

1 **State of Arkansas**

2 **80th General Assembly**

3 **Regular Session, 1995**

A Bill

ACT 411 OF 1995

HOUSE BILL 1088

4 **By: Representatives Wilkinson, B. G. Hendrix, Ammons, Laverty, Simmons, Curran, T.**
5 ***Smith, Wallis, Thomas, Pappas, Purdom, Angel, Simon, Sheppard, Thicksten, Davis,***
6 ***Molinaro, Hall, Kidd, Young, Flanagan, Watts, Cash, Wyrick, and Wagner, Hogue,***
7 ***Calhoun, K. Wood, and Von Grep***

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For An Act To Be Entitled

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"AN ACT TO AUTHORIZE THE ARKANSAS STATE POLICE TO ISSUE
12 LICENSES TO QUALIFIED APPLICANTS TO CARRY CONCEALED
13 WEAPONS; AND FOR OTHER PURPOSES."

14

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Subtitle

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"TO AUTHORIZE THE ARKANSAS STATE POLICE
17 TO ISSUE LICENSES TO QUALIFIED
18 APPLICANTS TO CARRY CONCEALED WEAPONS"

19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21

22 *SECTION 1. As used in this act:*

23 *(a) "Director" means the director of the Arkansas State Police.*

24 *(b) "Handgun" means any firearm with a barrel length of less than*
25 *twelve inches (12") that is designed, made, or adapted to be fired with one*
26 *hand.*

27 *(c) "Concealed" means to cover from observation so as to prevent public*
28 *view.*

29

30 *SECTION 2. (a) (1) The director is authorized to issue licenses to carry*
31 *concealed handguns to persons qualified as provided in this section. Such*
32 *licenses shall be valid throughout the state for a period of four (4) years*
33 *from the date of issuance. Any person possessing a valid license issued*
34 *pursuant to this section may carry a concealed handgun.*

35 *(2) The licensee must carry the license, together with valid*
36 *identification, at all times in which the licensee is carrying a concealed*

1 handgun and must display both the license and proper identification upon
2 demand by a law enforcement officer.

3 (b) The director shall issue a license if the applicant:

4 (1) Is a resident of the state and has been a resident
5 continuously for twelve (12) months or longer immediately preceding the filing
6 of the application (provided this shall not apply to any retired city, county,
7 state or federal law enforcement officer);

8 (2) Is twenty-one (21) years of age or older;

9 (3) Does not suffer from a mental or physical infirmity which
10 prevents the safe handling of a handgun and has not threatened or attempted
11 suicide;

12 (4) Is not ineligible to possess a firearm by virtue of having
13 been convicted of a felony in a court of this state, of any other state, or of
14 the United States without having been pardoned for same and had firearms
15 possession rights restored;

16 (5) Does not chronically or habitually abuse controlled substances
17 to the extent that his normal faculties are impaired. It shall be presumed
18 that an applicant chronically and habitually uses controlled substances to the
19 extent that his faculties are impaired if the applicant has been voluntarily
20 or involuntarily committed to a treatment facility for the abuse of a
21 controlled substance or been found guilty of a crime under the provisions of
22 the Uniform Controlled Substances Act or similar laws of any other state or
23 the United States relating to controlled substances within a three-year period
24 immediately preceding the date on which the application is submitted;

25 (6) Does not chronically and habitually use alcoholic beverages to
26 the extent that his normal faculties are impaired. It shall be presumed that
27 an applicant chronically and habitually uses alcoholic beverages to the extent
28 that his normal faculties are impaired if the applicant has been voluntarily
29 or involuntarily committed as an alcoholic to a treatment facility or has been
30 convicted of two (2) or more offenses related to the use of alcohol under the
31 laws of this state or similar laws of any other state or the United States
32 within the three-year period immediately preceding the date on which the
33 application is submitted;

34 (7) Desires a legal means to carry a concealed handgun to defend
35 himself;

1 (8) Has not been adjudicated mentally incompetent;

2 (9) Has not been voluntarily or involuntarily committed to a
3 mental institution or mental health treatment facility;

4 (10) Is not a fugitive from justice;

5 (11) Has satisfactorily completed a training course as prescribed
6 and approved by the director; and

7 (12) That the applicant sign a statement of allegiance to the
8 United States Constitution, the Arkansas Constitution, and all federal and
9 state courts.

10 (c) The director may deny a license if the applicant has been found
11 guilty of one or more crimes of violence constituting a misdemeanor, or may
12 revoke a license if the licensee has been found guilty of one or more crimes
13 of violence within the preceding three (3) years. The director shall, upon
14 notification by any law enforcement agency or a court and subsequent written
15 verification, suspend a license or the processing of an application for a
16 license if the licensee or applicant is arrested or formally charged with a
17 crime which would disqualify such person from having a license under this
18 section until final disposition of the case.

19 (d) The application shall be completed, under oath, on a form
20 promulgated by the director and shall include only:

21 (1) The name, address, place and date of birth, race, sex and
22 occupation of the applicant;

23 (2) The driver_s license number or Social Security number of
24 applicant;

25 (3) Any previous address of the applicant for the two (2) years
26 preceding the date of the application;

27 (4) A statement that the applicant is in compliance with criteria
28 contained within subsections (b) and (c);

29 (5) A statement that the applicant has been furnished a copy of
30 *this act and is acquainted with the truth and understanding of this act;*

31 (6) A conspicuous warning that the application is executed under
32 oath and that a knowingly false answer to any question, or the knowing
33 submission of any false document by the applicant, subjects the applicant to
34 criminal prosecution and precludes any future license being issued to the
35 *applicant and immediate revocation if the license has already been issued;*

1 (7) A statement that the applicant desires a legal means to carry
2 a concealed handgun to defend himself; and

3 (8) *A description and the serial number of any handgun the*
4 *applicant may desire to carry. Any applicant may list up to three (3)*
5 *handguns that the applicant may choose to carry, but the applicant must*
6 *establish proficiency in the use of each of the handguns as required in the*
7 *training course as prescribed herein. In the event a license is issued*
8 *pursuant to this act, the serial number of the listed handguns shall be*
9 *printed only on the license. All other records of the serial numbers shall*
10 *thereafter be expunged. Should a license be denied, all records of the serial*
11 *numbers shall be expunged. All records of serial numbers of listed handguns*
12 *shall be destroyed when the license expires.*

13 (e) The applicant shall submit the following to the Arkansas State
14 Police:

15 (1) A completed application as described in subsection (d);

16 (2) A full-face photograph of the applicant;

17 (3) A non-refundable license fee of one hundred dollars (\$100) or
18 such other amount as prescribed by the director under the Administrative
19 Procedures Act. Costs for processing the set of fingerprints as required in
20 paragraph (4) of this subsection shall be borne by the applicant;

21 (4) A full set of fingerprints of the applicant administered by
22 the Arkansas State Police; and

23 (5) A waiver authorizing the Arkansas State Police access to any
24 medical records concerning the applicant and permitting access to all of the
25 applicant's criminal records, provided, however, that the State Police shall
26 maintain the confidentiality of the medical records.

27 (f) (1) The Arkansas State Police, upon receipt of the items listed in
28 subsection (e) shall forward the full set of fingerprints of the applicant to
29 the appropriate agencies for state and federal processing.

30 (2) The Arkansas State Police shall forward a copy of the
31 applicant_s application to the sheriff of the applicant_s county of residence
32 and, if applicable, the police chief of the applicant_s municipality of
33 residence. The sheriff of the applicant_s county of residence and, if
34 applicable, the police chief of the applicant_s municipality of residence may,
35 at his discretion, participate in the process by submitting a voluntary report

1 to the Arkansas State Police containing any readily discoverable information
2 that he feels may be pertinent to the licensing of any applicant. The
3 reporting shall be made within thirty (30) days after the date he receives the
4 copy of the application. *The director may deny a license if the sheriff or*
5 *chief of police, if applicable, of the applicant's place of residence submits*
6 *an affidavit that the applicant has or is reasonably likely to be a danger to*
7 *himself or herself or others or to the community at large as the result of the*
8 *applicant's mental or psychological state as demonstrated by past patterns of*
9 *behavior or participation in an incidence involving unlawful violence or*
10 *threats of unlawful violence or if the applicant is under a criminal*
11 *investigation at the time of applying for a license.*

12 (3) The director shall, within one hundred twenty (120) days after
13 the date of receipt of the items listed in subsection (e):

14 (A) Issue the license; or

15 (B) Deny the application based solely on the ground that the
16 *applicant fails to qualify under the criteria listed in this act.*

17 (4) If the director denies the application, it shall notify the
18 applicant in writing, stating the grounds for denial. The decision of the
19 director shall be final.

20 (5) In the event a legible set of fingerprints, as determined by
21 the Arkansas State Police and the Federal Bureau of Investigation, cannot be
22 obtained after a minimum of three (3) attempts, the director shall determine
23 eligibility based upon a name check by the Arkansas State Police and the
24 Federal Bureau of Investigation at the request of the director.

25 (g) The Arkansas State Police shall maintain an automated listing of
26 license holders and such information shall be available on-line, upon request,
27 at all times, to all law enforcement agencies through the Arkansas Crime
28 Information Center. However, the records of the department relating to
29 applications for licenses to carry concealed handguns and records relating to
30 license holders shall be exempt from the provisions of the Freedom of
31 Information Act for a period of forty-five (45) days from the date of the
32 issuance of the license or the final denial of an application.

33 (h) Within thirty (30) days after the changing of a permanent address,
34 or within thirty (30) days after having a license or handgun lost or disposed
35 of, the licensee shall notify the director in writing of such change or loss

1 or disposition.

2 (i) In the event that a concealed handgun license is lost or destroyed,
3 the person to whom the license was issued shall comply with the provisions of
4 subsection (h) of this section and may obtain a duplicate, or substitute
5 thereof, upon payment to the Arkansas State Police of a fee established by the
6 director under the Administrative Procedure Act, and furnishing a notarized
7 statement to the Arkansas State Police that such handgun or license has been
8 lost or disposed of.

9 (j) A license issued under this section shall be revoked if the licensee
10 becomes ineligible under the criteria set forth in subsection (b) or (c). Any
11 law enforcement officer making an arrest of a licensee for a violation of this
12 act or any other statutory violation which requires revocation of this permit,
13 shall confiscate the permit and forward it to the Director of the Arkansas
14 State Police, and the permit shall be held until determination of the charges
15 are finalized, with the appropriate disposition of the license thereafter.

16 (k) No less than ninety (90) days prior to the expiration date of the
17 license, the Arkansas State Police shall mail to each licensee a written
18 notice of the expiration and a renewal form prescribed by the Arkansas State
19 Police. The licensee must renew his license on or before the expiration date
20 by filing with the Arkansas State Police the renewal form, a notarized
21 affidavit stating that the licensee remains qualified pursuant to the criteria
22 specified in subsections (b) and (c), and a renewal fee established by the
23 director under the Administrative Procedure Act. The license shall be renewed
24 upon receipt of the completed renewal application and appropriate payment of
25 fees. Additionally, a licensee who fails to file a renewal application on or
26 before its expiration date must renew his license by paying a late fee of
27 fifteen dollars (\$15.00). No license shall be renewed six (6) months or more
28 after its expiration date, and such license shall be deemed to be permanently
29 expired. A person whose license has been permanently expired may reapply for
30 licensure; however, an application for licensure and fees pursuant to
31 subsections (b), (c), and (e) must be submitted, and a new background
32 investigation shall be conducted.

33 (l) No license issued pursuant to this section shall authorize any
34 person to carry a concealed handgun into any police, sheriff or Arkansas State
35 Police station; any Arkansas Highway Police facility; any buildings of the

1 Arkansas State Highway and Transportation Department, or onto any parking lots
2 or grounds adjacent to such buildings; any detention facility, prison or jail;
3 any courthouse; any courtroom, except that nothing in this section shall
4 preclude a judge from carrying a concealed weapon or determining who will
5 carry a concealed weapon in his courtroom; any polling place; any meeting
6 place of the governing body of any governmental entity; any meeting of the
7 legislature or a committee thereof; any building wherein a state office is
8 located; any public park unless for the purpose of participating in any
9 authorized firearms-related activity; any athletic event not related to
10 firearms; any portion of an establishment, licensed to dispense alcoholic
11 beverages for consumption on the premises; any portion of an establishment in
12 which beer or light wine is consumed on the premises; any school, college,
13 community college, or university *campus* or event unless for the purpose of
14 participating in an authorized firearms-related activity; inside the passenger
15 terminal of any airport, except that no person shall be prohibited from
16 carrying any legal firearm into the terminal if the firearm is encased for
17 shipment, for purposes of checking such firearm as baggage to be lawfully
18 transported on any aircraft; any church or other place of worship; or any
19 place where the carrying of firearms is prohibited by federal law. In
20 addition to the places enumerated in this section, the carrying of a concealed
21 handgun may be disallowed in any place in the discretion of the person or
22 entity exercising control over the physical location of such place by the
23 placing of a written notice clearly readable at a distance of not less than
24 ten (10) feet that the *_carrying of a handgun is prohibited._* *Provided no*
25 *sign shall be required for private homes and any licensee entering a private*
26 *home shall notify the occupants that he is carrying a concealed handgun.* No
27 license issued pursuant to this section shall authorize the participants in a
28 parade or demonstration for which a permit is required to carry a concealed
29 handgun.

30 (m) Certified law enforcement officers, chiefs of police, and sheriffs
31 shall be exempt from the licensing requirements of this section, if otherwise
32 authorized to carry a concealed handgun.

33 (n) Any person who knowingly submits a false answer to any question on
34 an application for a license issued pursuant to this act, or who knowingly
35 submits a false document when applying for a license issued pursuant to this

1 section, shall, upon conviction, be guilty of a Class B misdemeanor.

2 (o) All fees collected by the Arkansas State Police pursuant to this
3 section shall be deposited into the Department of Arkansas State Police Fund.

4 (p) Nothing in this section shall be construed to require or allow the
5 registration, documentation or providing of serial numbers with regard to any
6 firearm except as required by subsection (d)(8).

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8 *SECTION 3. Neither the state, the county, the city, or any employee of*
9 *the state, county, or city shall be liable for any civil damages resulting*
10 *from the issuance of a license pursuant to the provisions of this act.*

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12 *SECTION 4. When the Arkansas State Police receives notification from*
13 *any law enforcement agency or court that a licensee has been found guilty or*
14 *has plead guilty or nolo contendere to any crime involving the use of a*
15 *weapon, the license issued under this act shall be immediately revoked.*

16

17 *SECTION 5. The director shall revoke the license of any licensee he*
18 *determines has consumed alcoholic beverages while carrying a handgun. It*
19 *shall be conclusive evidence of such consumption if an open container of*
20 *alcoholic beverages is in the possession of the licensee or is in the vehicle*
21 *in which the licensee is an occupant.*

22

23 *SECTION 6. All provisions of this act of a general and permanent nature*
24 *are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code*
25 *Revision Commission shall incorporate the same in the Code.*

26

27 *SECTION 7. If any provision of this act or the application thereof to*
28 *any person or circumstance is held invalid, such invalidity shall not affect*
29 *other provisions or applications of the act which can be given effect without*
30 *the invalid provision or application, and to this end the provisions of this*
31 *act are declared to be severable.*

32

33 *SECTION 8. The director is authorized to promulgate rules and*
34 *regulations to permit the efficient administration of this act.*

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.As Engrossed: 1/25/95 2/1/95 2/2/95 2/8/95

HB 1088

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/s/Rep. Wilkinson, et al

APPROVED: 2-23-95