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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL OFFENSES -- WEAPONS

Introduced By: Representatives Lima, Carnevale, Corvese, Chippendale, and Costa

Date Introduced: January 28, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-47-2, 11-47-11, 11-47-12 and 11-47-18 of the General Laws in
2 Chapter 11-47 entitled "Weapons" are hereby amended to read as follows:

3 **11-47-2. Definitions. --** When used in this chapter, the following words and phrases are
4 construed as follows:

5 (1) "Antique firearm" is defined as that term is defined under the provisions of 18 U.S.C.
6 § 921.

7 (2) "Crime of violence" means and includes any of the following crimes or an attempt to
8 commit any of them: murder, manslaughter, rape, first or second degree sexual assault, first or
9 second degree child molestation, kidnapping, first and second degree arson, mayhem, robbery,
10 burglary, breaking and entering, any felony violation involving the illegal manufacture, sale, or
11 delivery of a controlled substance, or possession with intent to manufacture, sell, or deliver a
12 controlled substance classified in schedule I or schedule II of § 21-28-2.08, any violation of § 21-
13 28-4.01.1 or 21-28-4.01.2 or conspiracy to commit any violation of these statutes, assault with a
14 dangerous weapon, assault or battery involving grave bodily injury, and/or assault with intent to
15 commit any offense punishable as a felony; upon any conviction of an offense punishable as a
16 felony offense under § 12-29-5.

17 (3) "Firearm" includes any machine gun, pistol, rifle, air rifle, air pistol, "blank gun,"
18 "BB gun," or other instrument from which steel or metal projectiles are propelled, or which may
19 readily be converted to expel a projectile, except crossbows, recurve, compound, or longbows,

1 and except instruments propelling projectiles which are designed or normally used for a primary
2 purpose other than as a weapon. The frame or receiver of the weapon shall be construed as a
3 firearm under the provisions of this section.

4 (4) "Fugitive from justice" means any person who has fled from any state, territory, the
5 District of Columbia, or possession of the United States to avoid prosecution for a crime of
6 violence or to avoid giving testimony in any criminal proceeding.

7 (5) "Licensing authorities" means the board of police commissioners of a city or town
8 where the board has been instituted, the chief of police or superintendent of police of other cities
9 and towns having a regular organized police force, and, in towns where there is no chief of police
10 or superintendent of police, it means the town clerk who may issue licenses upon the
11 recommendation of the town sergeant, and it also means any other person or body duly authorized
12 by the city or town charter or by state law.

13 (6) "Machine gun" means any weapon which shoots, is designed to shoot, or can be
14 readily restored to shoot automatically more than one shot, without manual reloading, by a single
15 function of the trigger. The term also includes the frame or receiver of the weapon, any
16 combination of parts designed and intended for use in converting a weapon into a machine gun,
17 and any combination of parts from which a machine gun can be assembled if the parts are in the
18 possession or under the control of a person.

19 (7) "Person" includes an individual, partnership, firm, association, or corporation.

20 (8) "Pistol" includes any pistol or revolver, and any shotgun, rifle, or similar weapon
21 with overall length less than twenty-six inches (26"), but does not include any pistol or revolver
22 designed for the use of blank cartridges only.

23 (9) "Sawed-off rifle" means any rifle with overall length of less than twenty-six inches
24 (26") and/or barrel length of less than sixteen inches (16").

25 (10) "Sawed-off shotgun" means any shotgun with overall length of less than twenty-six
26 inches (26") and/or barrel length of less than eighteen inches (18").

27 (11) "Sell" includes let or hire, give, lend, and transfer, and "purchase" includes hire,
28 accept, and borrow, and "purchasing" shall be construed accordingly.

29 (12) "Suitable person" means any person who is not prohibited by state law from
30 possessing a pistol or revolver. A person may be considered unsuitable if the licensing authority
31 has clear and convincing evidence that the person is a clear and present danger to themselves, or to
32 another person. Any person may be considered unsuitable if they are a bona fide member of a
33 criminal street gang as defined in §12-19-39.

34 **11-47-11. License or permit to carry concealed pistol or revolver.** -- (a) The licensing

1 authorities of any city or town shall, upon application of any person twenty-one (21) years of age
2 or over having a bona fide residence or place of business within the city or town, or of any person
3 twenty-one (21) years of age or over having a bona fide residence within the United States and a
4 license or permit to carry a pistol or revolver concealed upon his or her person issued by the
5 authorities of any other state or subdivision of the United States, issue a license or permit to the
6 person to carry concealed upon his or her person a pistol or revolver everywhere within this state
7 for four (4) years from date of issue, if ~~it appears that~~ the applicant has ~~good reason to fear an~~
8 ~~injury to his or her person or property or has any other proper~~ lawful reason for carrying a pistol
9 or revolver, and ~~that~~ he or she is a suitable person to be so licensed. The license or permit shall ~~be~~
10 ~~in triplicate in form to be prescribed by the attorney general and shall~~ bear the fingerprint,
11 photograph, name, address, and description, ~~and signature of the licensee and the reason given for~~
12 ~~desiring a license or permit~~ of the permit holder. In ~~and in~~ no case shall it contain the serial
13 number of any firearm. The original shall be delivered to the licensee. The licensing authority
14 shall retain a copy of the permit for its records and send a second copy to the attorney general. All
15 permits issued or renewed pursuant to this section shall be recorded in the Rhode Island criminal
16 history database, or its successor system. Any member of the licensing authority, its agents,
17 servants, and employees shall be immune from suit in any action, civil or criminal, based upon
18 any official act or decision, performed or made in good faith in issuing a license or permit under
19 this chapter.

20 (b) Notwithstanding any other chapter or section of the general laws of the state of
21 Rhode Island, the licensing authority of any city or town shall not provide or release to any
22 individual, firm, association or corporation the name, address, or date of birth of any person who
23 has held or currently holds a license or permit to carry a concealed pistol or revolver. This section
24 shall not be construed to prohibit the release of any statistical data of a general nature relative to
25 age, gender and racial or ethnic background nor shall it be construed to prevent the release of
26 information to parties involved in any prosecution of § 11-47-8 or in response to a lawful
27 subpoena in any criminal or civil action which the person is a party to that action.

28 (c) The licensing authority shall, within five (5) calendar days, return any incomplete
29 application to the applicant along with a written explanation of why the application is incomplete.

30 (d) The licensing authority shall approve or deny a complete application within forty-five
31 (45) calendar days of receiving it. Within seven (7) business days after approval, the license shall
32 be made available for the applicant to pick up in person or, at the request and expense of the
33 applicant, be delivered by mail. Any denial shall be in writing and state the evidence upon which
34 the licensing authority based its decision and the rationale for the denial. Failure by the licensing

1 authority to approve or deny within the time allowed shall constitute a denial for the sole purpose
2 of permitting an appeal by the applicant and for no other purpose, and shall create a presumption
3 that no evidence exists indicating that the applicant is unsuitable.

4 (e) No licensing authority shall effect a denial without first affording the applicant an
5 administrative hearing pursuant to the provisions of §42-35-9.

6 (f) Any applicant may seek judicial review or an adverse administrative decision pursuant
7 to the provisions of §42-35-15.

8 (g)(1) Each licensing authority shall make its application available to any person by:

9 (i) Posting it on its website, if it has one; and

10 (ii) Making it immediately available to any person who requests it in person; and

11 (iii) For any request made other than in person, providing it by mail within seven (7)
12 days.

13 (2) All licensing authorities of a city or town shall use the following application:

14 Application for a concealed carry license pursuant to §11-47-11

15 Name

16 Address

17 (Street and number) (City or town) (State)

18 Date of birth, place of birth

19 Height, Weight, hair color, eye color

20 Are you a citizen of the United States?

21 If you are not a US citizen, please list your admission number

22 ARMY L or RI COMBAT COURSE shooting score:

23 Name and certification number of National Rifle Association (NRA) instructor or RI
24 instructor:

25 Signature of instructor

26 Have you ever been convicted of a crime of violence?

27 Are you a fugitive from justice?

28 Have you ever been adjudicated as being addicted to a controlled substance?

29 Have you ever been adjudicated as being mentally incompetent?

30 Have you been dishonorably discharged from the United States Military?

31 To your knowledge, are you prohibited by federal or state law from possessing a firearm?

32 For what lawful purpose do you seek to carry a pistol or revolver?

33 Applicant's signature

34 (See §11-47-23 for penalty for false information provided on this application)

1 AFFIDAVIT: I certify that I have read and am familiar with the provisions of the
2 Firearms Act of the general laws of the State of Rhode Island and Providence Plantations §§11-
3 47-1 to 11-47-63, inclusive, and that I am aware of the penalties for violation of the provisions of
4 the cited sections.

5 Signed

6 (over)

7 County of

8 State of Rhode Island (or other jurisdiction)

9 Subscribed and sworn before me this (month, date, year)

10 Notary Public

11 (h) All applicants shall include two (2) forms of identification, such as a driver's license,
12 state issued non-driver ID card, concealed carry permit issued by any state or political subdivision
13 of any state, passport, immigration documentation, military ID, student ID, social security card or
14 a birth certificate. At least one of these must be a government issued photo ID.

15 (i) The licensing authority may require any applicant to include an FBI fingerprint
16 applicant card {FD-258, (Rev 12-10-07)}, or provide fingerprints by livescan, with the
17 application, except that this shall not be a requirement for a renewal applicant.

18 (j) All applicants shall include a copy of the instructor's credentials for the instructor who
19 certified their firing score on their application.

20 (k) Any permit issued pursuant to this section is eligible to be renewed under this section
21 if it is not expired, or has been expired for less than one year. Any person whose permit has been
22 expired for one year or more may apply for a new permit under this section.

23 (l) No licensing authority shall require any additional forms, standards, information, or
24 other additional requirements unless specifically requested by, or provided by, the applicant.

25 **11-47-12. License or permit fee. --** A fee of forty dollars (\$40.00) shall be charged and
26 shall be paid for each license or permit to the licensing authority or the attorney general upon
27 issuance ~~issuing it.~~ No additional fees or costs of any type shall be charged for any reason, except
28 that any actual fee charged by the Federal Bureau of Investigation to process fingerprints may be
29 charged to the applicant. Every license or permit shall be valid for four (4) years from the date
30 when issued unless sooner revoked. The fee charged for issuing of the license or permit shall be
31 applied for the use and benefit of the city, town, or state of Rhode Island.

32 **11-47-18. License or permit issued by attorney general on showing of need --**
33 **Issuance to retired police officers. --** (a) The attorney general may issue a license or permit to
34 any person twenty-one (21) years of age or over to carry a pistol or revolver, whether concealed

1 or not, upon his or her person upon a ~~proper~~ showing of need, and that they are a suitable person
2 to be so licensed, subject to the provisions of §§ 11-47-12 and 11-47-15; that license or permit
3 ~~may be issued notwithstanding the provisions~~ may not be used to, and is immediately revoked,
4 for an individual who is in violation of § 11-47-7.

5 (b) All state police officers and permanent members of city and town police forces of
6 this state who have retired in good standing after at least twenty (20) years of service, or retired in
7 good standing due to a physical disability other than a psychological impairment, ~~may~~ shall be
8 issued a license or permit by the attorney general subject to the provisions of §§ 11-47-12 and 11-
9 47-15. The term "in good standing" means that at the time of retirement, the police officer was
10 not facing disciplinary action that could have resulted in his or her termination for misconduct or
11 unfitness for office. Any member of the licensing authority, and its agents, servants, and
12 employees shall be immune from suit in any action, civil or criminal, based upon any official act
13 or decision, performed or made in good faith in issuing a license or permit under this chapter.

14 (c) Notwithstanding any other chapter or section of the general laws of the state of
15 Rhode Island, the attorney general shall not provide or release to any individual, firm, association
16 or corporation the name, address, or date of birth of any person who has held or currently holds a
17 license or permit to carry a concealed pistol or revolver. This section shall not be construed to
18 prohibit the release of any statistical data of a general nature relative to age, gender and racial or
19 ethnic background nor shall it be construed to prevent the release of information to parties
20 involved in any prosecution of § 11-47-8 or in response to a lawful subpoena in any criminal or
21 civil action which said person is a party to such action.

22 (d) The attorney general's application for a license to carry a concealable weapon shall be
23 filled out completely by the applicant, dated and signed by the applicant and notarized.

24 (e) The attorney general shall request the following and only the following information
25 on the application:

26 (1) Applicant's full name, prior name if legally changed, all nicknames and aliases, full
27 residence address and mailing address if different (no post office boxes accepted).

28 (2) All applicant's available phone numbers, including, but not limited to, business,
29 cellular, mobile and land line phone numbers.

30 (3) The applicant's height, weight, color of eyes and hair, date and place of birth, full
31 social security number.

32 (4) Applicant's occupation, job description, years of employment and employer's full
33 address and contact information, except that this information may be only be required if the
34 permit is being requested as a condition of employment with a specific company.

1 (5) Applicant's proof of citizenship, length of citizenship and if applicant is not a citizen
2 of the United States, a copy of both sides of a current and valid alien registration card.

3 (6) A listing of all of the applicant's addresses for the last three (3) years, including the
4 full address with dates of residence.

5 (7) Information relating to the applicant's arrest record including, but not limited to, the
6 date the applicant was arrested, the name of the city/town or arresting agency, the state in which
7 the arrest occurred, the arresting charge and disposition.

8 (8) Information relating to the applicant's plea of nolo contendere to any charge or
9 violation including, but not limited to, the date the applicant was arrested, the name of the
10 city/town or arresting agency, the state in which the plea occurred, the arresting charge and
11 disposition.

12 (9) Information relating to the applicant's conviction record including, but not limited to,
13 the date the applicant was arrested, the name of the city/town or arresting agency, the state in
14 which the arrest occurred, the arresting charge and disposition.

15 (10) Information relating to the applicant's indictment in any court for a crime punishable
16 for more than one year, including, but not limited to, the name of the city/town or indicting
17 agency, the state of the indictment, the indicting charge and disposition.

18 (11) Information relating to the applicant if they were ever under a guardianship or had
19 been subject to confinement by virtue of being a mental incompetent, or who has been
20 adjudicated or is under treatment or confinement as a drug addict, including, but not limited to,
21 the dates thereof.

22 (12) Information relating to the applicant's current and prior applications for a permit for
23 a concealed weapon from the Rhode Island attorney general, any local city or town, or any other
24 state, including, but not limited to, if any permit is active, expired, denied or revoked, with the
25 dates and reasons thereof. The attorney general may require notarized photocopies of the front
26 and back of all valid permits.

27 (13) All non-resident applicants must include a copy of both the front and the back of
28 their home state permit, if they have one.

29 (f) The attorney general shall request the following and only the following requirements
30 with the application:

31 (1) A dated, signed and notarized typed statement from the applicant outlining the
32 applicant's specific reasons and details regarding their need for a Rhode Island permit. (Only a
33 typed letter may be submitted.) If the permit is to be used for employment, a typed and signed
34 letter of explanation must be submitted on the applicant's letterhead and included with the

1 application. In addition, the applicant must submit a copy of the business license as proof that the
2 business exists.

3 (2) Enclose two (2) one inch (1") by one inch (1") photographs of the applicant taken
4 without headgear or glasses. This photograph must be a clear, colored picture of the head and
5 face. The applicant must print their name on the back of each photograph. No laminated photos
6 will be accepted.

7 (3) Copies of both the front and the back of two (2) types of positive identification for the
8 applicant, examples include, but are not limited to, birth certificate, United States passport, a
9 Rhode Island or other state driver's license or a Rhode Island identification card, concealed carry
10 permit issued by any state or political subdivision of any state, military ID, student ID or social
11 security card. At least one of these must be a government issued photo ID. The photocopies
12 submitted must be signed and dated by a notary public attesting to the photocopies as being true
13 copies.

14 (4) The application must include the applicant's full set of fingerprints submitted on a FBI
15 Fingerprint Applicant Card {FD-258 (Rev. 12-10-07)} included with the application, which must
16 be signed by applicant. This is not necessary for a renewal application.

17 (5) Three (3) dated, signed and notarized typed reference letters from individuals who
18 personally know the applicant. The individuals used as references must include on the letters the
19 following information: their full name, residence address, phone number with area code and the
20 years they have known the applicant. An applicant's reference letter dated more than three (3)
21 months prior to the date of the permit application will be considered invalid. Reference letters
22 must be written by the reference, not the applicant, and cannot be identical. This requirement is
23 not necessary for a renewal application.

24 (6) A certification that the applicant has qualified in accordance with §11-47-15,
25 provided that law enforcement personnel may submit a certification of the RI combat course. A
26 National Rifle Association (hereinafter "NRA") instructor or a police range officer must sign and
27 complete the certification which shall include the date of the qualification, the printed name and
28 phone number of the instructor, instructor NRA number, the caliber of the weapon and the
29 applicant's score. An applicant's qualification certification dated more than one year prior to the
30 date of the permit application will be considered invalid.

31 (7) A copy of the NRA instructor certification and/or the police officer's range
32 certification must be submitted with the application.

33 (8) The applicant's legal residence may be required. The residency requirement may be
34 satisfied by any one of the following methods: the application may be signed by the applicant's

1 local licensing authority, the application may be signed by the city or town chief of police, the
2 application may be signed by the city or town clerk or the applicant may submit a certified or
3 notarized copy the applicant's voter registration card.

4 (9) The applicant shall sign an affidavit certifying that they have read and is familiar with
5 the provisions of §§11-47-1 through 11-47-63, of the general laws and acknowledges the
6 penalties for violations of the provisions of the cited sections. They shall further attest that any
7 alteration of the permit is just cause for revocation. The affidavit shall be dated and notarized and
8 shall indicate the date it was submitted to the licensing authority or the police department.

9 (g) The attorney general shall, within sixty (60) days for an in-state applicant or ninety
10 (90) days for an out-of-state applicant, from the receipt of the application either approve or deny
11 the application.

12 (1) If the application is approved, the attorney general may require the applicant to be
13 present in the offices of the attorney general to sign and submit a fingerprint for the permit.

14 (2) If the attorney general denies the application, the applicant shall be notified, either by
15 mail or by phone, that the entire application is available for pick-up by the applicant. Any denial
16 shall be in writing and state the evidence upon which the licensing authority based its decision
17 and the rationale for the denial.

18 (3) If the attorney general deems the application incomplete, then the applicant shall be
19 notified, either by mail or by phone, within five (5) business days from submitting the
20 application, that the entire application is available for pick-up by the applicant along with a
21 written response stating the reason(s) why the application was deemed incomplete.

22 (h) An applicant denied a permit pursuant to §11-47-18 may seek judicial review
23 pursuant to the provisions of chapter 35 of title 42.

24 (i) The provisions of §11-47-35 shall not apply to persons licensed under §11-47-18.

25 (j) The attorney general's renewal application for a license to carry a concealable weapon
26 shall be as follows:

27 (1) The applicant must submit a fully complete, signed, dated and notarized renewal
28 application to the attorney general prior to the expiration date of the permit.

29 (2) The renewal application shall include only the information included in the original
30 application, with the following exceptions:

31 (i) The three (3) dated, signed and notarized typed reference letters from individuals who
32 personally know the applicant are not required upon renewal.

33 (ii) The fingerprint card requirement is not required upon renewal.

34 (3) The attorney general shall within thirty (30) days of receipt of the renewal

1 application, if there is no material change in the applicant's renewal application, no material
2 change in need and no change in the applicant's criminal history, automatically approve the
3 renewal application.

4 (k) The attorney general shall establish and maintain an emergency permit extension on
5 the renewal application for a license to carry a concealed weapon.

6 (1) The emergency permit extension is only available to renewal applicants who, at the
7 time of the application, have an unexpired four (4) year attorney general license to carry a
8 concealed weapon and who must maintain this license for work purposes.

9 (2) A complete copy of the permit application shall be delivered to the office of the
10 attorney general.

11 (3) The attorney general shall, within three (3) business days of receipt of the renewal
12 application copy, if there is no material change in the applicant's renewal application, no material
13 change in need and no change in applicant's criminal history, automatically approve the
14 emergency permit extension.

15 (4) A fee of fifty dollars (\$50.00) shall be charged and shall be paid to the attorney
16 general for the emergency permit extension upon the issuance of the emergency permit.

17 (5) The emergency permit extension shall be valid for forty-five (45) days from issuance
18 and shall not be extended.

19 (6) Nothing in the emergency permit extension section shall be construed or interpreted
20 to stay or toll the time periods in the renewal process as outlined herein.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES -- WEAPONS

1 This act would require timely review of any application for a permit to carry a concealed
2 weapon and would allow judicial review of adverse administrative decisions regarding such
3 applications. It would also codify applications to the attorney general.

4 This act would take effect upon passage.

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