



Sen. Dale A. Righter

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1 AMENDMENT TO SENATE BILL 1038

2 AMENDMENT NO. _____. Amend Senate Bill 1038 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Firearm Concealed Carry Act is amended by
5 changing Sections 10, 15, 20, 55, and 87 as follows:

6 (430 ILCS 66/10)

7 Sec. 10. Issuance of licenses to carry a concealed firearm.

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

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

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

13 (3) has submitted the requisite fees; and

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

1 Section 20.

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

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

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

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

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

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

23 (f) The Department shall deny the applicant a license if
24 the applicant fails to meet the requirements under this Act or
25 the Department receives a determination from the Board that the
26 applicant is ineligible for a license. The Department must

1 notify the applicant stating the grounds for the denial. The
2 notice of denial must inform the applicant of his or her right
3 to an appeal through administrative and de novo judicial
4 review.

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

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

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

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

18 (h) If an officer of a law enforcement agency initiates an
19 investigative stop, including but not limited to a traffic
20 stop, of a licensee or a non-resident carrying a concealed
21 firearm under subsection (e) of Section 40 of this Act, upon
22 the request of the officer the licensee or non-resident shall
23 disclose to the officer that he or she is in possession of a
24 concealed firearm under this Act, or present the license upon
25 the request of the officer if he or she is a licensee or
26 present upon the request of the officer evidence under

1 paragraph (2) of subsection (e) of Section 40 of this Act that
2 he or she is a non-resident qualified to carry under that
3 subsection. The disclosure requirement under this subsection
4 (h) is satisfied if the licensee presents his or her license to
5 the officer or the non-resident presents to the officer
6 evidence under paragraph (2) of subsection (e) of Section 40 of
7 this Act that he or she is qualified to carry under that
8 subsection. Upon the request of the officer, the licensee or
9 non-resident shall also identify the location of the concealed
10 firearm and permit the officer to safely secure the firearm for
11 the duration of the investigative stop. During a traffic stop,
12 any passenger within the vehicle who is a licensee or a
13 non-resident carrying under subsection (e) of Section 40 of
14 this Act must comply with the requirements of this subsection
15 (h).

16 (h-1) If a licensee carrying a firearm or a non-resident
17 carrying a firearm in a vehicle under subsection (e) of Section
18 40 of this Act is contacted by a law enforcement officer or
19 emergency services personnel, the law enforcement officer or
20 emergency services personnel may secure the firearm or direct
21 that it be secured during the duration of the contact if the
22 law enforcement officer or emergency services personnel
23 determines that it is necessary for the safety of any person
24 present, including the law enforcement officer or emergency
25 services personnel. The licensee or nonresident shall submit to
26 the order to secure the firearm. When the law enforcement

1 officer or emergency services personnel have determined that
2 the licensee or non-resident is not a threat to the safety of
3 any person present, including the law enforcement officer or
4 emergency services personnel, and if the licensee or
5 non-resident is physically and mentally capable of possessing
6 the firearm, the law enforcement officer or emergency services
7 personnel shall return the firearm to the licensee or
8 non-resident before releasing him or her from the scene and
9 breaking contact. If the licensee or non-resident is
10 transported for treatment to another location, the firearm
11 shall be turned over to any peace officer. The peace officer
12 shall provide a receipt which includes the make, model,
13 caliber, and serial number of the firearm.

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

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

6 (Source: P.A. 98-63, eff. 7-9-13; 98-600, eff. 12-6-13; 99-29,
7 eff. 7-10-15.)

8 (430 ILCS 66/15)

9 Sec. 15. Objections by law enforcement agencies.

10 (a) Any law enforcement agency may submit an objection to a
11 license applicant based upon a reasonable suspicion that the
12 applicant is a danger to himself or herself or others, or a
13 threat to public safety. A law enforcement agency objection to
14 a license applicant based upon information in an arrest or
15 incident report shall be based on information from an
16 investigation of the objecting law enforcement agency and not
17 an investigation from another law enforcement agency. Nothing
18 in this Act shall prohibit a law enforcement agency from
19 contacting the investigating law enforcement agency regarding
20 a license applicant. The objection shall be made by the chief
21 law enforcement officer of the law enforcement agency, or his
22 or her designee, and must include any information relevant to
23 the objection. A law enforcement agency that submits an
24 objection to a license applicant may withdraw an objection
25 before it is submitted to the Board. If a law enforcement

1 agency submits an objection within 30 days after the entry of
2 an applicant into the database, the Department shall submit the
3 objection, unless withdrawn or rejected as provided for in this
4 Section, and all information available to the Board under State
5 and federal law related to the application to the Board within
6 10 days of completing all necessary background checks and any
7 verification performed by the Department. The Department may
8 review and verify a law enforcement agency objection to a
9 license applicant before the Department's submission of the
10 objection to the Board. Any verification shall determine: (i)
11 if the criteria under this Act for the submission of an
12 objection by a law enforcement agency has been met, (ii) that
13 the objection has been filed against the proper person, and
14 (iii) that information relevant to the objection has been
15 included. A law enforcement agency objection that fails this
16 verification shall be returned to the objecting law enforcement
17 agency and the law enforcement agency shall have 10 calendar
18 days after receiving notification from the Department to submit
19 the required information, provide the Department a response, or
20 withdraw the objection. If the objecting law enforcement agency
21 fails to respond within 10 calendar days, the Department shall
22 reject the objection and process the application.

23 (b) If an applicant has 5 or more arrests for any reason,
24 that have been entered into the Criminal History Records
25 Information (CHRI) System, within the 7 years preceding the
26 date of application for a license, or has 3 or more arrests

1 within the 7 years preceding the date of application for a
2 license for any combination of gang-related offenses, the
3 Department shall object and submit the applicant's arrest
4 record to the extent the Board is allowed to receive that
5 information under State and federal law, the application
6 materials, and any additional information submitted by a law
7 enforcement agency to the Board. For purposes of this
8 subsection, "gang-related offense" is an offense described in
9 Section 12-6.4, Section 24-1.8, Section 25-5, Section 33-4, or
10 Section 33G-4, or in paragraph (1) of subsection (a) of Section
11 12-6.2, paragraph (2) of subsection (b) of Section 16-30,
12 paragraph (2) of subsection (b) of Section 31-4, or item (iii)
13 of paragraph (1.5) of subsection (i) of Section 48-1 of the
14 Criminal Code of 2012.

15 (c) The referral of an objection under this Section to the
16 Board shall toll the 90-day period for the Department to issue
17 or deny the applicant a license under subsection (e) of Section
18 10 of this Act, during the period of review and until the Board
19 issues its decision.

20 (c-5) If a law enforcement agency submits an erroneous
21 objection, the law enforcement agency shall notify the
22 Department immediately of the error and the objection shall be
23 considered null and void. The Department shall notify the Board
24 that the objection has been rescinded and the application shall
25 be returned to the Department for completion of the application
26 process.

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

4 (Source: P.A. 98-63, eff. 7-9-13; 98-600, eff. 12-6-13.)

5 (430 ILCS 66/20)

6 Sec. 20. Concealed Carry Licensing Review Board.

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

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

21 (2) 2 commissioners with at least 5 years of experience
22 serving as an attorney with the United States Department of
23 Justice;

24 (3) 3 commissioners with at least 5 years of experience
25 as a federal agent or employee with investigative

1 experience or duties related to criminal justice under the
2 United States Department of Justice, Drug Enforcement
3 Administration, Department of Homeland Security, or
4 Federal Bureau of Investigation; and

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

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

21 (c) The Board shall meet at the call of the chairperson as
22 often as necessary to consider objections to applications for a
23 license under this Act. If necessary to ensure the
24 participation of a commissioner, the Board shall allow a
25 commissioner to participate in a Board meeting by electronic
26 communication. Any commissioner participating electronically

1 shall be deemed present for purposes of establishing a quorum
2 and voting.

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

10 (d-5) Immediately upon the receipt from the Department of
11 notice of an objection, the Board shall notify the applicant of
12 the referral of the application to the Board and that the
13 90-day period for the Department to issue or deny a license has
14 been tolled. The notification of referral shall include the
15 identity of the law enforcement agency submitting the objection
16 and the specific incident or incidents upon which the objection
17 is based. Notification to the applicant shall be by mail and
18 the applicant's online application page. The notification of
19 the referral shall inform the applicant of his or her right to
20 submit a written statement to the Board on his or her behalf.
21 The applicant's statement may include any documents that the
22 applicant believes will clarify or substantiate the
23 applicant's statement. This statement may be submitted by mail,
24 email, or the applicant's online application page. The
25 applicant shall have 30 days from the notification of the
26 referral to the Board to submit a statement. However, the

1 applicant need not respond within 30 days if the applicant
2 notifies the Board that an additional 30 days are needed to
3 respond. An applicant shall have a maximum of 90 days in which
4 to respond.

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

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

- 23 (1) the Board requests information from the applicant,
24 including but not limited to electronic fingerprints to be
25 submitted to the Department, in accordance with subsection
26 (e) of this Section, in which case the Board shall make a

1 decision within 30 days of receipt of the required
2 information from the applicant;

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

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

8 (f-5) The Board's request for an additional 30 days to
9 issue a decision shall be limited to one 30-day period.

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

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

23 (i) The Board shall report monthly to the Governor and the
24 General Assembly on the number of objections received and
25 provide details of the circumstances in which the Board has
26 determined to deny licensure based on law enforcement or

1 Department objections under Section 15 of this Act. The report
2 shall not contain any identifying information about the
3 applicants.

4 (Source: P.A. 98-63, eff. 7-9-13; 98-600, eff. 12-6-13.)

5 (430 ILCS 66/55)

6 Sec. 55. Change of address or name; lost, destroyed, or
7 stolen licenses.

8 (a) A licensee shall notify the Department within 30 days
9 of moving or changing residence or any change of name. The
10 licensee shall submit the requisite fee and the Department may
11 require a notarized statement that the licensee has changed his
12 or her residence or his or her name, including the prior and
13 current address or name and the date the applicant moved or
14 changed his or her name.

15 (b) A licensee shall notify the Department within 10 days
16 of discovering that a license has been lost, destroyed, or
17 stolen. A lost, destroyed, or stolen license is invalid. To
18 request a replacement license, the licensee shall submit:

19 (1) a notarized statement that the licensee no longer
20 possesses the license, and that it was lost, destroyed, or
21 stolen;

22 (2) if applicable, a copy of a police report stating
23 that the license was stolen; and

24 (3) the requisite fee.

25 (b-5) The Department shall have 30 days to issue a

1 replacement license.

2 (c) A violation of this Section is a petty offense with a
3 fine of \$150 which shall be deposited into the Mental Health
4 Reporting Fund.

5 (Source: P.A. 98-63, eff. 7-9-13; 99-29, eff. 7-10-15.)

6 (430 ILCS 66/87)

7 Sec. 87. Administrative and judicial review.

8 (a) Whenever an application for a concealed carry license
9 is denied, whenever the Department fails to act on an
10 application within 90 days of its receipt, or whenever a
11 license is revoked or suspended as provided in this Act, the
12 aggrieved party may appeal to the Director for a hearing upon
13 the denial, revocation, suspension, or failure to act on the
14 application, unless the denial was made by the Concealed Carry
15 Licensing Review Board, in which case the aggrieved party may
16 petition the circuit court in writing in the county of his or
17 her residence for a hearing upon the denial. The Director shall
18 have 45 days after the submission of an applicant's request for
19 a hearing to hold the hearing and 15 days after the hearing to
20 make a final administrative decision.

21 (b) All final administrative decisions of the Department or
22 the Concealed Carry Licensing Review Board under this Act shall
23 be subject to de novo judicial review by the circuit court
24 ~~under the provisions of the Administrative Review Law.~~ Any
25 party may offer evidence that is otherwise proper and

1 admissible without regard to whether that evidence is a part of
2 the administrative record. The term "administrative decision"
3 is defined as in Section 3-101 of the Code of Civil Procedure.
4 (Source: P.A. 98-63, eff. 7-9-13.)".