



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1857

Introduced 2/20/2015, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

430 ILCS 66/10
430 ILCS 66/15
430 ILCS 66/20
430 ILCS 66/70
430 ILCS 66/87

Amends the Firearm Concealed Carry Act. Provides that the Department of State Police must notify the applicant stating detailed grounds for the denial and the applicant's right to receive copies of all documents and other evidence that was provided to the Department concerning the application. Provides that in the event that an applicant is denied a license, a copy of any and all objections made by law enforcement agencies shall be made available to the applicant. Provides that upon the referral, applicants shall be given notice by the Department that the application is undergoing review by the Board. The notice shall include the next date upon which the Concealed Carry Licensing Review Board is expected to convene, and shall inform the applicant that the 90-day time period has been tolled. Provides that all documents and evidence provided to the Board, including a list of the names of all witnesses who provided testimony to the Board, shall be made available to the applicant and the applicant's designated attorney, if any. Provides that an applicant may appeal a denial of an application for a concealed carry license by the Department to the Director for a hearing within 70 calendar days after the denial. Provides that the time deadline for filing a petition for administrative or judicial review shall be 70 calendar days from the date the notice of denial was received by the applicant. If an applicant brings a petition for judicial review under this Act, the petition must be decided without remand to the Department.

LRB099 10942 RLC 31285 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Concealed Carry Act is amended by
5 changing Sections 10, 15, 20, 70, 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
17 Section 20.

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

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

23 (1) carry a loaded or unloaded concealed firearm, fully

1 concealed or partially concealed, on or about his or her
2 person; and

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

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

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

16 (f) The Department shall deny the applicant a license if
17 the applicant fails to meet the requirements under this Act or
18 the Department receives a determination from the Board that the
19 applicant is ineligible for a license. The Department must
20 notify the applicant stating detailed ~~the~~ grounds for the
21 denial and the applicant's right to receive copies of all
22 documents and other evidence that was provided to the
23 Department concerning the application. The notice of denial
24 must inform the applicant of his or her right to an appeal
25 through administrative and judicial review.

26 The notification of denial shall be provided as follows:

1 (1) the notice of denial and the written decision of
2 the Board under subsection (f) of Section 20 of this Act
3 shall be sent via certified United States mail by the
4 Department, with signature required and return receipt
5 requested, to the address listed on the application;

6 (2) the appeal period under Section 87 of this Act
7 shall begin to accrue on the date the denial letter is
8 delivered to the address listed on the application; and

9 (3) in any administrative or judicial proceeding
10 concerning the denial of the application, the Department
11 shall provide the following:

12 (A) proof that the denial letter was delivered to
13 the correct address;

14 (B) a copy of the signature of the person who
15 received the letter; and

16 (C) proof of the date on which it was delivered.

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

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

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

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

4 (h) If an officer of a law enforcement agency initiates an
5 investigative stop, including but not limited to a traffic
6 stop, of a licensee or a non-resident carrying a concealed
7 firearm under subsection (e) of Section 40 of this Act, upon
8 the request of the officer the licensee or non-resident shall
9 disclose to the officer that he or she is in possession of a
10 concealed firearm under this Act, present the license upon the
11 request of the officer if he or she is a licensee or present
12 upon the request of the officer evidence under paragraph (2) of
13 subsection (e) of Section 40 of this Act that he or she is a
14 non-resident qualified to carry under that subsection, and
15 identify the location of the concealed firearm. During a
16 traffic stop, any passenger within the vehicle who is a
17 licensee or a non-resident carrying under subsection (e) of
18 Section 40 of this Act must comply with the requirements of
19 this subsection (h).

20 (i) The Department shall maintain a database of license
21 applicants and licensees. The database shall be available to
22 all federal, State, and local law enforcement agencies, State's
23 Attorneys, the Attorney General, and authorized court
24 personnel. Within 180 days after the effective date of this
25 Act, the database shall be searchable and provide all
26 information included in the application, including the

1 applicant's previous addresses within the 10 years prior to the
2 license application and any information related to violations
3 of this Act. No law enforcement agency, State's Attorney,
4 Attorney General, or member or staff of the judiciary shall
5 provide any information to a requester who is not entitled to
6 it by law.

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

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

13 (430 ILCS 66/15)

14 Sec. 15. Objections by law enforcement agencies.

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

1 completing all necessary background checks. If an applicant is
2 denied a license, a copy of any and all objections made by law
3 enforcement agencies shall be made available to the applicant.

4 (b) If an applicant has 5 or more arrests for any reason,
5 that have been entered into the Criminal History Records
6 Information (CHRI) System, within the 7 years preceding the
7 date of application for a license, or has 3 or more arrests
8 within the 7 years preceding the date of application for a
9 license for any combination of gang-related offenses, the
10 Department shall object and submit the applicant's arrest
11 record to the extent the Board is allowed to receive that
12 information under State and federal law, the application
13 materials, and any additional information submitted by a law
14 enforcement agency to the Board. For purposes of this
15 subsection, "gang-related offense" is an offense described in
16 Section 12-6.4, Section 24-1.8, Section 25-5, Section 33-4, or
17 Section 33G-4, or in paragraph (1) of subsection (a) of Section
18 12-6.2, paragraph (2) of subsection (b) of Section 16-30,
19 paragraph (2) of subsection (b) of Section 31-4, or item (iii)
20 of paragraph (1.5) of subsection (i) of Section 48-1 of the
21 Criminal Code of 2012.

22 (c) The referral of an objection under this Section to the
23 Board shall toll the 90-day period for the Department to issue
24 or deny the applicant a license under subsection (e) of Section
25 10 of this Act, during the period of review and until the Board
26 issues its decision. Upon the referral, applicants shall be

1 given notice by the Department that the application is
2 undergoing review by the Board. The notice shall include the
3 next date upon which the Board is expected to convene, and
4 shall inform the applicant that the 90-day time period has been
5 tolled.

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

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

10 (430 ILCS 66/20)

11 Sec. 20. Concealed Carry Licensing Review Board.

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

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

1 (2) 2 commissioners with at least 5 years of experience
2 serving as an attorney with the United States Department of
3 Justice;

4 (3) 3 commissioners with at least 5 years of experience
5 as a federal agent or employee with investigative
6 experience or duties related to criminal justice under the
7 United States Department of Justice, Drug Enforcement
8 Administration, Department of Homeland Security, or
9 Federal Bureau of Investigation; and

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

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

26 (c) The Board shall meet at the call of the chairperson as

1 often as necessary to consider objections to applications for a
2 license under this Act. If necessary to ensure the
3 participation of a commissioner, the Board shall allow a
4 commissioner to participate in a Board meeting by electronic
5 communication. Any commissioner participating electronically
6 shall be deemed present for purposes of establishing a quorum
7 and voting.

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

15 (e) In considering an objection of a law enforcement agency
16 or the Department, the Board shall review the materials
17 received with the objection from the law enforcement agency or
18 the Department. By a vote of at least 4 commissioners, the
19 Board may request additional information from the law
20 enforcement agency, Department, or the applicant, or the
21 testimony of the law enforcement agency, Department, or the
22 applicant. The Board may require that the applicant submit
23 electronic fingerprints to the Department for an updated
24 background check where the Board determines it lacks sufficient
25 information to determine eligibility. The Board may only
26 consider information submitted by the Department, a law

1 enforcement agency, or the applicant. The Board shall review
2 each objection and determine by a majority of commissioners
3 whether an applicant is eligible for a license.

4 (f) The Board shall issue a written decision within 30 days
5 of receipt of the objection from the Department. The decision
6 shall specifically reference all documents and evidence
7 submitted to the Board by the Department, law enforcement
8 agencies, and the applicant. The decision shall include the
9 names of all witnesses who testified at the hearing.

10 The ~~However, the~~ Board need not issue its written ~~a~~
11 decision within the 30-day time period ~~30 days~~ if:

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

18 (2) the applicant agrees, in writing, to allow the
19 Board additional time to consider an objection before
20 issuing a written decision; or

21 (3) the Board notifies the applicant and the Department
22 that the Board needs an additional 30 days to issue its
23 written ~~a~~ decision.

24 (g) If the Board determines by a preponderance of the
25 evidence that the applicant poses a danger to himself or
26 herself or others, or is a threat to public safety, then the

1 Board shall affirm the objection of the law enforcement agency
2 or the Department, ~~and~~ shall notify the Department that the
3 applicant is ineligible for a license, and shall provide the
4 Department with a written copy of the decision as outlined in
5 subsection (f) of this Section. If the Board does not determine
6 by a preponderance of the evidence that the applicant poses a
7 danger to himself or herself or others, or is a threat to
8 public safety, then the Board shall notify the Department that
9 the applicant is eligible for a license and shall forward a
10 copy of its written decision to the Department.

11 (h) Meetings of the Board shall not be subject to the Open
12 Meetings Act ~~and records of the Board shall not be subject to~~
13 ~~the Freedom of Information Act.~~ However, all documents and
14 evidence provided to the Board, including a list of the names
15 of all witnesses who provided testimony to the Board, shall be
16 made available to the applicant and the applicant's designated
17 attorney, if any. To the extent that the Board has reviewed the
18 medical records of an applicant, or any other records subject
19 to any law or rule providing for the applicant's privacy,
20 copies of the those records shall be provided only to the
21 applicant and the disclosure of the records shall comply with
22 all applicable privacy laws, rules, and regulations. Upon a
23 Board decision denying an application, a copy of the written
24 decision of the Board shall be attached to the notice of denial
25 required under subsection (f) of Section 10 of this Act, and
26 mailed to the applicant.

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

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

9 (430 ILCS 66/70)

10 Sec. 70. Violations.

11 (a) A license issued or renewed under this Act shall be
12 revoked if, at any time, the licensee is found to be ineligible
13 for a license under this Act or the licensee no longer meets
14 the eligibility requirements of the Firearm Owners
15 Identification Card Act. The notification and appeals
16 processes for revoked licenses shall be the same as those for
17 denied applications under Sections 10, 15, and 87 of this Act.

18 (b) A license shall be suspended if an order of protection,
19 including an emergency order of protection, plenary order of
20 protection, or interim order of protection under Article 112A
21 of the Code of Criminal Procedure of 1963 or under the Illinois
22 Domestic Violence Act of 1986, is issued against a licensee for
23 the duration of the order, or if the Department is made aware
24 of a similar order issued against the licensee in any other
25 jurisdiction. If an order of protection is issued against a

1 licensee, the licensee shall surrender the license, as
2 applicable, to the court at the time the order is entered or to
3 the law enforcement agency or entity serving process at the
4 time the licensee is served the order. The court, law
5 enforcement agency, or entity responsible for serving the order
6 of protection shall notify the Department within 7 days and
7 transmit the license to the Department.

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

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

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

22 (e) Except as otherwise provided, a licensee in violation
23 of this Act shall be guilty of a Class B misdemeanor. A second
24 or subsequent violation is a Class A misdemeanor. The
25 Department may suspend a license for up to 6 months for a
26 second violation and shall permanently revoke a license for 3

1 or more violations of Section 65 of this Act. Any person
2 convicted of a violation under this Section shall pay a \$150
3 fee to be deposited into the Mental Health Reporting Fund, plus
4 any applicable court costs or fees.

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

16 (g) A licensee whose license is revoked, suspended, or
17 denied shall, within 48 hours of receiving notice of the
18 revocation, suspension, or denial, surrender his or her
19 concealed carry license to the local law enforcement agency
20 where the person resides. The local law enforcement agency
21 shall provide the licensee a receipt and transmit the concealed
22 carry license to the Department of State Police. If the
23 licensee whose concealed carry license has been revoked,
24 suspended, or denied fails to comply with the requirements of
25 this subsection, the law enforcement agency where the person
26 resides may petition the circuit court to issue a warrant to

1 search for and seize the concealed carry license in the
2 possession and under the custody or control of the licensee
3 whose concealed carry license has been revoked, suspended, or
4 denied. The observation of a concealed carry license in the
5 possession of a person whose license has been revoked,
6 suspended, or denied constitutes a sufficient basis for the
7 arrest of that person for violation of this subsection. A
8 violation of this subsection is a Class A misdemeanor.

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

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

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

1 subsection (i).

2 (Source: P.A. 98-63, eff. 7-9-13; 98-756, eff. 7-16-14; 98-899,
3 eff. 8-15-14.)

4 (430 ILCS 66/87)

5 Sec. 87. Administrative and judicial review.

6 (a) Whenever an application for a concealed carry license
7 is denied, whenever the Department fails to act on an
8 application within 90 days of its receipt, or whenever a
9 license is revoked or suspended as provided in this Act, the
10 aggrieved party may appeal to the Director for a hearing upon
11 the denial, revocation, suspension, or failure to act on the
12 application, unless the denial was made by the Concealed Carry
13 Licensing Review Board, in which case the aggrieved party may
14 petition the circuit court in writing in the county of his or
15 her residence for a hearing upon the denial. An applicant may
16 appeal a denial of an application for a concealed carry license
17 by the Department to the Director for a hearing within 70
18 calendar days after the denial.

19 (b) All final administrative decisions of the Department or
20 the Concealed Carry Licensing Review Board under this Act shall
21 be subject to judicial review under the provisions of the
22 Administrative Review Law except that a petition for
23 administrative or judicial review shall be filed within 70
24 calendar days from the date the notice of denial was received
25 by the applicant. If an applicant brings a petition for

1 judicial review under this Act, the petition must be decided
2 without remand to the Department. The term "administrative
3 decision" is defined as in Section 3-101 of the Code of Civil
4 Procedure.

5 (c) Immediately upon receiving notice that the application
6 has been denied, the applicant or the applicant's attorney, if
7 any, may formally request copies of all documents and evidence
8 considered by the Department in making its determination. The
9 Department shall provide the requested documents and evidence
10 within 14 calendar days of receiving the written request.

11 (Source: P.A. 98-63, eff. 7-9-13.)