2008-R-0238.doc
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2008-R-0238
gun permit Issues
By: Veronica Rose, Principal Analyst

You asked nine specific gun permit-related questions and specifically requested that we base our responses solely on statutes. Your specific questions and answers follow.

This office does not give legal opinions and this report should not be construed as such.

gun permit-related questions

1. Is there any statute prescribing that firearms must be carried concealed?

The answer is no. The law does not address this issue. But, with limited exceptions, it is illegal to carry a handgun, whether concealed or openly, without a permit, except in one's home or place of business (CGS § 29-35(a)).

2. Is the carrying of a handgun on premises with a posted sign banning firearms critical to a permit revocation decision?

The law is silent on this issue. The pertinent statute reads as follows: "[T]he issuance of a permit to carry a pistol or revolver does not thereby authorize the possession or carrying of a pistol or revolver in any premises where the possession or carrying of a pistol or revolver is otherwise prohibited by law or is prohibited by the person who owns or exercises control over such premises" (CGS §29-28(e)).

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3. Does simple exposure of a firearm justify the revocation of a gun permit?

The law does not provide an exhaustive list of permit revocation criteria. Rather, it allows revocation for cause. It requires revocation upon the permit holder's conviction for a felony or any of 11 specified misdemeanors. It also requires revocation upon any grounds on which a permit would have been denied. This includes a finding that the applicant (1) is not suitable (which the law does not define) to receive a permit or (2) does not want the handguns for lawful purposes. The law does not define suitability, and it does not provide standards for making the determination (see BACKGROUND).

The 11 misdemeanors for which a permit must be revoked are:

1. criminally negligent homicide (excluding deaths caused by motor vehicles) (CGS § 53a-58);

2. third-degree assault (CGS § 53a-61);

3. third-degree assault of a blind, elderly, pregnant, or mentally retarded person (CGS § 53a-61a);

4. second-degree threatening (CGS § 53a-62);

5. first-degree reckless endangerment (CGS § 53a-63);

6. second-degree unlawful restraint (CGS § 53a-96);

7. first-degree riot (CGS § 53a-175);

8. second-degree riot (CGS § 53a-176);

9. inciting to riot (CGS § 53a-178);

10. second-degree stalking (CGS § 53a-181d); and

11. first offense involving possession of (a) controlled or hallucinogenic substances (other than a narcotic substance or marijuana) or (b) less than four ounces of a cannabis-type substance (CGS § 21a-279(c)).

The other grounds on which the permit issuing authority must deny and revoke a permit are that the person:

1. is an illegal alien;

2. is under age 21;

3. failed to successfully complete a firearm safety and use course approved by the commissioner;

4. was discharged from custody in the preceding 20 years after a finding of not guilty of a crime by reason of mental disease or defect;

5. was confined by the probate court to a mental hospital in the 12 months before applying for a permit or certificate;

6. was convicted of a serious juvenile offense;

7. is subject to a firearm seizure order issued after notice and a hearing;

8. is prohibited under federal law from possessing or shipping firearms because he or she was adjudicated as a mental defective or committed to a mental institution (except in cases where the Treasury Department grants relief); and

9. is under a protective or restraining order for using or threatening to use force and in the case of possession, he or she knows about the order and if the order was issued in-state, he or she was notified and given a hearing opportunity (CGS §§ 29-28 and 29-32).

4. Can the Department of Public Safety (DPS) revoke a permit without a written request?

The answer is yes. The public safety commissioner may revoke a permit based upon his own investigation or at the request of any law enforcement official (CGS § 29-32(b)). The law does not specify that the revocation request be made in writing.

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5. How must the public safety commissioner notify a permit holder that his or her permit is revoked?

The commissioner must provide written notice to the permit holder (CGS § 29-32 (b)).

6. Can a person apply for a permit in more than one location if he or she has more than one bona fide residence?

The law does not address the subject of multiple residences. It reads as follows: "Upon the application of any person having a bona fide residence or place of business within the jurisdiction of any such authority, such chief of police, warden or selectman may issue a temporary state permit to such person to carry a pistol or revolver within the state. . . ." (CGS § 29-29(b)).

7. Does the law require DPS to conduct an independent investigation before revoking a gun permit?

The law does not address this issue (see Question 3).

8. What limitation, if any, does the law place on the use of erased criminal history or dismissed case records in the permit revocation process?

The law does not describe the gun permit revocation process or specify what records the commissioner must consider in making revocation decisions. But it allows people aggrieved by a permit revocation to appeal, within 90 days, to the Board of Firearms Permit Examiners (CGS § 29-32b).

The law requires police, courts, and prosecutors to erase all related records when (1) a criminal case is dismissed or nolled, (2) the offense for which the defendant was convicted is later decriminalized, or (3) a defendant is acquitted or granted an absolute pardon (CGS § 54-142a). (The duty to erase does not apply if the defendant was found not guilty by reason of mental disease or defect or guilty but not criminally responsible by reason of mental disease or defect.) "Court records" do not include the record or transcript of an official court reporter, assistant court reporter, or monitor.

Erased records are generally not disclosable. But a court may order disclosure to (1) a defendant in an action for false arrest, (2) a state prosecutor and a defense attorney when the defendant faces perjury charges based on his trial testimony, or (3) crime victims within two years after final disposition of the criminal case (CGS § 54-142c).

9. How long after a permit revocation must a person wait to reapply for a temporary state gun permit?

The law does not address this issue. But a person whose permit is revoked on certain grounds (e.g., conviction for a felony or any of the specified misdemeanors) is permanently barred from getting another permit.

background

Connecticut law, as interpreted by the courts, gives broad discretion to officials who determine whether someone is suitable to carry handguns.

For gun permitting purposes, the gun literature identifies "shall issue" or "may issue" states. In "shall issue" states, the permit or license authority must issue the permit or license if the applicant meets the law's requirements. Connecticut is a "may issue" state, in that the permit-issuing official has discretion to determine whether to issue or revoke a permit.

A recent Superior Court case quoted an 1882 Connecticut Supreme Court opinion stating that suitability "is not defined by the law so that its application can be determined as mere matter of eye-sight, but it is left necessarily to be determined solely by the judgment of the commissioners based upon inquiry and information. And that the particular manner of exercising such judgment cannot be controlled by any court is too obvious to require the citation of any authorities" (*Lepri v. Board of Firearms Permit Examiners*, No. CV 96-0055714, Sept. 29, 1998, citing *Batters v. Dunning*, 49 Conn. 479 (1882)).

Many court opinions dealing with suitability for gun permits cite an 1894 Connecticut Supreme Court decision that involved liquor licenses. The word "suitable" as descriptive of an applicant for license under the statute, is insusceptible of any legal definition that wholly excludes the personal views of the tribunal authorized to determine the suitability of the applicant. A person is "suitable" who by reason of his character — his reputation in the community, his previous conduct as a

licensee — is shown to be suited or adapted to the orderly conduct of [an activity] which the law regards as so dangerous to public welfare that its transaction by any other than a carefully selected person duly licensed is made a criminal offense. It is patent that the adaptability of any person to such [an activity] depends upon facts and circumstances that may be indicated but cannot be fully defined by law, whose probative force will differ in different cases, and must in each case depend largely upon the sound judgment of the selecting tribunal (*Smith's Appeal from County Commissioners*, 65 Conn. 135, 138 (1894)).

One court dealing with suitability stated that the government's interest "is to protect the safety of the general public from individuals whose conduct has shown them to be lacking the essential character or temperament necessary to be entrusted with a weapon" (*Rabbit v. Leonard*, 36 Conn. Sup. 108, 115 (1979)). Another court stated that the "personal views of the agency members are necessarily a factor in the decision, and similar facts and circumstances will have varying probative force in different cases" but the facts found by the board should provide a logical inference that the person poses some danger to the public if allowed to carry a weapon outside the home or business (*Nicholson v. Board of Firearms Permit Examiners*, No. CV 940541048, Sept. 28, 1995).

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Office of Legislative Research

Document Properties	
Title:	GUN PERMIT ISSUES
Subject:	2008-R-0238

Author:	Veronica Rose, Principal Analyst
Comments:	PS
Template:	OLR Report.dot
Last saved by:	WetherbeeD
Revision number:	3
Application:	Microsoft Office Word
Total editing time:	00:01:00
Last printed:	2008/04/10 19:58:00
Created:	2008/04/10 19:58:00
Last saved:	2008/04/22 17:30:00
Company:	CT General Assembly
Number:	238
Topic:	PERMITS; GUN CONTROL; FIREARMS;
Location:	WEAPONS - GUN CONTROL;