

2016 -- S 2647

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL OFFENSES -- WEAPONS

Introduced By: Senators Lombardo, McCaffrey, Kettle, Walaska, and Archambault

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-47-2, 11-47-11, 11-47-12 and 11-47-18 of the General Laws in  
2 Chapter 11-47 entitled "Weapons" are hereby amended to read as follows:

3 **11-47-2. Definitions. --** When used in this chapter, the following words and phrases are  
4 construed as follows:

5 (1) "Antique firearm" is defined as that term is defined under the provisions of 18 U.S.C.  
6 § 921.

7 (2) "Crime of violence" means and includes any of the following crimes or an attempt to  
8 commit any of them: murder, manslaughter, rape, first or second degree sexual assault, first or  
9 second degree child molestation, kidnapping, first and second degree arson, mayhem, robbery,  
10 burglary, breaking and entering, any felony violation involving the illegal manufacture, sale, or  
11 delivery of a controlled substance, or possession with intent to manufacture, sell, or deliver a  
12 controlled substance classified in schedule I or schedule II of § 21-28-2.08, any violation of § 21-  
13 28-4.01.1 or 21-28-4.01.2 or conspiracy to commit any violation of these statutes, assault with a  
14 dangerous weapon, assault or battery involving grave bodily injury, and/or assault with intent to  
15 commit any offense punishable as a felony; upon any conviction of an offense punishable as a  
16 felony offense under § 12-29-5.

17 (3) "Firearm" includes any machine gun, pistol, rifle, air rifle, air pistol, "blank gun,"  
18 "BB gun," or other instrument from which steel or metal projectiles are propelled, or which may  
19 readily be converted to expel a projectile, except crossbows, recurve, compound, or longbows,

1 and except instruments propelling projectiles which are designed or normally used for a primary  
2 purpose other than as a weapon. The frame or receiver of the weapon shall be construed as a  
3 firearm under the provisions of this section.

4 (4) "Fugitive from justice" means any person who has fled from any state, territory, the  
5 District of Columbia, or possession of the United States to avoid prosecution for a crime of  
6 violence or to avoid giving testimony in any criminal proceeding.

7 (5) "Licensing authorities" means the board of police commissioners of a city or town  
8 where the board has been instituted, the chief of police or superintendent of police of other cities  
9 and towns having a regular organized police force, and, in towns where there is no chief of police  
10 or superintendent of police, it means the town clerk who may issue licenses upon the  
11 recommendation of the town sergeant, and it also means any other person or body duly authorized  
12 by the city or town charter or by state law.

13 (6) "Machine gun" means any weapon which shoots, is designed to shoot, or can be  
14 readily restored to shoot automatically more than one shot, without manual reloading, by a single  
15 function of the trigger. The term also includes the frame or receiver of the weapon, any  
16 combination of parts designed and intended for use in converting a weapon into a machine gun,  
17 and any combination of parts from which a machine gun can be assembled if the parts are in the  
18 possession or under the control of a person.

19 (7) "Person" includes an individual, partnership, firm, association, or corporation.

20 (8) "Pistol" includes any pistol or revolver, and any shotgun, rifle, or similar weapon  
21 with overall length less than twenty-six inches (26"), but does not include any pistol or revolver  
22 designed for the use of blank cartridges only.

23 (9) "Sawed-off rifle" means any rifle with overall length of less than twenty-six inches  
24 (26") and/or barrel length of less than sixteen inches (16").

25 (10) "Sawed-off shotgun" means any shotgun with overall length of less than twenty-six  
26 inches (26") and/or barrel length of less than eighteen inches (18").

27 (11) "Sell" includes let or hire, give, lend, and transfer, and "purchase" includes hire,  
28 accept, and borrow, and "purchasing" shall be construed accordingly.

29 (12) "Suitable person" means any person who is not prohibited by state law from  
30 possessing a pistol or revolver. A person may be considered unsuitable if the licensing authority  
31 has clear and convincing evidence that the person is a clear and present danger to themselves, or  
32 to another person. Any person may be considered unsuitable if they are a bona fide member of a  
33 criminal street gang as defined in §12-19-39.

34 **11-47-11. License or permit to carry concealed pistol or revolver.** -- (a) The licensing

1 authorities of any city or town shall, upon application of any person twenty-one (21) years of age  
2 or over having a bona fide residence or place of business within the city or town, or of any person  
3 twenty-one (21) years of age or over having a bona fide residence within the United States and a  
4 license or permit to carry a pistol or revolver concealed upon his or her person issued by the  
5 authorities of any other state or subdivision of the United States, issue a license or permit to the  
6 person to carry concealed upon his or her person a pistol or revolver everywhere within this state  
7 for four (4) years from date of issue, if ~~it appears that~~ the applicant has ~~good reason to fear an~~  
8 ~~injury to his or her person or property or has any other proper~~ lawful reason for carrying a pistol  
9 or revolver, and ~~that~~ he or she is a suitable person to be so licensed. The license or permit shall ~~be~~  
10 ~~in triplicate in form to be prescribed by the attorney general and shall~~ bear the fingerprint,  
11 photograph, name, address, and description, ~~and signature of the licensee and the reason given for~~  
12 ~~desiring a license or permit~~ of the permit holder. In ~~and in~~ no case shall it contain the serial  
13 number of any firearm. The original shall be delivered to the licensee. The licensing authority  
14 shall retain a copy of the permit for its records and send a copy to the attorney general. All  
15 permits issued or renewed pursuant to this section shall be recorded in the Rhode Island criminal  
16 history database, or its successor system. Any member of the licensing authority, its agents,  
17 servants, and employees shall be immune from suit in any action, civil or criminal, based upon  
18 any official act or decision, performed or made in good faith in issuing a license or permit under  
19 this chapter.

20 (b) Notwithstanding any other chapter or section of the general laws of the state of  
21 Rhode Island, the licensing authority of any city or town shall not provide or release to any  
22 individual, firm, association or corporation the name, address, or date of birth of any person who  
23 has held or currently holds a license or permit to carry a concealed pistol or revolver. This section  
24 shall not be construed to prohibit the release of any statistical data of a general nature relative to  
25 age, gender and racial or ethnic background nor shall it be construed to prevent the release of  
26 information to parties involved in any prosecution of § 11-47-8 or in response to a lawful  
27 subpoena in any criminal or civil action which the person is a party to that action.

28 (c) The licensing authority shall, within five (5) calendar days, return any incomplete  
29 application to the applicant along with a written explanation of why the application is incomplete.

30 (d) The licensing authority shall approve or deny a complete application within forty-five  
31 (45) days of receiving it. Within seven (7) business days after approval, the license shall be made  
32 available for the applicant to pick up in person or, at the request and expense of the applicant, be  
33 delivered by mail. Any denial shall be in writing and state the evidence upon which the licensing  
34 authority based its decision and the rationale for the denial. Failure by the licensing authority to

1 approve or deny within the time allowed shall constitute a denial for the sole purpose of  
2 permitting an appeal by the applicant and for no other purpose, and shall create a presumption  
3 that no evidence exists indicating that the applicant is unsuitable.

4 (e) No licensing authority shall effect a denial without first affording the applicant an  
5 administrative hearing pursuant to the provisions of §42-35-9.

6 (f) Any applicant may seek judicial review or an adverse administrative decision pursuant  
7 to the provisions of §42-35-15.

8 (g)(1) Each licensing authority shall make its application available to any person by:

9 (i) Posting it on its website, if it has one; and

10 (ii) Making it immediately available to any person who requests it in person; and

11 (iii) For any request made other than in person, providing it by mail within seven (7)  
12 days.

13 (2) All licensing authorities of a city or town shall use the following application:

14 Application for a concealed carry license pursuant to §11-47-11

15 Name

16 Address

17 (Street and number) (City or town) (State)

18 Date of birth, place of birth

19 Height, Weight, Color hair, Color eyes

20 Are you a citizen of the United States?

21 If you are not a United States Citizen, please list your admission number

22 ARMY L or COMBAT COURSE shooting score:

23 Name and certification number of the National Rifle Association (NRA) instructor or RI  
24 instructor:

25 Signature of instructor

26 Have you ever been convicted of a crime of violence?

27 Are you a fugitive from justice?

28 Have you ever been adjudicated as being addicted to a controlled substance?

29 Have you ever been adjudicated mentally incompetent?

30 Have you ever been dishonorably discharged from the United States Military?

31 To your knowledge, are you prohibited by federal or state law from possessing a firearm?

32 For what lawful purpose do you seek to carry a pistol or revolver?

33 Applicant's signature

34 Willfully and knowingly providing false information in completing and submitting this

1 application is a felony and may be punished by a fine of not more than five thousand dollars  
2 (\$5000), imprisonment for not more than five (5) years, or both pursuant to §11-47-23.

3 AFFIDAVIT: I certify that I have read and am familiar with the provisions of the  
4 Firearms Act of the general laws of the State of Rhode Island and Providence Plantations, §§11-  
5 47-1 through 11-47-63, inclusive, and that I am aware of the penalties for violation of the  
6 provisions the cited sections.

7 Signed

8 (over)

9 County of

10 State of Rhode Island (or other jurisdiction)

11 Subscribed and sworn before me this (month, date, year)

12 Notary Public

13 My commission expires:

14 (h) All applicants shall include two (2) forms of identification, such as a driver's license,  
15 state issued non-driver ID card, concealed carry permit issued by any state or political subdivision  
16 of any state, passport, immigration documentation, military ID, student ID, social security card,  
17 or a birth certificate, at least one of which must be a government issued photo ID.

18 (i) The licensing authority may require any applicant to include an FBI fingerprint  
19 applicant card {FD-258, (Rev 12-10-07)}, or provide fingerprints by livescan, with the  
20 application, except that this shall not be a requirement for a renewal applicant.

21 (j) All applicants shall include a copy of the instructor's credentials for the instructor who  
22 certified their score on their application.

23 (k) Any permit issued pursuant to this section is eligible to be renewed under this section  
24 if it is not expired, or has been expired for less than one year. Any person whose permit has been  
25 expired for one year or more may apply for a new permit under this section.

26 (l) No licensing authority shall require any additional forms, standards, information, or  
27 other additional requirements unless specifically requested by, or provided by, the applicant.

28 **11-47-12. License or permit fee.** -- A fee of forty dollars (\$40.00) shall be charged and  
29 shall be paid for each license or permit to the licensing authority or the attorney general upon  
30 issuance ~~issuing it.~~ No additional fees or costs of any type shall be charged for any reason, except  
31 that any actual fee charged by the Federal Bureau of Investigation to process fingerprints may be  
32 charged to the applicant. Every license or permit shall be valid for four (4) years from the date  
33 when issued unless sooner revoked. The fee charged for issuing of the license or permit shall be  
34 applied for the use and benefit of the city, town, or state of Rhode Island.

1 11-47-18. License or permit issued by attorney general on showing of need --

2 Issuance to retired police officers. -- (a) The attorney general may issue a license or permit to  
3 any person twenty-one (21) years of age or over to carry a pistol or revolver, whether concealed  
4 or not, upon his or her person upon a ~~proper~~ showing of need, and that they are a suitable person  
5 to be so licensed subject to the provisions of §§ 11-47-12 and 11-47-15; that license or permit  
6 ~~may be issued notwithstanding the provisions~~ may not be used by, and shall be immediately  
7 revoked, for an individual who is in violation of § 11-47-7.

8 (b) All state police officers and permanent members of city and town police forces of  
9 this state who have retired in good standing after at least twenty (20) years of service, or retired in  
10 good standing due to a physical disability other than a psychological impairment, ~~may~~ shall be  
11 issued a license or permit by the attorney general subject to the provisions of §§ 11-47-12 and 11-  
12 47-15. The term "in good standing" means that at the time of retirement, the police officer was  
13 not facing disciplinary action that could have resulted in his or her termination for misconduct or  
14 unfitness for office. Any member of the licensing authority, and its agents, servants, and  
15 employees shall be immune from suit in any action, civil or criminal, based upon any official act  
16 or decision, performed or made in good faith in issuing a license or permit under this chapter.

17 (c) Notwithstanding any other chapter or section of the general laws of the state of  
18 Rhode Island, the attorney general shall not provide or release to any individual, firm, association  
19 or corporation the name, address, or date of birth of any person who has held or currently holds a  
20 license or permit to carry a concealed pistol or revolver. This section shall not be construed to  
21 prohibit the release of any statistical data of a general nature relative to age, gender and racial or  
22 ethnic background nor shall it be construed to prevent the release of information to parties  
23 involved in any prosecution of § 11-47-8 or in response to a lawful subpoena in any criminal or  
24 civil action which said person is a party to such action.

25 (d) The attorney general's application for a license to carry a concealable weapon shall be  
26 filled out completely by the applicant, dated and signed by the applicant and notarized.

27 (e) The attorney general shall request the following and only the following information  
28 on the application:

29 (1) Applicant's full name, prior name if legally changed, all nicknames and aliases, full  
30 residence address and mailing address if different (no post office boxes accepted).

31 (2) All applicant's available phone numbers, including, but not limited to, business,  
32 cellular, mobile and land line phone numbers.

33 (3) The applicant's height, weight, color of eyes and hair, date and place of birth, and  
34 social security number.

1           (4) Applicant's occupation, job description, years of employment, and employer's address  
2 and contact information, except that this information may only be required if the permit is being  
3 requested as a condition of employment with a specific company.

4           (5) Applicant's proof of citizenship, length of citizenship and if the applicant is not a  
5 citizen of the United States, a copy of both sides of a current and valid alien registration card.

6           (6) A listing of all of the applicant's address for the last three (3) years, including the full  
7 address with dates or residence.

8           (7) Information relating to the applicant's arrest record including, but not limited to, the  
9 date the applicant was arrested, the name of the city/town or arresting agency, the state in which  
10 the arrest occurred, the arresting charge and disposition.

11           (8) Information relating to the applicant's plea of nolo contendere or guilty to any charge  
12 or violation including, but not limited to, the date the applicant was arrested, the name of the  
13 city/town or arresting agency, the state in which the plea occurred, the arresting charge and  
14 disposition.

15           (9) Information relating to the applicant's conviction record including, but not limited to,  
16 the date the applicant was arrested, the name of the city/town or arresting agency, the state in  
17 which the arrest occurred, the arresting charge and disposition.

18           (10) Information relating to the applicant's indictment in any court for a crime punishable  
19 for more than one year, including, but not limited to, the name of the city/town or arresting  
20 agency, the state of indictment, the indicting charge and disposition.

21           (11) Information relating whether the applicant was ever under a guardianship or been  
22 subject to confinement by virtue of being a mental incompetent, or who has been adjudicated or is  
23 under treatment or confinement as a drug addict, including, but not limited to, the dates thereof.

24           (12) Information relating the applicant's current and prior applications for a permit for a  
25 concealed weapon from the Rhode Island attorney general, any local city or town, or any other  
26 state, including, but not limited to, if any permit is active, expired, denies or revoked, with the  
27 dates and reasons thereof. The attorney general may require notarized photocopies of the front  
28 and back of all valid permits.

29           (13) All non-resident applicants must include a copy of both the front and back of their  
30 home state permit, if they have one.

31           (f) The attorney general shall request the following and only the following requirements  
32 with the application:

33           (1) A dated, signed and notarized typed statement from the applicant outlining the  
34 applicant's specific reasons and details regarding their need for a Rhode Island permit.

1 Handwritten letters shall not be accepted. If the permit is to be used for employment, a typed and  
2 signed letter of explanation must be submitted on the applicant's letterhead and included with the  
3 application. In addition, the applicant must submit a copy of the business license as proof that the  
4 business exists.

5 (2) Two (2) one inch (1") by one inch (1") photographs of the applicant taken without  
6 headgear or glasses. The photograph must be a clear, colored picture of the head and face. The  
7 applicant must PRINT their name on the back of each photograph. No laminated photos will be  
8 accepted.

9 (3) Copies of both the front and back of two (2) types of positive identification for the  
10 applicant, examples include, but are not limited to, birth certificate, United States passport, a  
11 Rhode Island or other state's driver's license or state issued identification card, concealed carry  
12 permit issued by any state or political subdivision of any state, military ID, student ID or social  
13 security card, at least one of which must be a government issued photo ID. The photocopies  
14 submitted must be signed and dated by a notary public attesting to the photocopies as being true  
15 copies.

16 (4) The applicant must include a full set of fingerprints submitted on an FBI Fingerprint  
17 Application Card, signed by the applicant, (FD-258 (Rev. 12-10-07)) with the application. This  
18 is not necessary for a renewal application.

19 (5) Three (3) dated, signed and notarized typed reference letters from individuals who  
20 personally know the applicant. The individuals used as references must include on the letters, the  
21 following information: their full name, residence address, phone number with area code, and the  
22 years they have known the applicant. An applicant's reference letter dated more than three (3)  
23 months prior to the date of the permit application will be considered invalid. Reference letters  
24 must be written by the reference, not the applicant, and cannot be identical. This requirement is  
25 not necessary for a renewal application.

26 (6) A certification that the applicant has qualified in accordance with §11-47-15,  
27 provided that law enforcement personnel may submit a certification of the RI combat course. A  
28 National Rifle Association (hereinafter "NRA") instructor or a police range officer must sign and  
29 complete the certification which include the date of the qualification, the printed name, phone  
30 number of the instructor, instructor NRA number, the caliber of the weapon and the applicant's  
31 score. An applicant's qualification dated more than one year prior the date of the permit  
32 application will be considered invalid.

33 (7) A copy of the NRA instructor certification and/or police officer's range certification  
34 must be submitted with the application.

1           (8) Proof of the applicant's legal residence may be required. The residency requirement  
2 may be satisfied by any one of the following methods: the application may be signed by the  
3 applicant's local licensing authority, the application may be signed by the city or town chief of  
4 police, the application may be signed by the city or town clerk or the applicant may submit a  
5 certified or notarized copy of the applicant's voter registration card.

6           (9) The applicant shall sign an affidavit certifying that they have read and is familiar with  
7 the provisions of §§11-47-1 through 11-47-63, inclusive, of the general laws of Rhode Island, as  
8 amended, and acknowledges the penalties for violations of the provisions of the cited sections.  
9 They shall further attest that any alteration of the permit is just cause for revocation. The affidavit  
10 shall be dated and notarized and shall indicate the date it was submitted to the licensing authority  
11 or the police department.

12           (g) The attorney general shall, within sixty (60) days for an in-state applicant or ninety  
13 (90) days for an out-of-state applicant, from receipt of the application, either approve or deny the  
14 application.

15           (1) If the application is approved, the attorney general may require the applicant to be  
16 present in the office of the attorney general to sign and submit a fingerprint for the permit.

17           (2) If the attorney general denies the application, the applicant shall be notified, either by  
18 mail or by phone, that the entire application is available for pick-up by the applicant. Any denial  
19 shall be in writing and state the evidence upon which the licensing authority based its decision  
20 and the rationale for the denial.

21           (3) If the attorney general deems the application incomplete, then the applicant shall be  
22 notified, either by mail or by phone, within five (5) business days from submitting the  
23 application, that the entire application is available for pick-up by the applicant along with a  
24 written response stating reason(s) why the application was deemed incomplete.

25           (h) An applicant denied a permit pursuant to §11-47-18 may seek judicial review  
26 pursuant to the provisions of chapter 35 of title 42.

27           (i) The provisions of §11-47-35 shall not apply to persons licensed under §11-47-18.

28           (j) The attorney general's renewal application for a license to carry a concealable weapon  
29 shall be as follows:

30           (1) The applicant must submit a complete, signed, dated and notarized renewal  
31 application to the attorney general prior to the expiration date of the permit.

32           (2) The renewal application shall include only the information included in the original  
33 application with the following exceptions:

34           (i) The three (3) dated, signed and notarized typed reference letters from individuals who

1 personally know the applicant are not required.

2 (ii) The fingerprint card requirement is not required.

3 (3) The attorney general shall within thirty (30) days of receipt of the renewal  
4 application, if there is no material change in the applicant's renewal application, no material  
5 change in need and no change in the applicant's criminal history, automatically approve the  
6 renewal application.

7 (k) The attorney general shall establish and maintain an emergency permit extension on  
8 the renewal application for a license to carry a concealable weapon.

9 (1) The emergency permit extension is only available to renewal applicants who, at the  
10 time of the application, have an unexpired four (4) year attorney general license to carry a  
11 concealable weapon and who must maintain the permit for work purposes.

12 (2) A complete copy of the permit application shall be delivered to the office of the  
13 attorney general.

14 (3) The attorney general shall, within three (3) business days of receipt of the renewal  
15 application copy, if there is no material change in the applicant's renewal application, no material  
16 change in need and no change in the applicant's criminal history, automatically approve the  
17 emergency permit extension.

18 (4) A fee of fifty dollars (\$50.00) shall be charged and shall be paid to the attorney  
19 general for the emergency permit extension upon the issuance of the emergency permit.

20 (5) The emergency permit extension shall be valid for forty-five (45) days from issuance  
21 and shall not be extended.

22 (6) Nothing in the emergency permit extension section shall be construed or interpreted  
23 to stay or toll the time periods in the renewal process as outlined herein.

24 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES -- WEAPONS

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1           This act would amend the application process for carrying a concealed weapon and  
2 would set forth the requirements on each application, whether to the city or town police chief or  
3 to the attorney general and would also codify the requirements used by the attorney general in  
4 issuing a concealed weapon permit. It would also provide for a review process for those  
5 applications that are denied and would set time limits on the approval or denial process.

6           This act would take effect upon passage.

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