured during the duration of the contact if the law enforcement officer or emergency services personnel determines that it is necessary for the safety of any person present, including the law enforcement officer or emergency services personnel. The licensee or nonresident shall submit to the order to secure the firearm. When the law enforcement officer or emergency services personnel have determined that the licensee or non-resident is not a threat to the safety of any person present, including the law enforcement officer or emergency services personnel, and if the licensee or non-resident is physically and mentally capable of possessing the firearm, the law enforcement officer or emergency services personnel shall return the firearm to the licensee or non-

resident before releasing him or her from the scene and breaking contact. If the licensee or non-resident is transported for treatment to another location, the firearm shall be turned over to any peace officer. The peace officer shall provide a receipt which includes the make, model, caliber, and serial number of the firearm.

(i) The Department shall maintain a database of license applicants and licensees. The database shall be available to all federal, State, and local law enforcement agencies, State's Attorneys, the Attorney General, and authorized court personnel. Within 180 days after the effective date of this Act, the database shall be searchable and provide all information included in the application, including the applicant's previous addresses within the 10 years prior to the license application and any information related to violations of this Act. No law enforcement agency, State's Attorney, Attorney General, or member or staff of the judiciary shall provide any information to a requester who is not entitled to it by law.

(j) No later than 10 days after receipt of a completed application, the Department shall enter the relevant information about the applicant into the database under subsection (i) of this Section which is accessible by law enforcement agencies.

Credits

P.A. 98-63, § 10, eff. July 9, 2013. Amended by P.A. 98-600, § 15, eff. Dec. 6, 2013; P.A. 99-29, § 15, eff. July 10, 2015.

Notes of Decisions (27)

430 I.L.C.S. 66/10, IL ST CH 430 § 66/10
Current through P.A. 100-607 of the 2018 Reg. Sess.

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KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/15

66/15. Objections by law enforcement agencies

Effective: December 6, 2013
Currentness

§ 15. Objections by law enforcement agencies.

(a) Any law enforcement agency may submit an objection to a license applicant based upon a reasonable suspicion that the applicant is a danger to himself or herself or others, or a threat to public safety. The objection shall be made by the chief law enforcement officer of the law enforcement agency, or his or her designee, and must include any information relevant to the objection. If a law enforcement agency submits an objection within 30 days after the entry of an applicant into the database, the Department shall submit the objection and all information available to the Board under State and federal law related to the application to the Board within 10 days of completing all necessary background checks.

(b) If an applicant has 5 or more arrests for any reason, that have been entered into the Criminal History Records Information (CHRI) System, within the 7 years preceding the date of application for a license, or has 3 or more arrests within the 7 years preceding the date of application for a license for any combination of gang-related offenses, the Department shall object and submit the applicant's arrest record to the extent the Board is allowed to receive that information under State and federal law, the application materials, and any additional information submitted by a law enforcement agency to the Board. For purposes of this subsection, "gang-related offense" is an offense described in Section 12-6.4, Section 24-1.8, Section 25-5, Section 33-4, or Section 33G-4, or in paragraph (1) of subsection (a) of Section 12-6.2, paragraph (2) of subsection (b) of Section 16-30, paragraph (2) of subsection (b) of Section 31-4, or item (iii) of paragraph (1.5) of subsection (i) of Section 48-1 of the Criminal Code of 2012.

(c) The referral of an objection under this Section to the Board shall toll the 90-day period for the Department to issue or deny the applicant a license under subsection (e) of Section 10 of this Act, during the period of review and until the Board issues its decision.

(d) If no objection is made by a law enforcement agency or the Department under this Section, the Department shall process the application in accordance with this Act.

Credits
P.A. 98-63, § 15, eff. July 9, 2013. Amended by P.A. 98-600, § 15, eff. Dec. 6, 2013.

Notes of Decisions (3)

430 I.L.C.S. 66/15, IL ST CH 430 § 66/15
Current through P.A. 100-607 of the 2018 Reg. Sess.

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KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/20

66/20. Concealed Carry Licensing Review Board

Effective: December 6, 2013
Currentness

§ 20. Concealed Carry Licensing Review Board.

(a) There is hereby created within the Department of State Police a Concealed Carry Licensing Review Board to consider any objection to an applicant's eligibility to obtain a license under this Act submitted by a law enforcement agency or the Department under Section 15 of this Act. The Board shall consist of 7 commissioners to be appointed by the Governor, with the advice and consent of the Senate, with 3 commissioners residing within the First Judicial District and one commissioner residing within each of the 4 remaining Judicial Districts. No more than 4 commissioners shall be members of the same political party. The Governor shall designate one commissioner as the Chairperson. The Board shall consist of:

(1) one commissioner with at least 5 years of service as a federal judge;

(2) 2 commissioners with at least 5 years of experience serving as an attorney with the United States Department of Justice;

(3) 3 commissioners with at least 5 years of experience as a federal agent or employee with investigative experience or duties related to criminal justice under the United States Department of Justice, Drug Enforcement Administration, Department of Homeland Security, or Federal Bureau of Investigation; and

(4) one member with at least 5 years of experience as a licensed physician or clinical psychologist with expertise in the diagnosis and treatment of mental illness.

(b) The initial terms of the commissioners shall end on January 12, 2015. Thereafter, the commissioners shall hold office for 4 years, with terms expiring on the second Monday in January of the fourth year. Commissioners may be reappointed. Vacancies in the office of commissioner shall be filled in the same manner as the original appointment, for the remainder of the unexpired term. The Governor may remove a commissioner for incompetence, neglect of duty, malfeasance, or inability to serve. Commissioners shall receive compensation in an amount equal to the compensation of members of the Executive Ethics Commission and may be reimbursed for reasonable expenses actually incurred in the performance of their Board duties, from funds appropriated for that purpose.

(c) The Board shall meet at the call of the chairperson as often as necessary to consider objections to applications for a license under this Act. If necessary to ensure the participation of a commissioner, the Board shall allow a commissioner to participate in a Board meeting by electronic communication. Any commissioner participating electronically shall be deemed present for purposes of establishing a quorum and voting.

(d) The Board shall adopt rules for the review of objections and the conduct of hearings. The Board shall maintain a record of its decisions and all materials considered in making its decisions. All Board decisions and voting records shall be kept confidential and all materials considered by the Board shall be exempt from inspection except upon order of a court.

(e) In considering an objection of a law enforcement agency or the Department, the Board shall review the materials received with the objection from the law enforcement agency or the Department. By a vote of at least 4 commissioners, the Board may request additional information from the law enforcement agency, Department, or the applicant, or the testimony of the law enforcement agency, Department, or the applicant. The Board may require that the applicant submit electronic fingerprints to the Department for an updated background check where the Board determines it lacks sufficient information to determine eligibility. The Board may only consider information submitted by the Department, a law enforcement agency, or the applicant. The Board shall review each objection and determine by a majority of commissioners whether an applicant is eligible for a license.

(f) The Board shall issue a decision within 30 days of receipt of the objection from the Department. However, the Board need not issue a decision within 30 days if:

(1) the Board requests information from the applicant, including but not limited to electronic fingerprints to be submitted to the Department, in accordance with subsection (e) of this Section, in which case the Board shall make a decision within 30 days of receipt of the required information from the applicant;

(2) the applicant agrees, in writing, to allow the Board additional time to consider an objection; or

(3) the Board notifies the applicant and the Department that the Board needs an additional 30 days to issue a decision.

(g) If the Board determines by a preponderance of the evidence that the applicant poses a danger to himself or herself or others, or is a threat to public safety, then the Board shall affirm the objection of the law enforcement agency or the Department and shall notify the Department that the applicant is ineligible for a license. If the Board does not determine by a preponderance of the evidence that the applicant poses a danger to himself or herself or others, or is a threat to public safety, then the Board shall notify the Department that the applicant is eligible for a license.

(h) Meetings of the Board shall not be subject to the Open Meetings Act and records of the Board shall not be subject to the Freedom of Information Act.

(i) The Board shall report monthly to the Governor and the General Assembly on the number of objections received and provide details of the circumstances in which the Board has determined to deny licensure based on law enforcement or Department objections under Section 15 of this Act. The report shall not contain any identifying information about the applicants.

Credits

P.A. 98-63, § 20, eff. July 9, 2013. Amended by P.A. 98-600, § 15, eff. Dec. 6, 2013.

Notes of Decisions (12)

430 I.L.C.S. 66/20, IL ST CH 430 § 66/20
Current through P.A. 100-607 of the 2018 Reg. Sess.

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/25

66/25. Qualifications for a license

Effective: July 16, 2014
Currentness

§ 25. Qualifications for a license.

The Department shall issue a license to an applicant completing an application in accordance with Section 30 of this Act if the person:

(1) is at least 21 years of age;

(2) has a currently valid Firearm Owner's Identification Card and at the time of application meets the requirements for the issuance of a Firearm Owner's Identification Card and is not prohibited under the Firearm Owners Identification Card Act or federal law from possessing or receiving a firearm;

(3) has not been convicted or found guilty in this State or in any other state of:

(A) a misdemeanor involving the use or threat of physical force or violence to any person within the 5 years preceding the date of the license application; or

(B) 2 or more violations related to driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, within the 5 years preceding the date of the license application;

(4) is not the subject of a pending arrest warrant, prosecution, or proceeding for an offense or action that could lead to disqualification to own or possess a firearm;

(5) has not been in residential or court-ordered treatment for alcoholism, alcohol detoxification, or drug treatment within the 5 years immediately preceding the date of the license application; and

(6) has completed firearms training and any education component required under Section 75 of this Act.

Credits

P.A. 98-63, § 25, eff. July 9, 2013. Amended by P.A. 98-756, § 605, eff. July 16, 2014.

430 I.L.C.S. 66/25, IL ST CH 430 § 66/25
Current through P.A. 100-607 of the 2018 Reg. Sess.

End of Document

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Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/30

66/30. Contents of license application

Effective: July 10, 2015
Currentness

§ 30. Contents of license application.

(a) The license application shall be in writing, under penalty of perjury, on a standard form adopted by the Department and shall be accompanied by the documentation required in this Section and the applicable fee. Each application form shall include the following statement printed in bold type: "Warning: Entering false information on this form is punishable as perjury under Section 32-2 of the Criminal Code of 2012."

(b) The application shall contain the following:

(1) the applicant's name, current address, date and year of birth, place of birth, height, weight, hair color, eye color, maiden name or any other name the applicant has used or identified with, and any address where the applicant resided for more than 30 days within the 10 years preceding the date of the license application;

(2) the applicant's valid driver's license number or valid state identification card number;

(3) a waiver of the applicant's privacy and confidentiality rights and privileges under all federal and state laws, including those limiting access to juvenile court, criminal justice, psychological, or psychiatric records or records relating to any institutionalization of the applicant, and an affirmative request that a person having custody of any of these records provide it or information concerning it to the Department. The waiver only applies to records sought in connection with determining whether the applicant qualifies for a license to carry a concealed firearm under this Act, or whether the applicant remains in compliance with the Firearm Owners Identification Card Act; [1]

(4) an affirmation that the applicant possesses a currently valid Firearm Owner's Identification Card and card number if possessed or notice the applicant is applying for a Firearm Owner's Identification Card in conjunction with the license application;

(5) an affirmation that the applicant has not been convicted or found guilty of:

(A) a felony;

(B) a misdemeanor involving the use or threat of physical force or violence to any person within the 5 years preceding the date of the application; or

(C) 2 or more violations related to driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, within the 5 years preceding the date of the license application; and

(6) whether the applicant has failed a drug test for a drug for which the applicant did not have a prescription, within the previous year, and if so, the provider of the test, the specific substance involved, and the date of the test;

(7) written consent for the Department to review and use the applicant's Illinois digital driver's license or Illinois identification card photograph and signature;

(8) a full set of fingerprints submitted to the Department in electronic format, provided the Department may accept an application submitted without a set of fingerprints in which case the Department shall be granted 30 days in addition to the 90 days provided under subsection (e) of Section 10 of this Act to issue or deny a license;

(9) a head and shoulder color photograph in a size specified by the Department taken within the 30 days preceding the date of the license application; and

(10) a photocopy of any certificates or other evidence of compliance with the training requirements under this Act.

Credits

P.A. 98-63, § 30, eff. July 9, 2013. Amended by P.A. 99-29, § 15, eff. July 10, 2015.

Footnotes

1 430 ILCS 65/0.01 et seq.

430 I.L.C.S. 66/30, IL ST CH 430 § 66/30

Current through P.A. 100-607 of the 2018 Reg. Sess.

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Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/65

66/65. Prohibited areas

Effective: July 10, 2015
Currentness

§ 65. Prohibited areas.

(a) A licensee under this Act shall not knowingly carry a firearm on or into:

(1) Any building, real property, and parking area under the control of a public or private elementary or secondary school.

(2) Any building, real property, and parking area under the control of a pre-school or child care facility, including any room or portion of a building under the control of a pre-school or child care facility. Nothing in this paragraph shall prevent the operator of a child care facility in a family home from owning or possessing a firearm in the home or license under this Act, if no child under child care at the home is present in the home or the firearm in the home is stored in a locked container when a child under child care at the home is present in the home.

(3) Any building, parking area, or portion of a building under the control of an officer of the executive or legislative branch of government, provided that nothing in this paragraph shall prohibit a licensee from carrying a concealed firearm onto the real property, bikeway, or trail in a park regulated by the Department of Natural Resources or any other designated public hunting area or building where firearm possession is permitted as established by the Department of Natural Resources under Section 1.8 of the Wildlife Code.

(4) Any building designated for matters before a circuit court, appellate court, or the Supreme Court, or any building or portion of a building under the control of the Supreme Court.

(5) Any building or portion of a building under the control of a unit of local government.

(6) Any building, real property, and parking area under the control of an adult or juvenile detention or correctional institution, prison, or jail.

(7) Any building, real property, and parking area under the control of a public or private hospital or hospital affiliate, mental health facility, or nursing home.

(8) Any bus, train, or form of transportation paid for in whole or in part with public funds, and any building, real property, and parking area under the control of a public transportation facility paid for in whole or in part with public funds.

(9) Any building, real property, and parking area under the control of an establishment that serves alcohol on its premises, if more than 50% of the establishment's gross receipts within the prior 3 months is from the sale of alcohol. The owner of an establishment who knowingly fails to prohibit concealed firearms on its premises as provided in this paragraph or who knowingly makes a false statement or record to avoid the prohibition on concealed firearms under this paragraph is subject to the penalty under subsection (c-5) of Section 10-1 of the Liquor Control Act of 1934.

(10) Any public gathering or special event conducted on property open to the public that requires the issuance of a permit from the unit of local government, provided this prohibition shall not apply to a licensee who must walk through a public gathering in order to access his or her residence, place of business, or vehicle.

(11) Any building or real property that has been issued a Special Event Retailer's license as defined in Section 1-3.17.1 of the Liquor Control Act during the time designated for the sale of alcohol by the Special Event Retailer's license, or a Special use permit license as defined in subsection (q) of Section 5-1 of the Liquor Control Act during the time designated for the sale of alcohol by the Special use permit license.

(12) Any public playground.

(13) Any public park, athletic area, or athletic facility under the control of a municipality or park district, provided nothing in this Section shall prohibit a licensee from carrying a concealed firearm while on a trail or bikeway if only a portion of the trail or bikeway includes a public park.

(14) Any real property under the control of the Cook County Forest Preserve District.

(15) Any building, classroom, laboratory, medical clinic, hospital, artistic venue, athletic venue, entertainment venue, officially recognized university-related organization property, whether owned or leased, and any real property, including parking areas, sidewalks, and common areas under the control of a public or private community college, college, or university.

(16) Any building, real property, or parking area under the control of a gaming facility licensed under the Riverboat Gambling Act or the Illinois Horse Racing Act of 1975, including an inter-track wagering location licensee.

(17) Any stadium, arena, or the real property or parking area under the control of a stadium, arena, or any collegiate or professional sporting event.

(18) Any building, real property, or parking area under the control of a public library.

(19) Any building, real property, or parking area under the control of an airport.

(20) Any building, real property, or parking area under the control of an amusement park.

(21) Any building, real property, or parking area under the control of a zoo or museum.

(22) Any street, driveway, parking area, property, building, or facility, owned, leased, controlled, or used by a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission. The licensee shall not under any circumstance store a firearm or ammunition in his or her vehicle or in a compartment or container within a vehicle located anywhere in or on the street, driveway, parking area, property, building, or facility described in this paragraph.

(23) Any area where firearms are prohibited under federal law.

(a-5) Nothing in this Act shall prohibit a public or private community college, college, or university from:

(1) prohibiting persons from carrying a firearm within a vehicle owned, leased, or controlled by the college or university;

(2) developing resolutions, regulations, or policies regarding student, employee, or visitor misconduct and discipline, including suspension and expulsion;

(3) developing resolutions, regulations, or policies regarding the storage or maintenance of firearms, which must include designated areas where persons can park vehicles that carry firearms; and

(4) permitting the carrying or use of firearms for the purpose of instruction and curriculum of officially recognized programs, including but not limited to military science and law enforcement training programs, or in any designated area used for hunting purposes or target shooting.

(a-10) The owner of private real property of any type may prohibit the carrying of concealed firearms on the property under his or her control. The owner must post a sign in accordance with subsection (d) of this Section indicating that firearms are prohibited on the property, unless the property is a private residence.

(b) Notwithstanding subsections (a), (a-5), and (a-10) of this Section except under paragraph (22) or (23) of subsection (a), any licensee prohibited from carrying a concealed firearm into the parking area of a prohibited location specified in subsection (a), (a-5), or (a-10) of this Section shall be permitted to carry a concealed firearm on or about his or her person within a vehicle into the parking area and may store a firearm or ammunition concealed in a case within a locked vehicle or locked container out of plain view within the vehicle in the parking area. A licensee may carry a concealed firearm in the immediate area surrounding his or her vehicle within a prohibited parking lot area only for the limited purpose of storing or retrieving a firearm within the vehicle's trunk. For purposes of this subsection, “case” includes a

glove compartment or console that completely encloses the concealed firearm or ammunition, the trunk of the vehicle, or a firearm carrying box, shipping box, or other container.

(c) A licensee shall not be in violation of this Section while he or she is traveling along a public right of way that touches or crosses any of the premises under subsection (a), (a-5), or (a-10) of this Section if the concealed firearm is carried on his or her person in accordance with the provisions of this Act or is being transported in a vehicle by the licensee in accordance with all other applicable provisions of law.

(d) Signs stating that the carrying of firearms is prohibited shall be clearly and conspicuously posted at the entrance of a building, premises, or real property specified in this Section as a prohibited area, unless the building or premises is a private residence. Signs shall be of a uniform design as established by the Department and shall be 4 inches by 6 inches in size. The Department shall adopt rules for standardized signs to be used under this subsection.

Credits

P.A. 98-63, § 65, eff. July 9, 2013. Amended by P.A. 99-29, § 15, eff. July 10, 2015.

430 I.L.C.S. 66/65, IL ST CH 430 § 66/65
Current through P.A. 100-607 of the 2018 Reg. Sess.

End of Document

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/70

66/70. Violations

Effective: August 15, 2014 to December 31, 2018
Currentness

<Text of section effective until Jan. 1, 2019. See, also, text of section 430 ILCS 66/70, effective Jan. 1, 2019.>

§ 70. Violations.

(a) A license issued or renewed under this Act shall be revoked if, at any time, the licensee is found to be ineligible for a license under this Act or the licensee no longer meets the eligibility requirements of the Firearm Owners Identification Card Act.

(b) A license shall be suspended if an order of protection, including an emergency order of protection, plenary order of protection, or interim order of protection under Article 112A of the Code of Criminal Procedure of 1963 or under the Illinois Domestic Violence Act of 1986, is issued against a licensee for the duration of the order, or if the Department is made aware of a similar order issued against the licensee in any other jurisdiction. If an order of protection is issued against a licensee, the licensee shall surrender the license, as applicable, to the court at the time the order is entered or to the law enforcement agency or entity serving process at the time the licensee is served the order. The court, law enforcement agency, or entity responsible for serving the order of protection shall notify the Department within 7 days and transmit the license to the Department.

(c) A license is invalid upon expiration of the license, unless the licensee has submitted an application to renew the license, and the applicant is otherwise eligible to possess a license under this Act.

(d) A licensee shall not carry a concealed firearm while under the influence of alcohol, other drug or drugs, intoxicating compound or combination of compounds, or any combination thereof, under the standards set forth in subsection (a) of Section 11-501 of the Illinois Vehicle Code.

A licensee in violation of this subsection (d) shall be guilty of a Class A misdemeanor for a first or second violation and a Class 4 felony for a third violation. The Department may suspend a license for up to 6 months for a second violation and shall permanently revoke a license for a third violation.

(e) Except as otherwise provided, a licensee in violation of this Act shall be guilty of a Class B misdemeanor. A second or subsequent violation is a Class A misdemeanor. The Department may suspend a license for up to 6 months for a second violation and shall permanently revoke a license for 3 or more violations of Section 65 of this Act. Any person

convicted of a violation under this Section shall pay a $150 fee to be deposited into the Mental Health Reporting Fund, plus any applicable court costs or fees.

(f) A licensee convicted or found guilty of a violation of this Act who has a valid license and is otherwise eligible to carry a concealed firearm shall only be subject to the penalties under this Section and shall not be subject to the penalties under Section 21-6, paragraph (4), (8), or (10) of subsection (a) of Section 24-1, or subparagraph (A-5) or (B-5) of paragraph (3) of subsection (a) of Section 24-1.6 of the Criminal Code of 2012. Except as otherwise provided in this subsection, nothing in this subsection prohibits the licensee from being subjected to penalties for violations other than those specified in this Act.

(g) A licensee whose license is revoked, suspended, or denied shall, within 48 hours of receiving notice of the revocation, suspension, or denial, surrender his or her concealed carry license to the local law enforcement agency where the person resides. The local law enforcement agency shall provide the licensee a receipt and transmit the concealed carry license to the Department of State Police. If the licensee whose concealed carry license has been revoked, suspended, or denied fails to comply with the requirements of this subsection, the law enforcement agency where the person resides may petition the circuit court to issue a warrant to search for and seize the concealed carry license in the possession and under the custody or control of the licensee whose concealed carry license has been revoked, suspended, or denied. The observation of a concealed carry license in the possession of a person whose license has been revoked, suspended, or denied constitutes a sufficient basis for the arrest of that person for violation of this subsection. A violation of this subsection is a Class A misdemeanor.

(h) A license issued or renewed under this Act shall be revoked if, at any time, the licensee is found ineligible for a Firearm Owner's Identification Card, or the licensee no longer possesses a valid Firearm Owner's Identification Card. A licensee whose license is revoked under this subsection (h) shall surrender his or her concealed carry license as provided for in subsection (g) of this Section.

This subsection shall not apply to a person who has filed an application with the State Police for renewal of a Firearm Owner's Identification Card and who is not otherwise ineligible to obtain a Firearm Owner's Identification Card.

(i) A certified firearms instructor who knowingly provides or offers to provide a false certification that an applicant has completed firearms training as required under this Act is guilty of a Class A misdemeanor. A person guilty of a violation of this subsection (i) is not eligible for court supervision. The Department shall permanently revoke the firearms instructor certification of a person convicted under this subsection (i).

Credits

P.A. 98-63, § 70, eff. July 9, 2013. Amended by P.A. 98-756, § 605, eff. July 16, 2014; P.A. 98-899, § 5, eff. Aug. 15, 2014.

Notes of Decisions (1)

430 I.L.C.S. 66/70, IL ST CH 430 § 66/70
Current through P.A. 100-607 of the 2018 Reg. Sess.

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Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 430. Public Safety
Act 66. Firearm Concealed Carry Act

430 ILCS 66/75

66/75. Applicant firearm training

Effective: December 6, 2013
Currentness

§ 75. Applicant firearm training.

(a) Within 60 days of the effective date of this Act, the Department shall begin approval of firearm training courses and shall make a list of approved courses available on the Department's website.

(b) An applicant for a new license shall provide proof of completion of a firearms training course or combination of courses approved by the Department of at least 16 hours, which includes range qualification time under subsection (c) of this Section, that covers the following:

(1) firearm safety;

(2) the basic principles of marksmanship;

(3) care, cleaning, loading, and unloading of a concealable firearm;

(4) all applicable State and federal laws relating to the ownership, storage, carry, and transportation of a firearm; and

(5) instruction on the appropriate and lawful interaction with law enforcement while transporting or carrying a concealed firearm.

(c) An applicant for a new license shall provide proof of certification by a certified instructor that the applicant passed a live fire exercise with a concealable firearm consisting of:

(1) a minimum of 30 rounds; and

(2) 10 rounds from a distance of 5 yards; 10 rounds from a distance of 7 yards; and 10 rounds from a distance of 10 yards at a B-27 silhouette target approved by the Department.

(d) An applicant for renewal of a license shall provide proof of completion of a firearms training course or combination of courses approved by the Department of at least 3 hours.

(e) A certificate of completion for an applicant's firearm training course shall not be issued to a student who:

(1) does not follow the orders of the certified firearms instructor;

(2) in the judgment of the certified instructor, handles a firearm in a manner that poses a danger to the student or to others; or

(3) during the range firing portion of testing fails to hit the target with 70% of the rounds fired.

(f) An instructor shall maintain a record of each student's performance for at least 5 years, and shall make all records available upon demand of authorized personnel of the Department.

(g) The Department and certified firearms instructors shall recognize up to 8 hours of training already completed toward the 16 hour training requirement under this Section if the training course is submitted to and approved by the Department. Any remaining hours that the applicant completes must at least cover the classroom subject matter of paragraph (4) of subsection (b) of this Section, and the range qualification in subsection (c) of this Section.

(h) A person who has qualified to carry a firearm as an active law enforcement or corrections officer, who has successfully completed firearms training as required by his or her law enforcement agency and is authorized by his or her agency to carry a firearm; a person currently certified as a firearms instructor by this Act or by the Illinois Law Enforcement Training Standards Board; or a person who has completed the required training and has been issued a firearm control card by the Department of Financial and Professional Regulation shall be exempt from the requirements of this Section.

(i) The Department and certified firearms instructors shall recognize 8 hours of training as completed toward the 16 hour training requirement under this Section, if the applicant is an active, retired, or honorably discharged member of the United States Armed Forces. Any remaining hours that the applicant completes must at least cover the classroom subject matter of paragraph (4) of subsection (b) of this Section, and the range qualification in subsection (c) of this Section.

(j) The Department and certified firearms instructors shall recognize up to 8 hours of training already completed toward the 16 hour training requirement under this Section if the training course is approved by the Department and was completed in connection with the applicant's previous employment as a law enforcement or corrections officer. Any remaining hours that the applicant completes must at least cover the classroom subject matter of paragraph (4) of subsection (b) of this Section, and the range qualification in subsection (c) of this Section. A former law enforcement or corrections officer seeking credit under this subsection (j) shall provide evidence that he or she separated from employment in good standing from each law enforcement agency where he or she was employed. An applicant who was discharged from a law enforcement agency for misconduct or disciplinary reasons is not eligible for credit under this subsection (j).

Credits

P.A. 98-63, § 75, eff. July 9, 2013. Amended by P.A. 98-600, § 15, eff. Dec. 6, 2013.

430 I.L.C.S. 66/75, IL ST CH 430 § 66/75

Current through P.A. 100-607 of the 2018 Reg. Sess.

PROOF OF FILING AND SERVICE

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct. On July 27, 2018, the foregoing **Brief and Appendix of Plaintiff-Appellant**, was electronically filed with the Clerk, Illinois Supreme Court, and served upon the following by email:

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