

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H2/13/07 H3/1/07

# A Bill

HOUSE BILL 1163

5 By: Representatives Burris, Stewart, *Everett, Wood*  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE  
10 CONCERNING THE ADMINISTRATION OF CONCEALED  
11 HANDGUN LICENSING BY THE DEPARTMENT OF ARKANSAS  
12 STATE POLICE; TO REQUIRE A CONCEALED HANDGUN  
13 LICENSE TO BEAR A DIGITAL PHOTOGRAPH OF THE  
14 LICENSEE UNDER CERTAIN CIRCUMSTANCES; AND FOR  
15 OTHER PURPOSES.  
16

## Subtitle

17 TO AMEND PROVISIONS OF THE ARKANSAS CODE  
18 CONCERNING THE ADMINISTRATION OF  
19 CONCEALED HANDGUN LICENSING BY THE  
20 DEPARTMENT OF ARKANSAS STATE POLICE.  
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

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

27 *5-73-301. Definitions.*

28 *As used in this subchapter:*

29 *(1) "Concealed" means to cover from observation so as to prevent*  
30 *public view;*

31 *(2) "Convicted" means that a person pleaded guilty or nolo*  
32 *contendere to or was found guilty of a criminal offense;*

33 ~~*(2)(3)*~~ *"Director" means the Director of the Department of*  
34 *Arkansas State Police; and*

35 ~~*(3)(4)*~~ *"Handgun" means any firearm, other than a fully automatic*  
36 *firearm, with a barrel length of less than twelve inches (12") that is*



1 designed, made, or adapted to be fired with one (1) hand.

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

4 5-73-306. Prohibited places.

5 ~~(a)~~ No license to carry a concealed handgun issued pursuant to this  
6 subchapter authorizes any person to carry a concealed handgun into:

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

9 (2) Any Arkansas Highway Police Division of the Arkansas State  
10 Highway and Transportation Department facility;

11 (3)(A) Any building of the Arkansas State Highway and  
12 Transportation Department or onto grounds adjacent to any building of the  
13 Arkansas State Highway and Transportation Department.

14 (B) However, subdivision ~~(a)~~(3)(A) of this section does  
15 not apply to a rest area or weigh station of the Arkansas State Highway and  
16 Transportation Department;

17 (4) Any detention facility, prison, or jail;

18 (5) Any courthouse;

19 (6)(A) Any courtroom.

20 (B) However, nothing in this subchapter precludes a judge  
21 from carrying a concealed weapon or determining who will carry a concealed  
22 weapon in his or her courtroom;

23 (7) Any polling place;

24 (8) Any meeting place of the governing body of any governmental  
25 entity;

26 (9) Any meeting of the General Assembly or a committee of the  
27 General Assembly;

28 (10) Any ~~building where a state office is located~~;

29 (11) Any athletic event not related to firearms;

30 (12) Any portion of an establishment, except a restaurant as  
31 defined in § 3-9-402, licensed to dispense alcoholic beverages for  
32 consumption on the premises;

33 (13) Any portion of an establishment, except a restaurant as  
34 defined in § 3-9-402, where beer or light wine is consumed on the premises;

35 (14) Any school, college, community college, or university  
36 campus building or event, unless for the purpose of participating in an

1 authorized firearms-related activity;

2 (15) Inside the passenger terminal of any airport, except that  
3 no person is prohibited from carrying any legal firearm into the passenger  
4 terminal if the firearm is encased for shipment for purposes of checking the  
5 firearm as baggage to be lawfully transported on any aircraft;

6 (16) Any church or other place of worship; or

7 (17) Any place where the carrying of a firearm is prohibited by  
8 federal law;

9 (18) Any place where a parade or demonstration requiring a  
10 permit is being held and the licensee is a participant in the parade or  
11 demonstration; or

12 ~~(b)(1)(19)(A) In addition to a place enumerated in this section, the~~  
13 ~~carrying of a concealed handgun may be disallowed in any~~ Any ~~place at the~~  
14 ~~discretion of the person or entity exercising control over the physical~~  
15 ~~location of the place by placing at each entrance to the place a written~~  
16 ~~notice clearly readable at a distance of not less than ten feet (10') that~~  
17 ~~"carrying a handgun is prohibited".~~

18 (B)(i) If the place does not have a roadway entrance,  
19 there shall be a written notice placed anywhere upon the premises of the  
20 place.

21 ~~(ii) However, there~~ In addition to the requirement  
22 of subdivision (19)(B)(i) of this section, there shall be at least one (1)  
23 written notice posted within every three (3) acres of a place with no roadway  
24 entrance.

25 ~~(2)(A)(C) However, no sign is~~ A written notice as described in  
26 subdivision (19)(A) of this section is not required for a private home.

27 ~~(B)(D)~~ Any licensee entering a private home shall notify  
28 the occupant that the licensee is carrying a concealed handgun.

29 ~~(e) No license issued pursuant to this subchapter authorizes a~~  
30 ~~participant to carry a concealed handgun in a parade or demonstration for~~  
31 ~~which a permit is required.~~

32  
33 SECTION 3. Arkansas Code § 5-73-309 is amended to read as follows:

34 5-73-309. License - Requirements.

35 ~~(a)~~ The Director of the Department of Arkansas State Police shall  
36 issue a license to carry a concealed handgun if the applicant:

1           (1)~~(A)~~ Is ~~both a+~~

2                           ~~(i)~~ Citizen citizen of the United States; ~~and~~

3           ~~(ii)~~(2)(A) ~~Resident~~ Is a resident of the state and has been a  
4 resident continuously for ~~twelve (12) months~~ ninety (90) days or longer  
5 immediately preceding the filing of the application.

6                           (B) However, subdivision ~~(a)(1)(A)~~ (a)(2)(A) of this  
7 section does not apply to any:

8                           (i) Retired city, county, state, or federal law  
9 enforcement officer; or

10                           (ii) Active duty military personnel who submit  
11 documentation of their active duty status;

12           ~~(2)~~(3) Is twenty-one (21) years of age or older;

13           ~~(3)~~(4) Does not suffer from a mental or physical infirmity that  
14 prevents the safe handling of a handgun and has not threatened or attempted  
15 suicide;

16           ~~(4)~~(5)(A) ~~Is not:~~

17                           ~~(A)~~ Ineligible to possess a firearm by virtue of having  
18 Has not been convicted of a felony in a court of this state, of any other  
19 state, or of the United States without having been pardoned for conviction  
20 and had firearms possession rights restored; ~~and.~~

21                           (B) A record of a conviction that has been sealed or  
22 expunged under Arkansas law does not render an applicant ineligible to  
23 receive a concealed handgun license if:

24                           (i) The applicant was sentenced prior to March 13,  
25 1995; or

26                           (ii) The order sealing or expunging the applicant's  
27 record of conviction complies with § 16-90-605;

28           (6) Subject Is not subject to any federal, state, or local law  
29 that makes it unlawful to receive, possess, or transport any firearm, and has  
30 had his or her background ~~checked~~ check successfully completed through the  
31 Department of Arkansas State Police and the Federal Bureau of Investigation's  
32 National Instant ~~Criminal Background~~ Check System;

33           ~~(5)(A)~~(7)(A) Does not chronically or habitually abuse a  
34 controlled substance to the extent that his or her normal faculties are  
35 impaired.

36                           (B) It is presumed that an applicant chronically and

1 habitually uses a controlled substance to the extent that his or her  
2 faculties are impaired if the applicant has been:

3 (i) Voluntarily or involuntarily committed to a  
4 treatment facility for the abuse of a controlled substance; or

5 (ii) Found guilty of a crime under the provisions of  
6 the Uniform Controlled Substances Act, § 5-64-101 et seq., or a similar law  
7 of any other state or the United States relating to a controlled substance  
8 within the three-year period immediately preceding the date on which the  
9 application is submitted;

10 ~~(6)(A)~~(8)(A) Does not chronically ~~and~~ or habitually use an  
11 alcoholic beverage to the extent that his or her normal faculties are  
12 impaired.

13 (B) It is presumed that an applicant chronically and  
14 habitually uses an alcoholic beverage to the extent that his or her normal  
15 faculties are impaired if the applicant has been:

16 (i) Voluntarily or involuntarily committed as an  
17 alcoholic to a treatment facility; or

18 (ii) Convicted of two (2) or more offenses related  
19 to the use of alcohol under a law of this state or similar law of any other  
20 state or the United States within the three-year period immediately preceding  
21 the date on which the application is submitted;

22 ~~(7)(9)~~ Desires a legal means to carry a concealed handgun to  
23 defend himself or herself;

24 ~~(8)(10)~~ Has not been adjudicated mentally incompetent;

25 ~~(9)(11)~~ Has not been voluntarily or involuntarily committed to a  
26 mental institution or mental health treatment facility;

27 ~~(10)(12)~~ Is not a fugitive from justice or does not have an  
28 active warrant for his or her arrest;

29 ~~(11)(13)~~ Has satisfactorily completed a training course as  
30 prescribed and approved by the director; and

31 ~~(12)(14)~~ Signs a statement of allegiance to the United States  
32 Constitution and the Arkansas Constitution.

33 ~~(b) The director shall also issue a license to carry a concealed~~  
34 ~~handgun if the applicant is a person who has a valid license to carry a~~  
35 ~~concealed handgun issued by another state and the director determines that:~~

36 ~~(1) The eligibility requirements to obtain a license to carry a~~

1 ~~concealed handgun imposed by the other state are at least as rigorous as the~~  
2 ~~eligibility requirements imposed by this section; and~~

3 ~~(2) The other state provides reciprocal licensing privileges to~~  
4 ~~a person who holds a license issued under this subchapter and who has applied~~  
5 ~~for a license to carry a concealed handgun in the other state.~~

6  
7 SECTION 4. Arkansas Code § 5-73-311 is amended to read as follows:  
8 5-73-311. Application procedure.

9 (a) The applicant for a license to carry a concealed handgun shall  
10 submit the following to the Department of Arkansas State Police:

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

12 (2) A nonrefundable license fee of one hundred dollars (\$100);

13 (3)(A) A full set of fingerprints of the applicant, ~~administered~~  
14 ~~by the department.~~

15 (B) In the event a legible set of fingerprints, as  
16 determined by the department and the Federal Bureau of Investigation, cannot  
17 be obtained after a minimum of ~~three (3)~~ two (2) attempts, the Director of  
18 the Department of Arkansas State Police shall determine eligibility ~~based~~  
19 ~~upon a name check by the department and the Federal Bureau of Investigation~~  
20 ~~at the request of the director~~ in accordance with criteria that the  
21 department shall establish by promulgating rules.

22 (C) Costs for processing the set of fingerprints as  
23 required in subdivision (a)(3)(A) of this section shall be borne by the  
24 applicant; ~~and~~

25 (4)(A) A waiver authorizing the department access to any  
26 medical, criminal, or other records concerning the applicant and permitting  
27 access to all of the applicant's criminal records.

28 (B) If a check of the applicant's criminal records  
29 uncovers any unresolved felony arrests over ten (10) years old, then the  
30 applicant shall obtain a letter of reference from the county sheriff,  
31 prosecuting attorney, or circuit judge of the county where the applicant  
32 resides that states that to the best of the county sheriff's, prosecuting  
33 attorney's, or circuit judge's knowledge that the applicant is of good  
34 character and free of any felony convictions.

35 (C) The department shall maintain the confidentiality of  
36 the medical, criminal, or other records; ~~and~~

1           (5) A digital photograph of the applicant or a release  
2 authorization to obtain a digital photograph of the applicant from another  
3 source.

4           (b)(1) Upon receipt of the items listed in subsection (a) of this  
5 section, the department shall forward the full set of fingerprints of the  
6 applicant to the appropriate agencies for state and federal processing.

7           (2)(A) The department shall forward a ~~copy~~ notice of the  
8 applicant's application to the sheriff of the applicant's county of residence  
9 and, if applicable, the police chief of the applicant's municipality of  
10 residence.

11           (B)(i) The sheriff of the applicant's county of residence  
12 and, if applicable, the police chief of the applicant's municipality of  
13 residence may participate, at his or her discretion, in the process by  
14 submitting a voluntary report to the department containing any readily  
15 discoverable information that he or she feels may be pertinent to the  
16 licensing of any applicant.

17           (ii) The reporting shall be made within thirty (30)  
18 days after the date the ~~sheriff of the applicant's county of residence or, if~~  
19 ~~applicable, the police chief of the applicant's municipality of residence~~  
20 ~~receives the copy notice~~ of the application was sent by the department.

21           (c) A concealed handgun license issued, renewed, or obtained under §  
22 5-73-314 or § 5-73-319 after December 31, 2007, shall bear a digital  
23 photograph of the licensee.

24  
25           SECTION 5. Arkansas Code § 5-73-313 is amended to read as follows:

26           5-73-313. Expiration and renewal.

27           ~~(a) No less than ninety (90) days prior to the expiration date of the~~  
28 ~~license to carry a concealed handgun, the Department of Arkansas State Police~~  
29 ~~shall mail to each licensee a written notice of the expiration.~~

30           ~~(b)(a) The~~ Except as provided in subdivision (g)(1) of this section,  
31 the licensee shall may renew his or her license on or before no more than  
32 ninety (90) days prior to the expiration date by filing with submitting to  
33 the department:

34           (1) A renewal form prescribed by the department;

35           (2) A ~~notarized affidavit stating~~ verified statement that the  
36 licensee remains qualified pursuant to the criteria specified in §§ 5-73-

1 308(a) and 5-73-309; ~~and~~

2 (3) A renewal fee of thirty-five dollars (\$35.00);

3 (4) A certification or training form properly completed by the  
4 licensee's training instructor reflecting that the licensee's training was  
5 conducted; and

6 (5) A digital photograph of the licensee or a release  
7 authorization to obtain a digital photograph of the licensee from another  
8 source.

9 ~~(e)(b)~~ The license shall be renewed upon receipt of the completed  
10 renewal application, a digital photograph of the licensee, and appropriate  
11 payment of fees subject to a background investigation conducted pursuant to §  
12 ~~5-73-311~~ this subchapter that did not reveal any disqualifying offense or  
13 unresolved arrest that would disqualify a licensee under this subchapter.

14 ~~(d)(c)~~ Additionally, a licensee who fails to file a renewal  
15 application on or before the expiration date shall renew his or her license  
16 by paying a late fee of fifteen dollars (\$15.00).

17 ~~(e)(1)(d)(1)~~ No license shall be renewed six (6) months or more after  
18 its expiration date, and the license is deemed to be permanently expired.

19 (2)(A) A person whose license has been permanently expired may  
20 reapply for licensure.

21 (B) An application for licensure and fees pursuant to §§  
22 5-73-308(a), 5-73-309, and 5-73-311(a) shall be submitted, and a new  
23 background investigation shall be conducted.

24 ~~(f)(e)~~ A new criminal background investigation shall be conducted when  
25 an applicant applies for renewal of a license. Costs for processing a new  
26 background check shall be paid by the applicant.

27 ~~(g)~~ ~~Active duty military personnel and reservists on active duty who~~  
28 ~~submit documentation of their active duty status are exempt from the training~~  
29 ~~requirements under § 5-73-309.~~

30 (f)(1) An active duty member of the armed forces of the United States,  
31 a member of the National Guard, or a member of a reserve component of the  
32 armed forces of the United States, who is on active duty outside this state  
33 may renew his or her license within thirty (30) days after the person returns  
34 to this state by submitting to the department:

35 (A) Proof of assignment outside of this state on the  
36 expiration date of the license; and

1                   (B) The items listed in subdivisions (a)(1) – (5) of this  
2 section.

3                   (2) Subsections (c) and (d) of this section shall not apply to a  
4 person who renews his or her license under subdivision (g)(1) of this  
5 section.

6  
7           SECTION 6. Arkansas Code § 5-73-319 is amended to read as follows:  
8           5-73-319. Transfer of a license to Arkansas.

9           (a) Any person who becomes a resident of Arkansas who has a valid  
10 license to carry a concealed handgun issued by a reciprocal state may apply  
11 to transfer his or her license to Arkansas by submitting the following to the  
12 Department of Arkansas State Police:

13                   (1) The person's current reciprocal state license;

14                   (2) Two (2) properly completed fingerprint cards;

15                   (3) A nonrefundable license fee of thirty-five dollars (\$35.00);

16 ~~and~~

17                   (4) Any fee charged by a state or federal agency for a criminal  
18 history check; and

19                   (5) A digital photograph of the person or a release  
20 authorization to obtain a digital photograph of the person from another  
21 source.

22           (b) The newly transferred license is valid for a period of four (4)  
23 years from the date of issuance and binds the holder to all Arkansas laws and  
24 regulations regarding the carrying of the concealed handgun.

25  
26           SECTION 7. Arkansas Code § 5-73-320 is amended to read as follows:

27           5-73-320. License for certain members of the Arkansas National Guard  
28 or a reserve component or active duty military personnel.

29           (a) The Department of Arkansas State Police may issue a license under  
30 this subchapter to a person who:

31                   (1) Is currently serving as a federally recognized commissioned  
32 or noncommissioned officer of the National Guard or a reserve component of  
33 the armed forces of the United States or an active duty member of the armed  
34 forces of the United States;

35                   (2) Submits the following documents:

36                           (A) A completed concealed handgun license application as

1 prescribed by the department;

2 (B) A form specified by the Director of the Department of  
3 Arkansas State Police reflecting the fingerprints of the soldier or airman;

4 (C) A dated letter personally signed by a commanding  
5 officer or his or her designee stating that the soldier or airman:

6 (i) Is a current member of the National Guard or a  
7 reserve component of the armed forces of the United States or an active duty  
8 member of the armed forces of the United States;

9 (ii) Is of good character and sound judgment;

10 (iii) Is not disqualified by state or federal law  
11 from possessing a firearm;

12 (iv) Has met the military qualification requirements  
13 for issuance and operation of a handgun within one (1) year of the  
14 application date; and

15 (v) Has been a resident of the State of Arkansas for  
16 the ~~twelve-month~~ ninety-day period preceding the application date according  
17 to the military and pay records of the soldier or airman;

18 (D) A copy of the military range qualification score card  
19 signed and dated within one (1) year of the application date by a range  
20 officer or noncommissioned officer in charge of the range; and

21 (E) A copy of the face or photograph side of a current  
22 United States Uniformed Services military identification card for a member of  
23 the armed forces; and

24 (3) Submits any required application fee.

25 (b)(1) A license issued under this section expires four (4) years from  
26 the date of issuance or upon the expiration date of the military  
27 identification card of the soldier or airman, whichever occurs first.

28 (2)(A) A license issued under this section is renewable under  
29 the provisions of § 5-73-313 upon satisfaction of the requirements described  
30 in subsection (a) of this section.

31 (B) After December 31, 2007, a license issued under this  
32 section is required to bear a digital photograph of the soldier or airman.

33 (c) Except as otherwise specifically stated in this section, the  
34 license issued under this section is subject to the provisions of this  
35 subchapter and any rules promulgated under § 5-73-317.

36

*/s/ Burriss, et al*

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