

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas As Engrossed: H2/13/97 H2/18/97 H3/12/97 H3/14/97 H3/18/97 H3/19/97 S4/2/97

2 81st General Assembly

A Bill

ACT 1239 OF 1997

3 Regular Session, 1997

HOUSE BILL 1640

4

5 By: Representatives Wilkinson, Simon, Thomas and Milum

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For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE
10 5, CHAPTER 73, SUBCHAPTER 3 CONCERNING LICENSES TO CARRY
11 CONCEALED WEAPONS; AND FOR OTHER PURPOSES."

12

13

Subtitle

14 "AN ACT CONCERNING LICENSES TO CARRY
15 CONCEALED WEAPONS."

16

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

18

19 SECTION 1. Arkansas Code 5-73-301 is amended to read as follows:

20 ~~§~~5-73-301. Definitions.

21 As used in this subchapter:

22 (1) Director means the Director of the Department of Arkansas State
23 Police;

24 (2) Handgun means any firearm, other than a fully automatic firearm,
25 with a barrel length of less than twelve inches (12") that is designed, made,
26 or adapted to be fired with one (1) hand; ~~and~~

27 (3) Concealed means to cover from observation so as to prevent public
28 view; and

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31 SECTION 2. Arkansas Code 5-73-306 is amended to read as follows:

32 ~~§~~5-73-306. Prohibited places.

33 (a) No license issued pursuant to this subchapter shall authorize any
34 person to carry a concealed handgun into:

35 (1) Any police, sheriff's, or Department of Arkansas State Police
36 station;

- 1 (2) Any Arkansas Highway Police facility;
- 2 (3) Any buildings of the Arkansas State Highway and Transportation
3 Department, or onto ~~any parking lots or grounds adjacent to such buildings,~~
4 except that this subdivision shall not apply to rest areas and weigh stations
5 of the Department;
- 6 (4) Any detention facility, prison, or jail;
- 7 (5) Any courthouse;
- 8 (6) Any courtroom, except that nothing in this subchapter shall
9 preclude a judge from carrying a concealed weapon or determining who will
10 carry a concealed weapon in his courtroom;
- 11 (7) Any polling place;
- 12 (8) Any meeting place of the governing body of any governmental entity;
- 13 (9) Any meeting of the legislature or a committee thereof;
- 14 (10) Any building wherein a state office is located;
- 15 (11) Any public park, unless for the purpose of participating in any
16 authorized firearms-related activity. For the purpose of this subdivision
17 "public park" shall not include rest areas of the Arkansas State Highway and
18 Transportation Department;
- 19 (12) Any athletic event not related to firearms;
- 20 (13) Any portion of an establishment licensed to dispense alcoholic
21 beverages for consumption on the premises;
- 22 (14) Any portion of an establishment in which beer or light wine is
23 consumed on the premises;
- 24 (15) Any school, college, community college, or university *campus*
25 building or event, unless for the purpose of participating in an authorized
26 firearms-related activity;
- 27 (16) Inside the passenger terminal of any airport, except that no
28 person shall be prohibited from carrying any legal firearm into the terminal
29 if the firearm is encased for shipment for purposes of checking such firearm
30 as baggage to be lawfully transported on any aircraft;
- 31 (17) Any church or other place of worship; or
- 32 (18) Any place where the carrying of firearms is prohibited by federal
33 law.
- 34 (b)(1) In addition to the places enumerated in this section, the
35 carrying of a concealed handgun may be disallowed in any place in the
36 discretion of the person or entity exercising control over the physical

1 location of such place by the placing of a written notice clearly readable at
2 a distance of not less than ten feet (10') that the carrying of a handgun is
3 prohibited.

4 (2) Provided, no sign shall be required for private homes, and any
5 licensee entering a private home shall notify the occupants that he is
6 carrying a concealed handgun.

7 (c) No license issued pursuant to this subchapter shall authorize the
8 participants in a parade or demonstration for which a permit is required to
9 carry a concealed handgun.✕

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11 SECTION 3. Arkansas Code 5-73-307 is amended to read as follows:

12 ~~§~~5-73-307. List of license holders.

13 (a) The Department of Arkansas State Police shall maintain an automated
14 listing of license holders and such information shall be available on-line,
15 upon request, at all times, to all law enforcement agencies through the
16 Arkansas Crime Information Center.

17 ~~———— (b) However, the records of the department relating to applications for~~
18 ~~licenses to carry concealed handguns and records relating to license holders~~
19 ~~shall be exempt from the provisions of the Freedom of Information Act, § 25-~~
20 ~~19-101 et seq., for a period of forty-five (45) days from the date of the~~
21 ~~issuance of the license or the final denial of an application.~~

22 ~~———— (c)(b)~~ Nothing in this subchapter shall be construed to require or
23 allow the registration, documentation, or providing of serial numbers with
24 regard to any firearm, except as required by § 5-73-310(8).✕

25

26 SECTION 4. Arkansas Code 5-73-308 is amended to read as follows:

27 5-73-308. License - Issuance or denial.

28 (a)(1) The director may deny a license if within the preceding five (5)
29 years the applicant has been found guilty of one (1) or more crimes of
30 violence constituting a misdemeanor, or for the offense of carrying a weapon.
31 The director may revoke a license if the licensee has been found guilty of
32 one (1) or more crimes of violence within the preceding three (3) years. This
33 subdivision shall not apply to a misdemeanor that has been expunged or for
34 which the imposition of sentence was suspended.

35 (2) The director shall, upon notification by any law enforcement agency
36 or a court and subsequent written verification, suspend a license or the

1 processing of an application for a license if the licensee or applicant is
2 arrested or formally charged with a crime which would disqualify such person
3 from having a license under this subchapter until final disposition of the
4 case.

5 (b)(1) The director may deny a license if the sheriff or chief of
6 police, if applicable, of the applicant's place of residence submits an
7 affidavit that the applicant has been or is reasonably likely to be a danger
8 to himself or herself or others or to the community at large as the result of
9 the applicant's mental or psychological state, as demonstrated by past
10 patterns of behavior or participation in an incident involving unlawful
11 violence or threats of unlawful violence, or if the applicant is under a
12 criminal investigation at the time of applying for a license.

13 (2) *The director shall, within one hundred twenty (120) days after the*
14 *date of receipt of the items listed in § 5-73-311(a):*

15 (A) Issue the license; or

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

18 (3)(A) If the director denies the application, he shall notify the
19 applicant in writing, stating the grounds for denial.

20 (B) The decision of the director shall be final. ~~✕~~

21

22 SECTION 5. Arkansas Code 5-73-310 is amended to read as follows:

23 §5-73-310. Application form.

24 The application shall be completed, under oath, on a form promulgated by
25 the director and shall include only:

26 (1) The name, address, place and date of birth, race, and sex, ~~and~~
27 ~~occupation~~ of the applicant;

28 (2) The driver's license number or social security number of the
29 applicant;

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

32 (4) A statement that the applicant is in compliance with criteria
33 contained within §§ 5-73-308(a) and 5-73-309;

34 (5) A statement that the applicant has been furnished a copy of this
35 subchapter and is acquainted with the truth and understanding of this
36 subchapter;

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

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

8 (8)(A) *A description and the serial number of any handgun the applicant*
9 *may desire to carry.*

10 (B) *Any applicant may list up to three (3) handguns that the*
11 *applicant may choose to carry, but the applicant must establish proficiency in*
12 *the use of each of the handguns as required in the training course prescribed*
13 *herein.*

14 (C)(i) *In the event a license is issued pursuant to this*
15 *subchapter, the serial number of the listed handguns shall be printed only on*
16 *the license.*

17 (ii) *All other records of the serial numbers shall thereafter be*
18 *expunged.*

19 (D) *Should a license be denied, all records of the serial numbers*
20 *shall be expunged.*

21 (E) *All records of serial numbers of listed handguns shall be*
22 *destroyed when the license expires-; and*

23 (9) A statement of whether or not the applicant has been found guilty
24 of a crime of violence or domestic abuse.

25

26 SECTION 6. Arkansas Code 5-73-313, concerning expiration and renewal of
27 licenses, is amended to add the following new subsection to read as follows:

28 §(f) A new criminal background investigation shall be conducted when an
29 applicant applies for renewal of a license.

30

31 SECTION 7. Arkansas Code Title 5, Chapter 73, Subchapter 3 is amended
32 to add a new section to read as follows:

33 §5-73-318. Instructor review of applications.

34 Instructors authorized to conduct a training course required by this
35 subchapter shall check the applications of students for completeness, accuracy
36 and legibility. An instructor who repeatedly fails to do so may have his or

1 her license to conduct a training course revoked.

2

3 SECTION 8. Arkansas Code 5-73-304 is amended to read as follows:

4 "5-73-304. Exemptions.

5 Certified law enforcement officers, chiefs of police, and sheriffs shall
6 be exempt from the licensing requirements of this section, if otherwise
7 authorized to carry a concealed handgun. Solely for purposes of this
8 subchapter, an auxiliary law enforcement officer certified by the Arkansas
9 Commission on Law Enforcement Standards and Training and approved by the
10 sheriff of the county shall be deemed to be a certified law enforcement
11 officer."

12

13 SECTION 9. Arkansas Code 5-73-311 (a) concerning the application
14 procedure for a concealed weapon, is amended to read as follows:

15 "(a) The applicant shall submit the following to the Department of
16 Arkansas State Police:

17 (1) A completed application as described in § 5-73-310;

18 ~~_____ (2) A full face photograph of the applicant;~~

19 ~~_____ (3)(2) A nonrefundable license fee of one hundred dollars (\$100)~~
20 or such other amount as prescribed by the director under the Arkansas
21 Administrative Procedure Act, 25-15-201 et seq.;

22 ~~_____ (4)(3)(A) A full set of fingerprints of the applicant~~
23 administered by the Department of Arkansas State Police.

24 (B) In the event a legible set of fingerprints, as
25 determined by the Department of Arkansas State Police and the Federal Bureau
26 of Investigation, cannot be obtained after a minimum of three (3) attempts,
27 the director shall determine eligibility based upon a name check by the
28 Department of Arkansas State Police and the Federal Bureau of Investigation at
29 the request of the director.

30 (C) Costs for processing the set of fingerprints as
31 required in subdivision (a)(4)(A) of this section shall be borne by the
32 applicant; and

33 ~~_____ (5)(4) A waiver authorizing the Department of Arkansas State~~
34 Police access to any medical records concerning the applicant and permitting
35 access to all of the applicant's criminal records; provided, however, that the
36 Department of Arkansas State Police shall maintain the confidentiality of the

1 medical records."

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3 SECTION 10. Arkansas Code Annotated § 5-73-309(12) is amended to read
4 as follows:

5 "(12) Signs a statement of allegiance to the United States
6 Constitution, and the Arkansas Constitution, ~~and all federal and state~~
7 ~~courts.~~"

8

9 SECTION 11. Arkansas Code Annotated § 5-73-312(c) is amended to read as
10 follows:

11 "(c)(1) The director shall revoke the license of any licensee ~~he~~
12 ~~determines has~~ proven to have consumed alcoholic beverages while carrying a
13 handgun.

14 (2) It shall be conclusive evidence of such consumption if an
15 open container of alcoholic beverages is in the possession of the licensee or
16 is in the vehicle in which the licensee is an occupant."

17

18 SECTION 12. Arkansas Code Annotated § 5-73-313(c) is amended to read as
19 follows:

20 "(c) The license shall be renewed upon receipt of the completed renewal
21 application and appropriate payment of fees subject to a background
22 investigation conducted pursuant to Arkansas Code Annotated § 5-73-311."

23

24 SECTION 13. Any person in possession of a valid license issued by
25 another state to carry a concealed handgun shall be entitled to the privileges
26 and subject to the restrictions prescribed by Arkansas concealed handgun law
27 (Ark. Code 5-73-301 et seq.) provided that the state that issued the license
28 recognizes concealed handgun licenses issued under Arkansas Code 5-73-301 et
29 seq. The Director of the Department of State Police shall make a
30 determination as to which states' permits will be recognized in Arkansas and
31 provide that list to every law enforcement agency within the state. The
32 director shall revise the list from time to time and provide the revise list
33 to every law enforcement agency in this state.

34

35 SECTION 14. All provisions of this act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

2

3 SECTION 15. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 16. All laws and parts of laws in conflict with this act are
10 hereby repealed.

11

12 /s/Rep. Wilkinson et al

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14 APPROVED:4-09-97

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