

**TOWN OF BROOKFIELD
ZONING REGULATIONS**

**Firing Ranges, Target Shooting & Discharge of Firearms for Recreational Purposes –
§ 242-313A&B**

**§242-313 Firing Ranges, Target Shooting , and the Discharge of Firearms for
Recreational Purposes [11/8/00]**

A. Residential Zones

- (1) Firearm Activities are prohibited in Residential Zones unless an application for a Firearm Plan is submitted to and approved by the Zoning Commission.

B. Firearm Plan Requirement

- (1) No Firearm Plan shall be approved by the Zoning Commission unless the use of the property for Firearm Activities:
- (a) predates the effective date of this section; and
 - (b) constitutes a valid non-conforming use as provided by law.
- (2) No Firearm Plan shall be approved by the Zoning Commission unless it incorporates the following structures:
- (a) a sound attenuation enclosure surrounding the firing discharge area, which shall reduce the noise measured at the property lines to the standards outlined in Section 242-602A of these regulations, and any noise regulations provided by local, state or federal statute or regulation, whichever more restrictive;
 - (b) a target barrier which shall not be less than 12 feet in height and shall be backed by an earthen berm of four feet (4') or more in thickness, which structure shall be set back not less than thirty feet (30') from any property line, and shall be sufficient to act as a complete deterrent to any ammunition used on the property from passing onto an adjoining property;
 - (c) an elevation limiting device, which shall prevent any round from being fired above the target barrier;

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- (d) the area in which Firearm Activities may take place shall be completely surrounded by means of a fence or wall not less than four feet (4') above the ground at any point, and all openings in the fence or wall shall be secured by a gate or door equipped with a self-closing, self-latching mechanism that is inaccessible from the outside to small children. A natural barrier is not permitted as an enclosure.
- (3) An application for approval of a Firearm Plan must contain at a minimum, the following documents:
 - (a) A Firearm Plan, which shall consist of a Class A-2 survey of the property, in recordable form, prepared by a licensed and certified land surveyor. In addition to the standard requirements for a Class A-2 survey, the Firearm Plan shall contain the following information:
 - [1] the location of all existing and proposed structures on the property;
 - [2] the location of all existing and proposed locations of Firearm Activities;
 - [3] the location of all structures required by this Section, particularly those enumerated in subsection B(2) above;
 - [4] a written narrative detailing all restrictions imposed by this Section particularly those enumerated in subsection B(3)[b] below;
 - [5] elevations of all existing and proposed site structures;
 - [6] the distances of the existing and proposed Firearm Activities from structures on adjoining properties;
 - [7] the location of any wetlands, underground aquifers, underground aquifer wells providing drinking water, including the distances of the existing and proposed Firearm Activities from such areas and the depth of such aquifer resources; and
 - [8] evidence that the range is constructed in such a manner that all shot, debris and discharge is confined to the target area and that there is no danger or risk of injury to persons and property;

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- (b) An agreement from the applicant, to be recorded on the Land Records, that Firearm Activities on the property will be subject to the following limitations:
 - [1] Firearm Activities will be conducted on the property only by the owners and/or occupants thereof and their invited guests;
 - [2] there will be no charge or fee for the conduct of Firearm Activities on the property;
 - [3] the property owner must be present during the conduct of Firearm Activities on the property at all times
 - [4] there shall not be more than four individuals simultaneously conducting Firearm Activities on the property;
 - [5] all individuals conducting Firearm Activities on the property must be duly licensed to carry and discharge firearms in accordance with State and Federal law;
 - [6] no Firearm Activities shall be conducted on Sundays or on legal holidays;
 - [7] no Firearm Activities shall be conducted except between the hours of 9:00 a.m. and 6:00 p.m.; and
 - [8] no ammunition may be used in connection with any Firearm Activities except that which can be safely discharged in accordance with State and Federal law and the provisions of this Section and be stopped by the target barrier.
- (c) An enumeration of the specific Firearm Activities to be conducted on the property, to be detailed on the Firearm Plan;
- (d) A plan of operation for the property, detailed on the Firearm Plan, including an enumeration of the safety precautions and procedures to be implemented;
- (e) A letter report from the Chief of the Brookfield Police Department, stating that the Firearm Plan has been reviewed and that the plan incorporates adequate safety measures;

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- (f) A plan for the property, detailed on the Firearm Plan, to ensure that no ammunition remains, pellets, spent shells, spent shot, target debris, or other residual material, especially those containing lead, is allowed to enter any watercourse or wetlands, or allowed to accumulate on the property in violation of any federal, state or local rule, regulation or statute;
- (g) If lead shot is to be utilized, a lead discharge permit for the property, issued by the Connecticut Department of Environmental Protection;
- (h) Copies of all required governmental Firearm licenses issued to the applicants for the Firearm Activities to be conducted on the site;
- (i) A written statement, under oath, from the applicant that the property had frequently and regularly been used for the specific Firearm Activities to be conducted on the property for at least the one year period prior to the adoption of these regulations.

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Section 42.4. - Regulation of gun shops and associated goods sales.

(a) *Definitions.*

GUN SHOP: Any establishment or portion of an establishment which sells guns, firearms or associated goods including ammunition and gun sights.

(b) *Uses permitted.* These provisions exist in order to protect neighborhoods, minimize conflict with adjacent uses and the surrounding area, and to assure the health and safety of the general public by providing additional standards for review of a proposed location of a **gun shop** and to prevent a concentration of such uses.

Gun shops shall be permitted in the BD, BD-1, BE, IL and IH districts by special exception subject to the review standards of § 63(d), and distance restrictions, supplementary review standards and conditions of approval of this § 42.4.

(c) *Distance restrictions.*

(1) *Distance limit to schools.* No establishment for sale of guns, firearms and associated goods including ammunition and gun sights shall be permitted to locate, relocate or remove to any location where the property line of such location is within 500 feet from the property line of any public or private elementary or secondary school as delineated in § 42.4(c).

(2) *Distance limit to residential districts.* No sale of guns, firearms and associated goods including ammunition and gun sights shall be permitted within 500 feet of a residential district (RS-1, RS-2, RM-1, RM-2, RH-1, RH-2, RO and predominantly residential Planned Developments) as delineated in §42.4(c).

(3) *Distance limit between gun shops.* No **gun shop** shall be permitted within 1,500 feet of another such use.

(d) *Measurement of distances.* The distance between **gun shops** shall be measured from property line to property line. However, where a **gun shop** is located within a structure of more than 50,000 square feet, the distance shall be measured from the outside entrance of such location, as shown on the approved floor plan signed by the Zoning Enforcement Officer, to the **gun shop**, property line of the public or private elementary or secondary school, or boundary of the residential district.

(e) *Supplementary review standards.* Sale of guns, firearms and accessory goods including ammunition has a greater potential impact on surrounding uses and the surrounding area, compared for the public need for them at particular locations. For this reason the supplementary standards herein shall be taken into account, where appropriate, in addition to the standards of § 63(d) of this ordinance.

(1) The presence or physical concentration of pawn shops, second hand goods stores, bars, **package permits**, **adult businesses** or other such uses.

(2) Known locations where loitering, drug sales, violent crime or prostitution have regularly occurred over substantial time periods as documented by the department of police services or other governmental agencies.

(f) *Additional conditions of approval.* Because of the unique safety and security needs of **gun shops** and the potential impact on surrounding uses and the surrounding area compared for the public need for a **gun shop** at a particular location, the board of zoning appeals may require any of the following as additional conditions of approval.

(1) Secure storage and display areas, including a security system.

(2) Security door or window grates.

(3) Exterior lighting or site fencing.

(4) Limited site access during non-business hours by means of fences, chains or means specified by the board.

The decision may also incorporate the following provisions of federal and/or state law:

(5) No assault weapon as defined in P.L. 93-306 (or latest version) may be sold, bartered or transferred.

(6) No guns, firearms and associated goods including ammunition and gun sights shall be permitted to be sold, bartered or transferred to anyone under twenty-one years of age in accordance with C.G.S. §29-34.

(7) Each firearm sold, bartered or transferred shall be accompanied by a gun locking device and warning at the time of sale in accordance C.G.S. § 29-37b.

Location:

MUNICIPALITIES; WEAPONS - GUN CONTROL;

Scope:

Connecticut laws/regulations; Court Cases; Background;



March 11, 2011

2011-R-0137

**OLR BACKGROUNDER: FIREARM PREEMPTION ISSUES—DOES
CONNECTICUT LAW PREEMPT MUNICIPAL FIREARM ORDINANCES?**

By: Veronica Rose, Chief Analyst

This report discusses preemption, especially as it relates to Connecticut gun laws, in light of a bill ([HB 6377](#)) currently before the Public Safety Committee to preempt local gun control laws.

The Office of Legislative Research is not authorized to render legal opinions, and this report should not be construed as such.

SUMMARY

State preemption laws prevent local jurisdictions from enacting ordinances that irreconcilably conflict with state statutes or address matters in an area in which the legislature has demonstrated the intent to occupy the entire field of regulation. Preemption may be expressly stated in a statute or constitutional provision or implied from the statute's construction and purpose. It is up to the courts to determine if a statute preempts an ordinance.

In determining whether local jurisdictions are preempted from taking action in a particular field, the state Supreme Court has held that courts are not to look for statutory prohibition against an enactment but for statutory authority for it. Towns might look for authority to regulate firearms under their municipal powers statutes, which give them broad authority to address nuisances and take steps to protect public health and safety.

Connecticut statutes do not expressly preempt local firearm ordinances. But the courts have ruled that the statutes implicitly preempt such ordinances in two areas: firearm sales and hunting regulation. The state Supreme Court struck down a New Haven gun ordinance dealing with firearm sales, in part because the ordinance effectively prohibited

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Gun shops shall be permitted in the BD, BD-1, BE, IL and IH districts by special exception subject to the review standards of § 63(d), and distance restrictions, supplementary review standards and conditions of approval of this § 42.4.

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The decision may also incorporate the following provisions of federal and/or state law:

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(6) No guns, firearms and associated goods including ammunition and gun sights shall be permitted to be sold, bartered or transferred to anyone under twenty-one years of age in accordance with C.G.S. §29-34.

(7) Each firearm sold, bartered or transferred shall be accompanied by a gun locking device and warning at the time of sale in accordance C.G.S. § 29-37b.

what state law permitted. And the Appellate Court struck down an East Hartford ordinance to the extent it operated to regulate hunting, finding that the state has occupied the field.

Connecticut courts have not considered whether the legislature has demonstrated the intent to occupy areas of firearm regulation besides hunting and firearm sales. Given the extent of state firearm regulation in Connecticut, a court may decide that the legislature has manifested the intent to occupy the entire field of firearm regulation. But a court may also decide that, absent a direct conflict with state law, towns, under the municipal powers statutes, may enact firearm ordinances to protect the public health, safety, and welfare of their citizens.

WHAT IS PREEMPTION?

Preemption is based on the premise that a legislature may reserve to itself exclusive jurisdiction over an entire subject area thereby preventing local action in that area.

Legislative intent to preempt municipal action may either be expressly stated in a statute or constitutional provision or implied from the construction or purpose of the legislation. Express preemption occurs when a statutory or constitutional provision contains explicit language that removes a local government's regulatory authority. For example, a bill currently before the Public Safety Committee preempts municipalities from regulating most aspects of firearms and ammunition. Under the bill:

(a) [N]o municipality may regulate, restrict or license the ownership, possession, use, purchase, sale, transportation or transfer of firearms, ammunition for firearms or components for firearms, nor may any municipality maintain or enact any ordinance or regulation which in any way regulates, restricts, prohibits, licenses or affects the ownership, possession, use, purchase, sale, transportation or transfer of such firearms, ammunition or components except as otherwise provided in state or federal law.

(b) The matters described in subsection (a) of this section are under the exclusive jurisdiction of the state and federal government, and the laws relating to such matters are intended to fully occupy the areas described and preempt any city or town, or any political subdivision of a city or town from legislating on such matters except when expressly permitted by the state.

(c) A municipality shall not define any activity related to firearms as constituting a public nuisance or as being detrimental to public health and safety.

(d) The provisions of this section shall supersede any inconsistent ordinances or regulations enacted by a municipality (<http://www.cga.ct.gov/2011/TOB/H/2011HB-06377-R00-HB.htm>).

Absent explicit preemptive statutory language, courts may infer an implied intent on the state's part to assert exclusive authority over a subject matter when a comprehensive scheme of state regulation exists on that subject. This is referred to as implied preemption. The state Supreme Court has held that “[a] local ordinance is preempted by a state statute whenever the legislature has demonstrated an intent to occupy the entire

field of regulation on the matter. . . .”(Bauer v. Waste Management of Connecticut, Inc., 234 Conn. 221, 232 (1995)).

Even if the legislature has not occupied a field, courts may find that a municipal ordinance is preempted if it conflicts with state law, making compliance with both state law and the ordinance impossible. This is referred to as conflict preemption. “Whether an ordinance conflicts with a statute or statutes can only be determined by reviewing the policy and purposes behind the statute and measuring the degree to which the ordinance frustrates the achievement of the state's objectives (*Id.*, at 232). The state Supreme Court has ruled that (1) an ordinance is not in conflict with a state statute if it only enlarges on “the provisions of a statute by requiring more than [the] statute” (*Aaron v. Conservation Commission*, 183 Conn. 532, 544 (1981)) and (2) an ordinance that is not in conflict with a statute is not preempted by it (*Modern Cigarette, Inc. v. Orange*, 256 Conn. 105, 130, 131 (2001)).

[The] test frequently used to determine whether a conflict exists is whether the ordinance permits or licenses that which the statute forbids, or prohibits that which the statute authorizes; if so, there is a conflict. If, however, both the statute and the ordinance are prohibitory and the only difference is that the ordinance goes further in its prohibition than the statute, but not counter to the prohibition in the statute, and the ordinance does not attempt to authorize that which the legislature has forbidden, or forbid that which the legislature has expressly authorized, there is no conflict (*Aaron v. Conservation Commission*, 183 Conn. 532, 544).

STATE FIREARM REGULATION AND MUNICIPAL POLICE POWERS

Firearm Regulation

State law extensively regulates firearm use, sale, transfer, possession, and transportation. For example, it prohibits (1) firearm possession in certain places and by certain people, (2) possession of certain types of firearms, (3) carrying or transporting of firearms in an unauthorized manner, (4) discharging firearms in certain locations, and (5) transferring firearms to unauthorized persons ([OLR Report 2007-R-0369](#) for a detailed summary of Connecticut gun laws).

The statutes neither expressly prohibit municipalities from enacting firearm ordinances nor authorize municipalities to enact such ordinances. But, in determining whether a municipality has the authority to enact an ordinance, the state Supreme Court has held that courts are not to look for statutory prohibition against such an enactment. Instead, they must look for statutory authority for it (*Simons v. Canty*, 195 Conn. 524, 530 (1985), citing *Avonside, Inc. v. Zoning & Planning Commission*, 153 Conn. 232, 236 (1965)). And while towns may not have specific authority to regulate firearms, the general statutory grant of police powers may be sufficient to authorize them to do so within their boundaries.

Municipal Powers Re: Health and Safety

The state Supreme Court has ruled that a municipality's powers are those that are (1) expressly granted or (2) by implication, necessary to exercise those powers expressly granted (*Hennessy v. City of Bridgeport*, 231 Conn. 656 (1990)). The statutes give towns the power “to make and enforce police, sanitary and similar regulations and protect or

promote the peace, safety, good government and welfare of the municipality and its inhabitants” and “provide for the health of the inhabitants of the municipality and do all things necessary or desirable to secure and promote the public health” ([CGS § 7-148 \(c\) \(7\) \(H\) \(xiii, xi\)](#)).

In 2001, the state Supreme Court considered municipal power to adopt health and safety ordinances and held that municipalities may prohibit cigarette vending machines within their boundaries (*Modern Cigarette, Inc. v. Orange*, 256 Conn. 105 (2001)).

The trial court had found that (1) the town and state both had a legitimate interest in promoting the health, safety, and welfare of their citizens by regulating tobacco products and preventing minors from getting access to cigarettes; (2) in spite of the laws barring minors from buying tobacco, they had little difficulty in buying cigarettes from machines; and (3) the town's ordinance was rationally related to the goal of preventing youth access to tobacco. Nonetheless, the court concluded that the state law governing cigarette vending machines ([CGS § 12-289a](#)) preempted the ordinance. The court held that, although the law allows municipalities to impose more restrictive conditions on vending machines than the statute provides, the legislature had not granted municipalities the power to ban vending machines outright. The court accordingly declared the ordinance invalid. (The dissent in the case contrasted this statute with [CGS § 30-9](#), which allows municipalities to ban the sale of liquor.)

On appeal to the state Supreme Court, Justice Katz, writing for the majority, discussed the legal principles underlying a municipality's police powers and the court's deference to their exercise. Justice Katz then discussed how the Court determines whether a local ordinance is preempted by statute. She noted that preemption occurs when the legislature has demonstrated the intent to occupy the entire field of regulation or when a local ordinance irreconcilably conflicts with a statute. Justice Katz also noted that (1) the legislature had clearly anticipated municipalities adopting public health regulations when it granted them broad police powers and (2) if the legislature had wanted to preempt a municipality from adopting an ordinance banning vending machines, it could have done so explicitly.

The majority upheld the ordinance, in part, based on the fact that the legislature did not explicitly preempt municipal regulations that went beyond the state regulation. It cited *Aaron v. Conservation Commission*, (183 Conn. 532, 544 (1981)), which held that “[w]here a municipal ordinance merely enlarges on the provisions of a statute by requiring more than a statute, there is no conflict unless the legislature has limited the requirements for all cases.”

CONNECTICUT COURT DECISIONS INVOLVING FIREARM ORDINANCES

Connecticut courts have held that state statutes preempt local firearm regulation in two areas: firearm sales and hunting regulation. They have not considered whether the legislature has demonstrated the intent to occupy areas of firearm regulation in other areas.

Firearm Sales

State statutes require anyone who wishes to sell handguns at retail to first obtain a permit from the local police (or selectmen, where applicable). The permit holder may sell guns in the “room, store, or place” described in the permit ([CGS §§ 29-28 to -32](#)).

The state Supreme Court has held that these statutes preempt municipal regulations that are irreconcilable with the state's requirements. In *Dwyer v. Farrell* (193 Conn. 7 (1984)), the Court struck down a New Haven ordinance that (1) required sellers to have a federal firearms license, a state tax permit, and a state gun permit and (2) prohibited sales in private dwellings or anywhere outside an area zoned as a business district, unless the seller obtained a variance. The Court reasoned that state laws showed a clear legislative intent to regulate gun sales, including those by nondealers and people living in residential neighborhoods. Thus, the ordinance effectively prohibited what state law clearly permitted because a “casual seller residing in a nonbusiness zone can have no real hope of ever conforming to the local ordinance.” According to the trial court:

[T]he New Haven ordinance removes an entire class of persons as potential sellers of handguns at retail. The state permit is rendered an illusory right because a casual seller residing in a nonbusiness zone can have no real hope of ever conforming to the local ordinance. In this respect the local ordinance conflicts with the legislative intent as expressed in the applicable statutes. The city has removed a right that the state permit bestows and thus has exceeded its powers (*Id.*, at p. 14).

Dwyer was particularly concerned with handgun sales by individuals. The Court specifically noted that it was not deciding on whether a municipality could pass a zoning ordinance restricting the sale of handguns to specific zones. This would seem to allow towns to regulate the location, at least, of commercial gun outlets. West Hartford, for example, prohibits gun shops in 'neighborhood business districts,' allowing them in “business districts” as a secondary use (e.g., as a department in a sporting goods or department store). A “neighborhood business district” is defined as an area where stores provide goods and services predominately for surrounding residents. These might include convenience, package, or drug stores (West Hartford Municipal Code § 177-16.2).

Hunting

Several courts have considered whether state law preempts local regulation of hunting, including *State v. Brennan* (3 Conn. Cir. Ct. 413, 216 A.2d 294 (1965)) and *Kaluszka v. East Hartford* (60 Conn. App. 749 (2000)).

In *Brennan*, the court held that the town of Westport, which was granted the power to regulate hunting within the town by special act, had no power under the special act to regulate hunting over navigable waters adjacent to the town. The court found that the state has preempted the field of regulating and encouraging the hunting of wildlife on public and private lands and waters (*Id.*, 417).

In *Kaluszka*, the Appellate Court upheld a lower court decision that (1) an East Hartford ordinance was invalid to the extent it operated to regulate hunting and (2) the state has occupied the field in the area of hunting regulation. According to the trial court:

The comprehensive nature of the state hunting statutes and regulations, when considered along with the comments and actions of the General Assembly in its consideration of provisions that would have delegated power over hunting regulation to the towns is ample evidence of the legislature's intent. Accordingly, it is the opinion of the court that the town has no authority to regulate hunting on federal, state or private property within its borders. . . . Furthermore even if the court were to hold that the state has not occupied the field of hunting regulation, the hunting regulation provisions of § 13-33 are in conflict with the state statutes and are therefore preempted (*Kaluszka v.*

East Hartford, 46 Conn. Sup. 588, 596, 597 (1999).

VR:ro

193 Conn. 7 (1984)

JEFF DWYER ET AL.

v.

WILLIAM F. FARRELL ET AL.

(11642)

Supreme Court of Connecticut.

Argued February 2, 1984.

Decision released April 24, 1984.

SPEZIALE, C. J., PETERS, PARSKEY, SHEA and GRILLO, JS.

8 *8 *Frederick P. Leaf*, special assistant corporation counsel, with whom were *Robert B. Teitelman*, law student intern, and, on the brief, *Charles G. Albom*, corporation counsel, for the appellants (defendants).

Mark K. Benenson, of the New York bar, with whom were *Donald W. O'Brien* and, on the brief, *Theodore N. Cox* and *Gregory J. Miller*, law student intern, for the appellees (plaintiffs).

SHEA, J.

9 The plaintiffs, Jeff Dwyer and Warren Rosen, filed a verified complaint against the defendants, the city of New Haven, Mayor Biagio Dilieto, and police chief William F. Farrell, seeking declaratory and injunctive relief from the enforcement of § 18-12.1^[1] of *9 the New Haven Code of Ordinances, an ordinance regulating the sale at retail of pistols and revolvers. The trial court declared that the ordinance conflicts with and is, therefore, preempted by state law and enjoined the defendants from enforcing the ordinance. In their appeal, the defendants claim the trial court erred in declaring the ordinance preempted by state law.

10 The undisputed facts upon which the trial court relied in reaching its determination are as follows: On October 21, 1981, Dwyer, a resident of New Haven, filed an application for a state permit to sell a pistol he owned with the New Haven police department on a form prescribed by the commissioner of public safety.^[2] He *10 was informed in December by an officer in the police department that his application would not be considered until he fully complied with the New Haven ordinance regulating the sale of handguns and obtained a Federal Firearm Dealer's license, a permit from the state tax commissioner, and a variance from the local zoning board permitting him to sell a pistol in the residentially zoned area in which he lives. Dwyer was not engaged in the business of selling, buying or repairing firearms or ammunition, and, therefore, could not have obtained a federal license.^[3] Furthermore, even if he had wished to engage in the business of dealing in firearms, he could not have done so in his private residence, an apartment in a six-family dwelling, no part of which was open to the public.^[4]

11 *11 On December 21, 1981, Rosen, also a resident of New Haven, filed an application for a permit to sell two pistols he owned. Rosen is engaged in the business of selling rifles, shotguns and ammunition,^[5] and has both a federal firearm dealer's license and a state sales and use tax permit. He does not, however, sell handguns in the regular course of his business. His application for a permit to sell the handguns was denied because the premises at which he anticipated making the sale were not located in a business district, and a variance had not been granted permitting the sale of handguns at that location.

The defendants have conceded in their appeal that the police department erroneously interpreted the local ordinance to impose conditions for the issuance of a state permit sought pursuant to General Statutes § 29-28. It is undisputed, however, that even if the plaintiffs had been granted the state permit they still would have violated the local law if they had sold a handgun without complying with the New Haven ordinance. The defendants contend, nevertheless, that the ordinance does not conflict with statutes regulating the same subject matter, but is merely a more comprehensive local regulation which is consistent with state policy.

12 "There is attached to every ordinance, charter or resolution adopted by or affecting a municipality the implied condition that these must yield to the predominant power of the state when that power has been exercised. See 6 McQuillin [Municipal Corporations (3d Ed. Rev.)] § 21.32. This is in keeping with our law that *12 a municipality, as a creature of the state `can

exercise only such powers as are expressly granted it or such powers as are necessary to enable it to discharge the duties and carry into effect the objects and purposes of its creation.' New Haven Water Co. v. New Haven, 152 Conn. 563, 566, 210 **A.2d** 449 (1965); see Baker v. Norwalk, 152 Conn. 312, 314, 206 **A.2d** 428 (1965); Bredice v. Norwalk, 152 Conn. 287, 292, 206 **A.2d** 433 (1964); Ingham v. Brooks, 95 Conn. 317, 328-29, 111 A. 209 (1920)." Bencivenga v. Milford, 183 Conn. 168, 173, 438 **A.2d** 1174 (1981).

"Where the state legislature has delegated to local government the right to deal with a particular field of regulation, the fact that a statute also regulates the same subject in less than full fashion does not, ipso facto, deprive the local government of the power to act in a more comprehensive, but not inconsistent, manner." Aaron v. Conservation Commission, 183 Conn. 532, 543, 441 **A.2d** 30 (1981); see also P. X. Restaurant, Inc. v. Windsor, 189 Conn. 153, 160-61, 454 **A.2d** 1258 (1983); Connecticut Theatrical Corporation v. New Britain, 147 Conn. 546, 552-53, 163 **A.2d** 548 (1960); State v. Gordon, 143 Conn. 698, 706, 125 **A.2d** 477 (1956). Whether an ordinance conflicts with a statute or statutes can only be determined by reviewing the policy and purposes behind the statute and measuring the degree to which the ordinance frustrates the achievement of the state's objectives. See Aaron v. Conservation Commission, supra, 542-44; Connecticut Theatrical Corporation v. New Britain, supra; see generally 6 McQuillin, Municipal Corporations (3d Ed. Rev.) § 21.35.

13 General Statutes §§ 29-28 through 29-38 clearly indicate a legislative intent "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". *13 Rabbitt v. Leonard, 36 Conn. Sup. 108, 115-16, 413 **A.2d** 489 (1979). This legislative concern extends also to those who sell or deliver handguns. A person cannot advertise for sale or sell at retail a pistol or revolver without first obtaining a permit, issued only after the applicant has furnished information pertaining to his character and identity as prescribed by the commissioner of public safety. General Statutes §§ 29-28 and 29-28a. The handgun can be sold only in the "room, store or place described in the permit" and only to a purchaser personally known to the vendor or to a purchaser who provides evidence of his identity. General Statutes § 29-31. Furthermore, the vendor must record detailed information concerning the transaction, including the name of the purchaser, as well as the make, model, caliber and manufacturer's number of the pistol or revolver. Id. Failure to abide by these requirements subjects the transgressor to a monetary penalty and loss of liberty. General Statutes § 29-37; see State v. Tirella, 22 Conn. Sup. 25, 158 **A.2d** 602 (1959).

Although the statutory pattern evinces a legislative intent to regulate the flow of handgun sales and restrict the right to sell to those establishing the requisite qualifications, it is also clear that the General Assembly anticipated that persons meeting those qualifications, including those living in residential neighborhoods and nondealers, would be permitted to sell at retail a pistol or revolver. The legislature has struck the balance between totally unregulated sales and a complete ban on sales of handguns at retail.

14 In passing this handgun ordinance, the city has placed two important and substantial restrictions on the sale at retail of handguns which most residents of the city can never overcome: (1) that the seller be a dealer, and (2) that the sale occur on premises located in an area *14 zoned^[6] as a business district.^[7] By placing these restrictions on the sale of handguns, the ordinance effectively prohibits what the state statutes clearly permit. Nor do the defendants suggest any practical means available to either plaintiff of conforming to the ordinance.

A local ordinance is preempted by a state statute whenever the legislature has demonstrated an intent to occupy the entire field of regulation on the matter; East Haven v. New Haven, 159 Conn. 453, 469, 271 **A.2d** 110 (1970); or, as here, whenever the local ordinance irreconcilably conflicts with the statute. Shelton v. City of Shelton, 111 Conn. 433, 447, 150 A. 811 (1930). Accord, Times Mirror Co. v. Division of Public Utility Control, 192 Conn. 506, 511, 473 **A.2d** 768 (1984). The fact that a local ordinance does not expressly conflict with a statute enacted by the General Assembly will not save it when the legislative purpose in enacting the statute is frustrated by the ordinance. Here the New Haven ordinance removes an entire class of persons as potential sellers of handguns at retail. The state permit is rendered an illusory right because a casual seller residing in a nonbusiness zone can have no real hope of ever conforming to the local ordinance. In this respect the local ordinance conflicts with the legislative intent as expressed in the applicable statutes. The city has removed a right that the state permit bestows and thus has exceeded its powers.^[8]

15 *15 There is no error.

In this opinion the other judges concurred.

[1] Section 18-12.1 of the New Haven Code of Ordinances provides: "(a) No person shall advertise, sell, offer or expose for sale, or have in his possession with intent to sell, any pistol or revolver at retail unless such person shall have obtained:

(1) a federal license as a dealer in firearms or ammunition from the Bureau of Alcohol, Tobacco and Firearms;

(2) a state permit for the sale at retail of pistols and revolvers within the City of New Haven; and

(3) a state permit to engage in or conduct business as a seller within the State of Connecticut for the place of business in which such a sale of any pistol or revolver at retail shall occur from the State Tax Commissioner.

"(b) No sale of any pistol or revolver at retail by any person qualified to conduct such a sale under subsection (1) shall be conducted in a private dwelling, no part of which is open to the general public.

"(c) All sales of any pistol or revolver at retail by any person qualified to conduct such a sale under subsection (1) shall be conducted in premises located on property zoned as a Business District or in premises for which a variance has been granted for the sale of pistols or revolvers at retail.

"(d) For the purposes of this section:

(1) the term `sale of any pistol or revolver at retail' means any transfer of title, exchange or barter, in any manner or by any means whatsoever, of any pistol or revolver for a consideration for any purpose other than resale in the regular course of business;

(2) the term `pistol or revolver' means any firearm having a barrel less than twelve inches in length."

[2] General Statutes § 29-28, the state statute regulating the sale of handguns, provides: "No person shall advertise, sell, deliver, or offer or expose for sale or delivery, or have in his possession with intent to sell or deliver, any pistol or revolver at retail without having a permit therefor issued as hereinafter provided. The chief of police or, where there is no chief of police, the warden of the borough or the first selectman of the town, as the case may be, may, upon the application of any person, issue a permit in such form as may be prescribed by the commissioner of public safety for the sale at retail of pistols and revolvers within the jurisdiction of the authority issuing such permit. Upon the application of any person having a bona fide residence or place of business within the jurisdiction of any such authority or upon the application of any bona fide resident of the United States having a permit or license to carry any firearm issued by the authority of any state or subdivision of the United States, such chief of police, warden or selectman may issue a permit to such person to carry a pistol or revolver within the jurisdiction of the authority issuing the same, provided such authority shall find that such applicant intends to make no use of any pistol or revolver which he may be permitted to carry thereunder other than a lawful use and that such person is a suitable person to receive such permit. Said commissioner may, upon application, issue, to any holder of any such permit, a permit to carry a pistol or revolver within the state. Each permit to carry any pistol or revolver shall be issued in triplicate and one of the copies issued by said commissioner shall be delivered to the person to whom issued, one shall be delivered forthwith to the authority issuing the local permit and one shall be retained by said commissioner, and the local authority issuing any such permit shall forthwith deliver one of such copies to the person to whom issued and one copy to said commissioner and shall retain one of such copies. No permit for carrying a pistol or revolver shall be issued to an alien under the provisions of this section."

[3] Paragraph (a) (1) of § 18-12.1 of the New Haven ordinance requires "a federal license as a dealer in firearms...." The application for such a federal license provides, however, that: "[a] license will not be issued to an applicant who does not intend to actually engage in the firearms activity covered by the license applied for." The license is, therefore, restricted to those who are dealers in firearms. See 27 C.F.R. § 178.41. In commenting on the ordinance, its sponsor, Alderman Baldwin, stated: "This ordinance will prevent private individuals from engaging in retail sales but will allow them to sell at wholesale to legitimate dealers and to give weapons as gifts." Partial Journal of the Regular Meeting of Board of Aldermen, December 3, 1979, pp. 1831, 1832.

[4] In order to obtain a federal license, an applicant must comply with Federal Regulations §§ 178.41 through 178.60. See 27 C.F.R. § 178.41. An applicant will be denied a license if the business premises is "[a] private dwelling, no part of which is open to the public." 27 C.F.R. § 178.11; see 27 C.F.R. § 178.47 (b) (5).

[5] Rosen is a full-time employee of a North Haven firearms manufacturer, but he also sells firearms and ammunition at his New Haven residence on Wednesday and Thursday nights.

[6] The defendants make no claim that the ordinance is a zoning ordinance or that Rosen, who is a dealer in rifles and shotguns, but not pistols or revolvers, is in violation of a zoning law. Whether a municipality could pass a zoning ordinance restricting the sale of handguns to specific zones is a question not presently before us. Cf. *P. X. Restaurant, Inc. v. Windsor*, 189 Conn. 153, 160-61, 454 A.2d 1258 (1983).

[7] Counsel for the defendants admitted at oral argument that it would be practically impossible to establish the unreasonable hardship necessary to obtain a variance.

[8] In *Connecticut Theatrical Corporation v. New Britain*, 147 Conn. 546, 163 A.2d 548 (1960), a case relied upon by the defendants, the city required movie theater operators to post a police officer during every performance, a requirement not imposed by the state agency. *Id.*, 548-49. We upheld the ordinance because the ordinance was consistent with the purposes of the state regulations: promoting public safety. Unlike the present ordinance, the New Britain ordinance could be complied with without undue hardship. The New Haven ordinance imposes an insurmountable burden

on a person desiring to sell a pistol or revolver at retail. It is permissible to regulate in a manner truly consistent with state law; it is quite another matter, however, to prohibit totally that which state law permits.

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CONNECTICUT FIREARMS LAW

REFERENCE GUIDE

2012



**DEPARTMENT OF EMERGENCY SERVICES
AND PUBLIC PROTECTION**

LEGAL AFFAIRS UNIT

(Revised through September 2012)

Foreword

The following compilation of state and federal law applicable to the administration of firearms laws by State and local law enforcement authorities in the State of Connecticut comprises the first attempt by the Department of Emergency Services and Public Protection (formerly the Department of Public Safety), Legal Affairs Unit to provide a single resource for the most commonly referenced statutes. Where relevant, case citations and commentary have also been included to assist law enforcement personnel, and others charged with administering the law as it relates to the possession and sale or transfer of firearms, in carrying out their respective responsibilities.

This publication should not be regarded as a substitute for either thorough, independent legal research, or for private consultation with an attorney when necessary in order to properly apply the legal concepts, statutes, case annotations and commentary digested herein to specific facts and circumstances where the legal rights and responsibilities of individuals or business entities are under consideration. Rather, this document should be considered as nothing more than a useful guide which will, hopefully, promote a better understanding of the law, and save the user valuable time in performing his/her duties. The contents of this publication are the work of the authors alone, and should not be cited, nor referred to as binding or persuasive authority, in legal publications, nor before the federal or state courts, or administrative tribunals, of any political jurisdiction or entity. This publication is not intended to establish or reflect the official opinion of the Commissioner of Emergency Services and Public Protection, or the State of Connecticut.

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PART 1: STATE STATUTES

Sec. 12-412. Tax Exemptions.

Taxes imposed by this chapter shall not apply to the gross receipts from the sale of and the storage, use or other consumption in this state with respect to the following items:

(101) **Firearm safety devices.** Sales of and the storage, use or other consumption of firearm safety devices. For purposes of this subdivision, "firearm safety devices" shall include safes, lock boxes, trigger and barrel locks and other items designed to enhance home firearm safety.

Sec. 22a-74a. Exemption of firing and shooting ranges from criminal and civil liability for noise and noise pollution.

(a) Any owner, operator or user of a firing or shooting range operating on October 1, 1998, shall be exempt from criminal prosecution with respect to noise or noise pollution violations and immune from civil liability with respect to noise or noise pollution resulting from shooting activity on such range provided the range was, at the time of its construction or operational approval by the municipality in which it is located, in compliance with the provisions of this chapter and regulations adopted hereunder.

(b) No standards in a noise control ordinance adopted by any municipality for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall apply to any firing or shooting range exempted from liability under this section if such standards are inconsistent with the provisions of this chapter or the regulations adopted hereunder.

(c) This section shall not limit the liability of a municipality to evaluate and regulate any increase in noise attributable to a physical expansion of an existing firing or shooting range.

Sec. 29-7h. Firearms evidence databank.

(a) As used in this section:

(1) "Firearms evidence databank" means a computer-based system that scans a test fire and stores an image of such test fire in a manner suitable for retrieval and comparison to other test fires and to other evidence in a case;

(2) "Handgun" means any firearm capable of firing rim-fire or center-fire ammunition and designed or built to be fired with one hand;

(3) "Laboratory" means the Division of Scientific Services forensic science laboratory within the Department of Emergency Services and Public Protection;

(4) "Police department" means the Division of State Police within the Department of Emergency Services and Public Protection or an organized local police department;

(5) "Test fire" means discharged ammunition consisting of a cartridge case or a bullet or a fragment thereof, collected after a handgun is fired and containing sufficient microscopical characteristics to compare to other discharged ammunition or to determine the handgun from which the ammunition was fired.

(b) (1) The Division of Scientific Services shall establish a firearms evidence databank. Test fire evidence submitted to the laboratory or collected from handguns submitted to the laboratory shall be entered into such databank in accordance with specific procedures adopted by the Commissioner of Emergency Services and Public Protection, in the regulations adopted pursuant to subsection (f) of this section.

(2) The firearms evidence databank may be used by laboratory personnel to (A) compare two or more cartridge cases, bullets or other projectiles submitted to the laboratory or produced at the laboratory from a handgun, or (B) upon the request of a police department as part of a criminal case investigation, verify by microscopic examination any resulting match, and shall produce a report stating the results of such a search.

(3) Any image of a cartridge case, bullet or fragment thereof that is not matched by a search of the databank shall be stored in the databank for future searches.

(4) The Division of Scientific Services may permit a firearms section of a police department that complies with all laboratory guidelines and regulations adopted by the commissioner pursuant to subsection (f) of this section regarding the operation of the firearms evidence databank to (A) collect test fires from handguns that come into the custody of the police department, (B) set up a remote terminal to enter test fire images directly into the databank, and (C) search the databank.

(c) (1) Except as provided in subdivision (4) of subsection (b) of this section and subsection (d) of this section, a police department shall submit to the laboratory any handgun that comes into police custody as a result of a criminal investigation, as found property, or for destruction, prior to the return or the destruction of the handgun.

(2) The laboratory shall collect a test fire from each submitted handgun within sixty days of submission. The laboratory shall label the test fire with the handgun manufacturer, type of weapon, serial number, date of the test fire and name of the person collecting the test fire.

(d) (1) A police department shall collect a test fire from every handgun issued by that department to an employee not later than six months after October 1, 2001. On and after October 1, 2001, a police department shall collect a test fire from every handgun to be issued by that department before the handgun is so issued. Any police department may request the assistance of the Division of State Police or the laboratory to collect a test fire.

(2) The police department shall seal the test fire in a tamper-evident manner and label the package with the handgun manufacturer, handgun type, serial number and the name of the person collecting the test fire. The police department shall submit the test fire and two intact cartridges of the same type of ammunition used for the test fire to the laboratory.

(e) The laboratory may share the information in the firearms evidence databank with other law enforcement agencies, both within and outside the state, and may participate in a national firearms evidence databank program.

(f) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

Sec. 29-27. “Pistol and “revolver” defined.

The term “pistol” and the term “revolver”, as used in sections 29-28 to 29-38 inclusive, mean any firearm having a barrel less than twelve inches in length.

ANNOTATIONS:

State v. Williams, 231 Conn. 235 (1994):

In order to support conviction for criminal possession of “pistol,” or “revolver,” state is not required to introduce direct numerical evidence of length of barrel of handgun. See also, *State v. Garcia*, 7 Conn. App. 367 (1986).

State v. Allen, 205 Conn. 370 (1987):

State must provide at least some evidence of the length of the barrel of the gun to make out a prima facie case involving a “pistol” or “revolver.” See also, *State v. McIntyre*, 242 Conn. 318 (1997)

State v. Delossantos, 211 Conn. 258 (1989):

The terms “pistol” and “revolver” in Section 29-27, do not incorporate the definition of “firearm” found in Section 53a-3(19) of the Penal Law. This means where Section 29-27 is applicable, a “pistol” or “revolver” does not need to be capable of discharging a shot to meet the statutory definition of a “pistol” or “revolver,” as would be necessary under Section 53a-3(19) of the Penal Law.

Sec. 29-28. Permit for sale at retail of pistol or revolver. Permit to carry pistol or revolver. Confidentiality of name and address of permit holder. Permits for out-of-state residents.

(a) No person who sells ten or more pistols or revolvers in a calendar year or is a federally-licensed firearm dealer shall advertise, sell, deliver, or offer or expose for sale or delivery, or have in such person’s possession with intent to sell or deliver, any pistol or revolver at retail without having a permit therefore issued as provided in this subsection. The chief of police or, where there is no chief of police, the warden of the borough or the first selectman of the town, as the case may be, may, upon the application of any person, issue a permit in such form as may be prescribed by the Commissioner of Emergency Services and Public Protection for the sale at retail of pistols and revolvers within the jurisdiction of the authority issuing such permit. No permit for the sale at retail of any pistol or revolver shall be issued unless the applicant holds a valid eligibility certificate for a pistol or revolver issued pursuant to section 29-36f or a valid state permit to carry a pistol or revolver issued pursuant to subsection (b) of this section and the applicant submits documentation sufficient to establish that local zoning requirements have been met for the location where the sale is to take place except that any person selling or exchanging a pistol or revolver for the enhancement of a personal collection or for a hobby or who sells all or part of such person’s personal collection of pistols or revolvers shall not be required to submit such documentation for the location where the sale or exchange is to take place.

(b) 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, provided such authority shall find that such applicant intends to make no use of any pistol or revolver which such applicant may be permitted to carry under such permit other than a lawful use and that such person is a suitable person to receive such permit. No state or temporary state permit

to carry a pistol or revolver shall be issued under this subsection if the applicant (1) has failed to successfully complete a course approved by the Commissioner of Emergency Services and Public Protection in the safety and use of pistols and revolvers including, but not limited to, a safety or training course in the use of pistols and revolvers available to the public offered by a law enforcement agency, a private or public educational institution or a firearms training school, utilizing instructors certified by the state or the National Rifle Association or the Department of Environmental Protection and a safety or training course in the use of pistols or revolvers conducted by an instructor certified by the state or the National Rifle Association, (2) has been convicted of a felony or of a violation of subsection (c) of section 21a-279, section 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d, (3) has been convicted as delinquent for the commission of a serious juvenile offense, as defined in section 46b-120, (4) has been discharged from custody within the preceding twenty years after having been found not guilty of a crime by reason of mental disease or defect pursuant to section 53a-13, (5) has been confined in a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding twelve months by order of a probate court, (6) is subject to a restraining or protective order issued by a court in a case involving the use, attempted use or threatened use of physical force against another person, (7) is subject to a firearms seizure order issued pursuant to subsection (d) of section 29-38c after notice and hearing, (8) is prohibited from shipping, transporting, possessing or receiving a firearm pursuant to 18 USC 922 (g)(4), (9) is an alien illegally or unlawfully in the United States, or (10) is less than twenty-one years of age. Nothing in this section shall require any person who holds a valid permit to carry a pistol or revolver on October 1, 1994, to participate in any additional training in the safety and use of pistols and revolvers. Upon issuance of a temporary state permit to the applicant, the local authority shall forward the original application to the commissioner. Not later than sixty days after receiving a temporary state permit, an applicant shall appear at a location designated by the commissioner to receive the state permit. Said commissioner may then issue, to any holder of any temporary state permit to carry a pistol or revolver within the state. Upon issuance of the state permit, the commissioner shall make available to the permit holder a copy of the law regarding the permit holder's responsibility to report the loss or theft of a firearm and the penalties associated with the failure to comply with such law. Upon issuance of the state permit, the commissioner shall forward a record of such permit to the local authority issuing the temporary state permit. The commissioner shall retain records of all applications, whether approved or denied. The copy of the state permit delivered to the permittee shall be laminated and shall contain a full-face photograph of such permittee. Any person holding a state permit issued pursuant to this subsection shall notify the issuing authority within two business days of any change of such person's address. The notification shall include the old address and the new address of such person.

(c) No issuing authority may require any sworn member of the Department of Emergency Services and Public Protection or an organized local police department to furnish such sworn member's residence address in a permit application. The issuing authority shall allow each such sworn member who has a permit to carry a pistol or revolver issued by such authority, to revise such member's application to include a business or post office address in lieu of the residence address. The issuing authority shall notify each such member of the right to revise such application.

(d) Notwithstanding the provisions of sections 1-210 and 1-211, the name and address of a person issued a permit to sell at retail pistols and revolvers pursuant to subsection (a) of this section or a state or a temporary state permit to carry a pistol or revolver pursuant to subsection (b) of this section, or a local permit to carry pistols and revolvers issued by local authorities prior to October 1, 2001, shall be confidential and shall not be disclosed, except (1) such information

may be disclosed to law enforcement officials acting in the performance of their duties, (2) the issuing authority may disclose such information to the extent necessary to comply with a request made pursuant to section 29-33 for verification that such state or temporary state permit is still valid and has not been suspended or revoked, and the local authority may disclose such information to the extent necessary to comply with a request made pursuant to section 29-33 for verification that a local permit is still valid and has not been suspended or revoked, and (3) such information may be disclosed to the Commissioner of Mental Health and Addiction Services to carry out the provisions of subsection (c) of section 17a-500.

(e) The issuance of any 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.

(f) Any bona fide resident of the United States having no bona fide residence or place of business within the jurisdiction of any local authority in the state, but who has a permit or license to carry a pistol or revolver issued by the authority of another state or subdivision of the United States, may apply directly to the Commissioner of Emergency Services and Public Protection for a permit to carry a pistol or revolver in this state. All provisions of subsections (b), (c), (d) and (e) of this section shall apply to applications for a permit received by the commissioner under this subsection.

ANNOTATIONS:

State v. Eliglio, 172 Conn. 21, 372 A.2d 141 (1975):

The State has the burden of proof in showing that an individual did not have a proper pistol permit when charging an individual with any form of unlawful possession of a pistol.

Dwyer v. Farrell, 193 Conn. 7, 475 A.2d 257 (1984):

State statutes, including Section 29-28, preempt local ordinances seeking to regulate the same class of activity when the local ordinance is in conflict with the state statute, or when the local ordinance substantially frustrates the legislative intent for the state statute. This means a municipality cannot restrict the sale of pistols, or the permitting process, in any way that would frustrate the current statutory scheme of Section 29-28.

Superintendent of Police of the City of Bridgeport v. Freedom of Information Commission, 222 Conn. 621, 609 A.2d 998 (1992):

Municipal permits for the carrying of pistols and revolvers are not exempted from disclosure under the Freedom of Information Act. The City of Bridgeport tried to claim that pistol permits were "similar" files, compared to medical and personnel files, and exempt under Section 1-210(b)(2) of the Connecticut General Statutes, but the court rejected the claim.

State v. Brunson, 36 Conn. App. 576, 651 A.2d 1335 (1995):

The State does not need to prove that a defendant does not have a pistol permit in any jurisdiction as an element of a crime, the State need only show that the defendant did not have a pistol permit, and therefore the right to carry, within the jurisdiction in which the defendant is charged.

Storace v. Mariano, 35 Conn. Supp. 28, 391 A.2d 1347 (1978):

In overturning the BFPE's finding that Storce was not a suitable person based on lack of factual support, the court stated that the term "suitable" person has a legally fixed meaning which should be construed in light of the fundamental purposes of the statute regulating the activity.

Commissioner, Dept. of Public Safety v. Bd. of Firearms Permit Examiners, 2010 Conn. Super. LEXIS 1750 (Superior Court, J.J. New Britain) (July 13, 2010), *reversed on other grounds*, *Commissioner of Public Safety v. Bd. of Firearms Permit Examiners*, 129 Conn. App. 414, 21 A.3d 847 (2011): The "other than lawful use" test gives the Commissioner of the Connecticut Department of Public Safety the important authority to deny a permit when he becomes aware of conduct that is relevant to handgun possession but did not result in a conviction or even an arrest. The Commissioner has the authority to deny, and thus to revoke, a permit when he finds that the applicant intends to make a use of any pistol or revolver which such applicant may be permitted to carry under such permit other than a lawful use, regardless of whether the Commissioner could nonetheless deem the applicant a suitable person.

Commissioner of Public Safety v. Bd. of Firearms Permit Examiners, 129 Conn. App. 414, 21 A.3d 847 (2011):

The words "suitable person" have a definite meaning in Connecticut law, and their use in the act furnishes a standard by which the agency must be guided. 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 a business 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 a business 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. Specifically in the context of a firearms permit, Conn. Gen. Stat. §§ 29-28 through 29-38 clearly indicate a legislative intent 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.

Kibbie v. Danaher, Docket No. 10-278-R (Board of Firearms Permit Examiners) (October 31, 2011):

On appeal to the Board of Firearms Permit Examiners, revocation of appellant's permit to carry pistols or revolvers in Connecticut was affirmed where he engaged in an ongoing dispute with his neighbor, displayed confrontational, antagonistic and aberrant conduct, had a history of minor criminal convictions for breach of peace and harassment, stored weapons in an unsafe manner within his home and failed to convince the Board that he could conform himself to the ordinary requirements of the law if he were permitted to go at large while armed.

Kristoffersen v. Bradford, Docket No. 11-29-R (Board of Firearms Permit Examiners) (January 6, 2012):

On appeal to the Board of Firearms Permit Examiners, revocation of the appellant's permit to carry pistols or revolvers in the State of Connecticut was affirmed where he confronted a jogger on a trail in a state park, and became involved in a verbal altercation regarding the jogger's failure to have his dogs on a leash while running, drew his gun out of fear of the dogs even though they were not acting aggressively, and was

subsequently arrested for reckless endangerment and carrying a handgun on state property.

Sec. 29-28a. Application for permit. Notice of decision to applicant.

(a) Requests for temporary state permits under section 29-28 shall be submitted to the chief of police, or, where there is no chief of police, to the warden of the borough or the first selectman of the town, as the case may be, on application forms prescribed by the Commissioner of Emergency Services and Public Protection. Upon written request by any person for a temporary state permit not on a prescribed application form, or upon request by any person for such application form, the local authority shall supply such forms. When any such request is made in person at the office of the local authority, the local authority shall supply such application form immediately. When any such request is made in any other manner, the local authority shall supply such application form not later than one week after receiving such request. If such application form is not supplied within the time limits required by this section, the request therefore shall constitute a sufficient application. If any local authority fails to supply an application form upon the request of any person, such person may request an application form from the Commissioner of Emergency Services and Public Protection or any barracks of the Division of State Police, and the time limits and procedures set forth in this section for handling request for such forms shall be applicable.

(b) The local authority shall, not later than eight weeks after a sufficient application for a temporary state permit has been made, inform the applicant that such applicant's request for a temporary state permit has been approved or denied. The local authority shall forward a copy of the application indicating approval or denial of the temporary state permit to the Commissioner of Emergency Services and Public Protection. If the local authority has denied the application for a temporary state permit, no state permit may be issued. The commissioner shall, not later than eight weeks after receiving an application indicating approval from the local authority, inform the applicant in writing that the applicant's application for a state permit has been approved or denied, or that the results of the national criminal history records check have not been received. If grounds for denial become known after a temporary state permit has been obtained, the temporary state permit shall be immediately revoked pursuant to section 29-32.

ANNOTATIONS:

Ambrogio v. Bd. of Firearms Permit Examiners, 42 Conn. Supp. 157, 607 A.2d 460 (Conn. Super. 1992):

Appeal was taken from order of board of firearms permit examiners which directed that handgun permit be issued. The Superior Court, Judicial District of Hartford, New Britain, DeMayo, J., held that statutory provision that police chief shall make finding on application for gun permit within eight weeks is directory, not mandatory, and police chief may await results of FBI fingerprint check.

Dwyer v. Farrell, 193 Conn. 7, 13, 475 A.2d 257 (1984):

General Statutes §§ 29-28 through 29-38 clearly indicate a legislative intent 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.

Smith's Appeal, 65 Conn. 135, 138, 31 A. 529 (1894):

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 a business 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 a business 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.

Connecticut Board of Firearms Permit Examiners v. Narowski, Docket No. CV12-6028868 (Superior Court, J.D. Hartford) (February 3, 2012):
Order for Writ of Mandamus directing the Police Chief for the Town of Derby, Connecticut, absent evidence of unsuitability, to issue a permit to carry pistols or revolvers to aggrieved applicant following police chief's failure to carry out the order of the Board. Costs adjudged against the Town of Derby in the amount of \$51.79.

Commentary

The statute does not contain any definition of the phrase "suitable person." Nor have the appellate courts precisely defined the phrase "suitable person" under the firearms statutes. Instead, they have held only generally that the purpose of the firearms permit statutes is to determine whether the applicant lacks "the essential character or temperament necessary to be entrusted with a weapon." Thus, while an applicant's improper use of a firearm is undoubtedly a factor to consider in the permit process, neither the legislature nor the appellate courts have made it a disqualifying factor as a matter of law. As a result, the revocation of a permit to carry firearms will focus on all of the facts and circumstances relevant to the question of whether a specific individual presents a danger to the public if allowed to carry a firearm in the future.

Sec. 29-29. Information concerning criminal records of applicants for permits.

(a) No temporary state permit for carrying any pistol or revolver shall be issued under the provisions of section 29-28 unless the applicant for such permit gives to the local authority, upon its request, full information concerning the applicant's criminal record. The local authority shall require the applicant to submit to state and national criminal history records checks. The local authority shall take a full description of such applicant and make an investigation concerning the applicant's suitability to carry any such weapons.

(b) The local authority shall take the fingerprints of such applicant or conduct any other method of positive identification required by the State Police Bureau of Identification or the Federal Bureau of Investigation, unless the local authority determines that the fingerprints of such applicant have been previously taken and the applicant's identity established, and such applicant presents identification that the local authority verifies as valid. The local authority shall record the date the fingerprints were taken in the applicant's file and, within five business days of such date, shall forward such fingerprints or other positive identifying information to the State Police Bureau of Identification which shall conduct criminal history records checks in accordance with section 29-17a.

(c) The local authority may, in its discretion, issue a temporary state permit before a national criminal history records check relative to such applicant's record has been received. Upon receipt of the results of such national criminal history records check, the commissioner shall send a copy of the results of such national criminal history records check to the local authority, which shall inform the applicant and render a decision on the application within one week of the receipt of such results. If such results have not been received within eight weeks after a sufficient application for a permit has been made, the local authority shall inform the applicant of such delay, in writing. No temporary state permit shall be issued if the local authority has reason to believe the applicant has ever been convicted of a felony, or that any other condition exists for which the issuance of a permit for possession of a pistol or revolver is prohibited under state or federal law.

(d) The commissioner may investigate any applicant for a state permit and shall investigate each applicant for renewal of a state permit to ensure that such applicant is eligible under state law for such permit or for renewal of such permit.

(e) No state permit may be issued unless either the local authority or the commissioner has received the results of the national criminal history records check.

ANNOTATIONS:

Baker v. Bd. of Firearms Permit Examiners, 39 Conn. Supp. 202, 474 A.2d 115 (Conn. Super. 1984):

When an individual has their pistol permit revoked for a felony conviction, and they challenge the revocation, the board of Examiners must afford them a hearing, even when the basis of revocation is not discretionary.

Attorney General's Opinion No. 85-11(1985):

This section prohibits the issuance of a permit to a person who has been convicted of a felony and the post-conviction re-classification of the crime to a misdemeanor by the Legislature does not affect the statutory prohibition. 1985 Conn. Op. Atty. Gen. 37

Sec. 29-30. Fees for pistol and revolver permits. Expiration and renewal of permits.

(a) The fee for each permit originally issued under the provisions of subsection (a) of section 29-28 for the sale at retail of pistols and revolvers shall be two hundred dollars and for each renewal of such permit two hundred dollars. The fee for each state permit originally issued under the provisions of subsection (b) of section 29-28 for the carrying of pistols and revolvers shall be one hundred forty dollars plus sufficient funds as required to be transmitted to the Federal Bureau of Investigation to cover the cost of a national criminal history records check. The local authority shall forward sufficient funds for the national criminal history records check to the commissioner no later than five business days after receipt by the local authority of the application for the temporary state permit. Seventy dollars shall be retained by the local authority. Upon approval by the local authority of the application for a temporary state permit, seventy dollars shall be sent to the commissioner. The fee to renew each state permit originally issued under the provisions of subsection (b) of section 29-28 shall be seventy dollars. Upon deposit of such fees in the General Fund, ten dollars of each fee shall be credited within thirty days to the appropriation for the Department of Emergency Services and Public Protection to a separate nonlapsing account for the purposes of the issuance of permits under subsections (a) and (b) of section 29-28.

(b) A local permit originally issued before October 1, 2001, whether for the sale at retail of pistols and revolvers or for the carrying of pistols and revolvers, shall expire five years after the date it becomes effective and each renewal of such permit shall expire five years after the expiration date of the permit being renewed. On and after October 1, 2001, no local permit for the carrying of pistols and revolvers shall be renewed.

(c) A state permit originally issued under the provisions of section 29-28 for the carrying of pistols and revolvers shall expire five years after the date such permit becomes effective and each renewal of such permit shall expire five years after the expiration date of the state permit being renewed and such renewal shall not be contingent on the renewal or issuance of a local permit. A temporary state permit issued for the carrying of pistols and revolvers shall expire sixty days after the date it becomes effective, and may not be renewed.

(d) The renewal fee required pursuant to subsection (a) of this section shall apply for each renewal which is requested not earlier than thirty-one days before, and not later than thirty-one days after, the expiration date of the state permit being renewed.

(e) No fee or portion of any fee paid under the provisions of this section for issuance or renewal of a state permit shall be refundable except if such permit for which the fee or portion was paid was not issued or renewed. The portion of the fee expended on the national criminal history records check for any such permit that was not issued or renewed shall not be refunded.

(f) The issuing authority shall send a notice of the expiration of a state permit to carry a pistol or revolver, issued pursuant to section 29-28, to the holder of such permit, by first class mail, not less than ninety days before such expiration, and shall enclose with such notice a form for the renewal of said state permit. The holder of such permit may mail the form for renewal to the issuing authority and the issuing authority shall accept such form as a valid application for renewal, provided the holder (1) completed the form according to instructions provided by the Department of Emergency Services and Public Protection, (2) enclosed the appropriate fee to renew, in accordance with subsection (a) of this section, (3) enclosed a copy of proof of citizenship or legal residency of the holder, (4) enclosed a photograph of the holder that is either notarized or date stamped, and (5) is otherwise eligible for such permit pursuant to section 29-28. A state permit to carry a pistol or revolver, issued pursuant to section 29-28, shall be valid for a period of ninety days after the expiration date, except this provision shall not apply to any state permit to carry a pistol or revolver which has been revoked or for which revocation is pending, pursuant to section 29-32.

Sec. 29-31. Display of permit to sell. Record of sales.

No sale of any pistol or revolver shall be made except in the room, store or place described in the permit for the sale of pistols and revolvers, and such permit or a copy thereof certified by the authority issuing the same shall be exposed to view within the room, store or place where pistols or revolvers are sold or offered or exposed for sale. No sale or delivery of any pistol or revolver shall be made unless the purchaser or person to whom the same is to be delivered is personally known to the vendor of such pistol or revolver or the person making delivery thereof or unless the person making such purchase or to whom delivery thereof is to be made provides evidence of his or her identity. The vendor of any pistol or revolver shall keep a record of each pistol or revolver sold in a book kept for that purpose, which record shall be in such form as is prescribed by 27 CFR 478.125. The vendor of any pistol or revolver shall make such record available for inspection upon the request of any sworn member of an organized local police department or the Division of State Police within the Department of Emergency Services and

Public Protection or any investigator assigned to the statewide firearms trafficking task force established under section 29-38e.

Sec. 29-32. Revocation of permit. Notification. Confiscation. Penalty for failure to surrender permit.

(a) For the purposes of this section, "conviction" means the entry of a judgment of conviction by any court of competent jurisdiction.

(b) Any state permit or temporary state permit for the carrying of any pistol or revolver may be revoked by the Commissioner of Emergency Services and Public Protection for cause and shall be revoked by said commissioner upon conviction of the holder of such permit of a felony or of any misdemeanor specified in subsection (b) of section 29-28 or upon the occurrence of any event which would have disqualified the holder from being issued the state permit or temporary state permit pursuant to subsection (b) of section 29-28. Upon the revocation of any state permit or temporary state permit, the person whose state permit or temporary state permit is revoked shall be notified in writing and such state permit or temporary state permit shall be forthwith delivered to the commissioner. Any law enforcement authority shall confiscate and immediately forward to the commissioner any state permit or temporary state permit that is illegally possessed by any person. The commissioner may revoke the state permit or temporary state permit based upon the commissioner's own investigation or upon the request of any law enforcement agency. Any person who fails to surrender any permit within five days of notification in writing of revocation thereof shall be guilty of a class C misdemeanor.

(c) Any local permit for the carrying of a pistol or revolver issued prior to October 1, 2001, may be revoked by the authority issuing the same for cause, and shall be revoked by the authority issuing the same upon conviction of the holder of such permit of a felony or of any misdemeanor specified in subsection (b) of section 29-28 or upon the occurrence of any event which would have disqualified the holder from being issued such local permit. Upon the revocation of any local permit, the person whose local permit is revoked shall be notified in writing and such permit shall be forthwith delivered to the authority issuing the same. Upon the revocation of any local permit, the authority issuing the same shall forthwith notify the commissioner. Upon the revocation of any permit issued by the commissioner, the commissioner shall forthwith notify any local authority which the records of the commissioner show as having issued a currently valid local permit to the holder of the permit revoked by the commissioner. Any person who fails to surrender such permit within five days of notification in writing of revocation thereof shall be guilty of a class C misdemeanor.

ANNOTATIONS:

Hopson's Appeal, 65 Conn. 140, 31 A. 531 (1894):

... the fitness of the man to the legal requirement must of necessity in each case be determined, in view of the statutory regulations, by the licensing authority in the exercise of its best judgment.

Taylor v. Kirschner, 243 Conn. 250, 702 A.2d 138 (1997):

Revocation of permit to carry a pistol based upon permittee's conviction for marijuana possession was required, despite the fact that conviction occurred prior to effective date of act making revocation a consequence of possession, because legislative history revealed legislature's clear intent that the act be applied retrospectively. Any person

convicted of disqualifying offense is subject to revocation of permit to carry a pistol without regard to when convictions occurred.

Rabbitt v. Leonard, 36 Conn. Supp. 108, 413 A.2d 489 (1979):

Statutory scheme permitting revocation of pistol permit for cause and providing notice of revocation and opportunity for de novo post revocation hearing was adequate to meet requirements of procedural due process, and thus former pistol permit holder, whose pistol permit had been summarily revoked, was not entitled to writ of mandamus ordering reinstatement of the permit and hearing prior to any future revocation. It is not mandatory that a permittee receive notice and hearing before revocation of the permit becomes effective; he may take action for reversal after the revocation.

Thomson v. Bd. of Firearms Permit Examiners, No. NNH950369628, 1996 Conn. Super. LEXIS 70 (1996):

The police department and the board are not limited to revoking gun permits only of those who are actually convicted of crimes, including crimes involving possession or use of firearms. Rather, they may look more broadly to the suitability of a permit holder.

Sec. 29-32b. Board of Firearms Permit Examiners. Appeals to board. Hearings.

(a) There shall be established a Board of Firearms Permit Examiners, within the Office of Governmental Accountability established under section 58 of this act, to be comprised of seven members appointed by the Governor to serve during his term and until their successors are appointed and qualify. With the exception of public members, the members shall be appointed from nominees of the Commissioner of Emergency Services and Public Protection, The Connecticut State Association of Chiefs of Police, the Commissioner of Environmental Protection, The Connecticut State Rifle and Revolver Association, Inc., and Ye Connecticut Gun Guild, Inc., and each of said organizations shall be entitled to representation on the board. At least one member of the board shall be a lawyer licensed to practice in this state, who shall act as chairman of the board during the hearing of appeals brought under this section.

(b) Any person aggrieved by any refusal to issue or renew a permit or certificate under the provisions of section 29-28 or 29-36f, or by any limitation or revocation of a permit or certificate issued under any of said sections, or by a refusal or failure of any issuing authority to furnish an application as provided in section 29-28a, may, within ninety days after receipt of notice of such refusal, limitation or revocation, or refusal or failure to supply an application as provided in section 29-28a, and without prejudice to any other course of action open to such person in law or in equity, appeal to the board. On such appeal the board shall inquire into and determine the facts, de novo, and unless it finds that such a refusal, limitation or revocation, or such refusal or failure to supply an application, as the case may be, would be for just and proper cause, it shall order such permit or certificate to be issued, renewed or restored, or the limitation removed or modified, as the case may be. If the refusal was for failure to document compliance with local zoning requirements, under subsection (a) of section 29-28, the board shall not issue a permit.

(c) Any person aggrieved by the action of an issuing authority may file with the board a clear and concise statement of the facts on which he relies for relief, and shall state the relief sought by the appellant. The receipt by the board of the appellant's statement shall initiate the appeals process, and no appeal may be rejected for mere lack of formality. The board shall, within ten days next following receipt of the appeal, set a time and place at which the appeal shall be heard. The board, while such appeal is pending, may request such additional information from the appellant and from the issuing authority as it deems reasonably necessary to conduct a fair

and impartial hearing, and shall require of the issuing authority from whose decision or action the appeal is being sought a statement in writing setting forth the reasons for such failure, refusal, revocation or limitation. Failure or refusal of the issuing authority to furnish such written statement, or to supply the appellant with an application, at least ten days prior to the hearing shall be cause for the board to grant the relief sought, forthwith and without further hearing.

(d) The board shall hold hearings at such times and places as it in its discretion reasonably determines to be required, but not less than once every ninety days, and shall give reasonable notice of the time and place of the hearing to the appellant and to the issuing authority. The board shall have the power to compel attendance at its sessions.

(e) All appeals hearings shall be conducted in an informal manner, but otherwise according to the rules of evidence, and all witnesses shall be sworn by the chairman. The board shall cause a verbatim transcript of the hearing to be kept in such manner as it may determine, and shall furnish such transcript to any party appealing its decision as hereinafter set forth. The statement of witnesses made under oath shall be privileged. Decisions of the board shall be by majority vote and shall be communicated in writing to the appellant and to the issuing authority within twenty days after the rendering of the decision. If any issuing authority neglects or refuses to comply with a decision of the board within ten days after notice of the board's decision has been given to such issuing authority, the board shall apply to the Superior Court for a writ of mandamus to enforce the board's decision.

(f) Any person aggrieved by the decision of the board may appeal therefrom in accordance with the provisions of section 4-183.

(g) The board shall serve without compensation, but its members shall be entitled to reasonable subsistence and travel allowances in the performance of their duties.

ANNOTATIONS:

Commissioner of Public Safety v. Board of Firearms Permit Examiners, ex rel McWhorter, 129 Conn. App. 414, 21 A.3d 847 (2011):

It is apparent that the commissioner of public safety has the statutory authority unilaterally to deny or revoke a permit without giving the aggrieved party the benefit of a hearing. Conn. Gen. Stat. §§ 29-28(b) and 29-32(b). The opportunity for a hearing, subject to procedural safeguards, arises only if the aggrieved party timely appeals to the board, whose sole purpose is to hear such appeals. See General Statutes § 29-32b. It is, therefore, logical that § 29-32b directs the board to find facts de novo, given that a hearing in which aggrieved parties may present evidence and argument was not available to the issuing authority when it denied or revoked a firearms permit. It also follows logically that the legislature intended for the board to be able to draw its own conclusions as to whether the denial or revocation of a permit would be for just and proper cause from this more developed record. Therefore, § 29-32b(b) plainly and unambiguously does not limit the board to a deferential review of the judgment of the issuing authority.

Kuck v. Danaher, 600 F.3d 159 (2d Cir. 2010):

Applicants to renew their permits to carry a firearm under Connecticut law are entitled to basic due process protections, including a meaningful opportunity to be heard after a denial or revocation.

Rabbitt v. Leonard, 36 Conn. Supp. 108, 413 A.2d 489 (1979):

Statutory scheme permitting revocation of pistol permit for cause and providing notice of revocation and opportunity for de novo post-revocation hearing was adequate to meet requirements of procedural due process, and thus former pistol permit holder, whose pistol permit had been summarily revoked, was not entitled to writ of mandamus ordering reinstatement of the permit and hearing prior to any future revocation. It is not mandatory that a permittee receive notice and hearing before revocation of the permit becomes effective; he may take action for reversal after the revocation.

Baker v. Bd. of Firearms Permit Examiners, 39 Conn. Supp. 202, 474 A.2d 115 (1984):

Where plaintiff who was holder of two duly issued gun permits, was informed by letter of chief of police of city that city permit was revoked as result of determination of his unsuitability to have pistol permit and by letter from state police commissioner, that his arrest and recent conviction for crime classified as felony necessitated revocation of state permit, Board of Firearms Permit Examiners was required, both under statute establishing Board, and under contested case provision of Administrative Procedure Act, to afford plaintiff opportunity to come before it for review of revocation decisions.

Basilicato v. State, 46 Conn. Supp. 550, 760 A.2d 155 (1999):

The plaintiff had indicated that he was treated for mental and emotional problems in his pistol permit application to the Town of West Haven. The permit officer requested that the plaintiff provide a letter from his counselor, detailing that the plaintiff was fit to carry a pistol. The plaintiff failed to provide the requested letter and chief of police refused to issue a permit. The plaintiff appealed to the Board of Examiners and the Board denied the plaintiff's request on the grounds that the plaintiff's mental or emotional state are important considerations in suitability to carry a pistol. The court upheld the ruling, and said the determination of the board as to the plaintiff's suitability to possess a permit is subject to great deference.

Storace v. Mariano, 35 Conn. Supp. 28, 391 A.2d 1347 (1978):

The plaintiff had his permit revoked by the defendant, Chief of Police for the Town of Naugatuck. The plaintiff then appealed the revocation to the Board of Examiners. The Board failed to secure a hearing on the appeal within the ten days required by statute, and instead the hearing took place a year after the revocation. The court held that the Board should have given the plaintiff the relief sought, reinstatement of the permit, because of the failure to provide a hearing within the ten day statutory requirement. Also, the revocation was overturned because it was found to be for personal reasons, and there was no factual support for the conclusion that the plaintiff was not suitable to carry.

Town of Farmington v. Bd. of Firearms Permit Examiners, No. CV 95-0550258S, 1996 Conn. LEXIS 503 (Conn. Super. 1996):

In finding that the board failed to make a fact based determination of suitability when the local authority failed to properly process an application, the court stated that the board is required to receive evidence and make a finding with respect to an appellant's suitability prior to ordering the issuance of a permit.

Hanson v. Bd. of Firearms Permit Examiners, No. 960392053, 1997 Conn. Super. LEXIS 1312 (Conn. Super. 1997):

In remanding a case involving, at worst evidence of an individual's immaturity by engaging in prankish behavior that was not shown to involve misuse of a firearm or any

tendency toward reckless or violent behavior of any kind, armed or unarmed, the court found the board's decision of unsuitability was not reasonably supported by facts.

Frosceno v. Bd. of Firearms Permit Examiners, No. CV970571959, 1998 Conn. Super. LEXIS 637 (Conn. Super. 1998):

In sustaining an appeal to a case previously remanded to the board, the court found that the board had improperly made a finding of unsuitability where an individual had been convicted of 4th degree and thereby had only violated the high degree of trust placed in a security officer.

Saviske v. Corradino, Chairman Bd. of Firearms Permit Examiners, 2011 Conn. Super. LEXIS 1396 (Superior Court, J.D. New Britain) (June 1, 2011):

Under Conn. Gen. Stat. § 29-32b(c) and board of firearms permit examiners regulation § 29-32b-7, the Board of Firearms Permit Examiners' secretary has the right to make a thorough inquiry of the facts of the appeal. Thus the board regulations envision that the plaintiff should make available hospital records and expert opinions that bear on his appeal. Indeed, the board is entitled to such records to determine if a specific disqualification applies to a plaintiff. Section § 29-32(b) refers to Reg. § 29-28(b)(5), under which disqualification is required if a permittee has been confined in a hospital for persons with psychiatric disabilities within the preceding twelve months by order of a probate court.

Sec. 29-33. Sale, delivery or transfer of pistols and revolvers. Procedure. Penalty.

(a) No person, firm or corporation shall sell, deliver or otherwise transfer any pistol or revolver to any person who is prohibited from possessing a pistol or revolver as provided in section 53a-217c.

(b) On and after October 1, 1995, no person may purchase or receive any pistol or revolver unless such person holds a valid permit to carry a pistol or revolver issued pursuant to subsection (b) of section 29-28, a valid permit to sell at retail a pistol or revolver issued pursuant to subsection (a) of section 29-28 or a valid eligibility certificate for a pistol or revolver issued pursuant to section 29-36f or is a federal marshal, parole officer or peace officer.

(c) No person, firm or corporation shall sell, deliver or otherwise transfer any pistol or revolver except upon written application on a form prescribed and furnished by the Commissioner of Emergency Services and Public Protection. Such person, firm or corporation shall insure that all questions on the application are answered properly prior to releasing the pistol or revolver and shall retain the application, which shall be attached to the federal sale or transfer document, for at least twenty years or until such vendor goes out of business. Such application shall be available for inspection during normal business hours by law enforcement officials. No sale, delivery or other transfer of any pistol or revolver shall be made unless the person making the purchase or to whom the same is delivered or transferred is personally known to the person selling such pistol or revolver or making delivery or transfer thereof or provides evidence of his identity in the form of a motor vehicle operator's license, identity card issued pursuant to section 1-1h or valid passport. No sale, delivery or other transfer of any pistol or revolver shall be made until the person, firm or corporation making such transfer obtains an authorization number from the Commissioner of Emergency Services and Public Protection. Said commissioner shall perform the national instant criminal background check and make a reasonable effort to determine whether there is any reason that would prohibit such applicant from possessing a pistol or revolver as provided in section 53a-217c. If the commissioner determines the existence

of such a reason, the commissioner shall deny the sale and no pistol or revolver shall be sold, delivered or otherwise transferred by such person, firm or corporation to such applicant.

(d) No person, firm or corporation shall sell, deliver or otherwise transfer any pistol or revolver, other than at wholesale, unless such pistol or revolver is equipped with a reusable trigger lock, gun lock or gun locking device appropriate for such pistol or revolver, which lock or device shall be constructed of material sufficiently strong to prevent it from being easily disabled and have a locking mechanism accessible by key or by electronic or other mechanical accessory specific to such lock or device to prevent unauthorized removal. No pistol or revolver shall be loaded or contain therein any gunpowder or other explosive or any bullet, ball or shell when such pistol or revolver is sold, delivered or otherwise transferred.

(e) Upon the sale, delivery or other transfer of any pistol or revolver, the person making the purchase or to whom the same is delivered or transferred shall sign a receipt for such pistol or revolver which shall contain the name, address and date and place of birth of such person, the date of sale, the caliber, make, model and manufacturer's number and a general description of such pistol or revolver, the identification number of such person's permit to carry pistols or revolvers, issued pursuant to subsection (b) of section 29-28, permit to sell at retail pistols or revolvers, issued pursuant to subsection (a) of said section, or eligibility certificate for a pistol or revolver, issued pursuant to section 29-36f, if any, and the authorization number designated for the transfer by the Department of Emergency Services and Public Protection. The person, firm or corporation selling such pistol or revolver or making delivery or transfer thereof shall give one copy of the receipt to the person making the purchase of such pistol or revolver or to whom the same is delivered or transferred, shall retain one copy of the receipt for at least five years, and shall send, by first class mail, or electronically transmit, within forty-eight hours of such sale, delivery or other transfer, one copy of the receipt to the Commissioner of Emergency Services and Public Protection and one copy of the receipt to the chief of police or, where there is no chief of police, the warden of the borough or the chief executive officer of the town, as the case may be, of the town in which the transferee resides.

(f) The provisions of this section shall not apply to antique pistols or revolvers. An antique pistol or revolver, for the purposes of this section, mean any pistol or revolver which was manufactured in or before 1898 and any replica of such pistol or revolver provided such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition except rimfire or conventional centerfire fix ammunition which is no longer manufactured in the United States and is not readily available in the ordinary channel of commercial trade.

(g) The provisions of this section shall not apply to the sale, delivery or transfer of pistols or revolvers between (1) a federally licensed firearm manufacturer and a federally licensed firearm dealer, (2) a federally licensed firearm importer and a federally licensed firearm dealer, or (3) federally-licensed firearm dealers.

(h) If the court finds that a violation of this section is not of a serious nature and that the person charged with such violation (1) will probably not offend in the future, (2) has not previously been convicted of a violation of this section, and (3) has not previously had a prosecution under this section suspended pursuant to this subsection, it may order suspension of prosecution. The court shall not order suspension of prosecution unless the accused person has acknowledged that he understands the consequences of the suspension of prosecution. Any person for whom prosecution is suspended shall agree to a tolling of any statute of limitations with respect to such violation and to a waiver of his right to a speedy trial. Such person shall appear in court and shall be released to the custody of the Court Support Services Division for such period, not

exceeding two years, and under such conditions, as the court shall order. If the person refuses to accept, or, having accepted, violates such conditions, the court shall terminate the suspension of prosecution and the case shall be brought to trial. If such person satisfactorily completes his period of probation, he may apply for dismissal of the charges against him and the court, on finding such satisfactory completion, shall dismiss such charges. If the person does not apply for dismissal of the charges against him after satisfactorily completing his period of probation, the court, upon receipt of a report submitted by the Court Support Services Division that the person satisfactorily completed his period of probation, may on its own motion make a finding of such satisfactory completion and dismiss such charges. Upon dismissal, all records of such charges shall be erased pursuant to section 54-142a. An order of the court denying a motion to dismiss the charges against a person who has completed his period of probation or terminating the participation of a defendant in such program shall be a final judgment for the purposes of appeal.

(i) Any person who violates any provision of this section shall be guilty of a class D felony, except that any person who sells, delivers or otherwise transfers a pistol or revolver in violation of the provisions of this section, knowing that such pistol or revolver is stolen or that the manufacturer's number or other mark of identification on such pistol or revolver has been altered, removed or obliterated, shall be guilty of a class B felony, and any pistol or revolver found in the possession of any person in violation of any provision of this section shall be forfeited.

Sec. 29-34. False statement or information in connection with sale or transfer of pistol or revolver prohibited. Sale or transfer to person under twenty-one years of age prohibited. Temporary transfers. Penalties.

(a) No person shall make any false statement or give any false information connected with any purchase, sale, delivery or other transfer of any pistol or revolver. Any person violating any provision of this subsection shall be guilty of a class D felony.

(b) No person shall sell, barter, hire, lend, give, deliver or otherwise transfer to any person under the age of twenty-one years any pistol or revolver, except that a pistol or revolver may be temporarily transferred to any person only for the use by such person in target shooting or on a firing or shooting range, provided such use is otherwise permitted by law and is under the immediate supervision of a person eligible to possess a pistol or revolver. Any person violating any provision of this subsection shall be guilty of a class D felony for which one year of the sentence imposed may not be suspended or reduced by the court.

(c) Any pistol or revolver found in the possession of any person in violation of any provision of this section shall be forfeited.

Sec. 29-35. Carrying of pistol or revolver without permit prohibited. Exceptions.

(a) No person shall carry any pistol or revolver upon his or her person, except when such person is within the dwelling house or place of business of such person, without a permit to carry the same issued as provided in section 29-28. The provisions of this subsection shall not apply to the carrying of any pistol or revolver by any parole officer or peace officer of this state, or any Department of Motor Vehicles Inspector appointed under section 14-8 and certified pursuant to section 7-294d, or parole officer or peace officer of any other state while engaged in the pursuit of official duties, or federal marshal or federal law enforcement agent, or to any member of the armed forces of the United States, as defined by section 27-103, or of this state,

as defined by section 27-2, when on duty or going to or from duty, or to any member of any military organization when on parade or when going to or from any place of assembly, or to the transportation of pistols or revolvers as merchandise, or to any person transporting any pistol or revolver while contained in the package in which it was originally wrapped at the time of sale and while transporting the same from the place of sale to the purchaser's residence or place of business, or to any person removing such person's household goods or effects from one place to another, or to any person while transporting any such pistol or revolver from such person's place of residence or business to a place or individual where or by whom such pistol or revolver is to be repaired or while returning to such person's place of residence or business after the same has been repaired, or to any person transporting a pistol or revolver in or through the state for the purpose of taking part in competitions, taking part in formal pistol or revolver training, repairing such pistol or revolver or attending any meeting or exhibition of an organized collectors' group if such person is a bona fide resident of the United States and is permitted to possess and carry a pistol or revolver in the state or subdivision of the United States in which such person resides, or to any person transporting a pistol or revolver to and from a testing range at the request of the issuing authority, or to any person transporting an antique pistol or revolver, as defined in section 29-33. For the purposes of this subsection, "formal pistol or revolver training" means pistol or revolver training at a locally approved or permitted firing range or training facility, and "transporting a pistol or revolver" means transporting a pistol or revolver that is unloaded and, if such pistol or revolver is being transported in a motor vehicle, is not readily accessible or directly accessible from the passenger compartment of the vehicle or, if such pistol or revolver is being transported in a motor vehicle that does not have a compartment separate from the passenger compartment, such pistol or revolver shall be contained in a locked container other than the glove compartment or console. Nothing in this section shall be construed to prohibit the carrying of a pistol or revolver during formal pistol or revolver training or repair.

(b) The holder of a permit issued pursuant to section 29-28 shall carry such permit upon one's person while carrying such pistol or revolver.

ANNOTATIONS:

State v. Tinsley, 181 Conn. 388, 435 A.2d 1002 (1980):

In prosecution for carrying pistol without permit wherein evidence established essential elements of crime, and defendant offered no evidence to put exceptions to statute in issue, burden was not upon State to disprove every listed exception in statute; therefore, conviction after State offered no evidence to disprove statutory exceptions did not violate defendant's rights.

State v. Bailey, 209 Conn. 322, 551 A.2d 1206 (1988):

Self-defense is a justification for the *use* of force but not for possession of firearm. Therefore, an individual that justifiably uses a pistol in self-defense can still be convicted of unlawful possession of a pistol without a permit, in violation of Section 29-35.

State v. Ortiz, 15 Conn. App. 749, 546 A.2d 338 (1988):

A defendant can be charged and convicted of both criminal possession of a firearm and carrying a pistol without a permit. Convictions on both charges do not constitute a violation of federal constitutional double jeopardy protections.

State v. L'Minggio, 71 Conn. App. 656, 672, 803 A.2d 408 (2002):

Carrying and possession are different concepts and § 29-35 (a) is designed to prohibit the carrying of a pistol without a permit and not the possession of one.

State v. Hopes, 26 Conn. App. 367, 374, 602 A.2d 23, cert. denied, 221 Conn. 915, 603 A.2d 405 (1992):

The term “carry” with Section 29-35 does not require asportation of the pistol to satisfy the statute. No proof that the pistol was actually moved or transported by the defendant is necessary to support a conviction of “carrying” a pistol without a permit. The court recognized “carry” as meaning “to bear upon one’s person,” or to have “within the defendant’s control or dominion in a public area.”

State v. Brunson, 36 Conn. App. 576, 651 A.2d 1335 (1995):

The State does not need to prove that a defendant does not have a pistol permit in any jurisdiction as an element of a crime, the State need only show that the defendant did not have a pistol permit, and therefore the right to carry, within the jurisdiction in which the defendant is charged.

State v. Bradley, 39 Conn. App. 82, 663 A.2d 1100 (1995):

To obtain conviction for carrying pistol without permit, prosecution need prove only that accused carried pistol while outside dwelling or place of business and that he did not have permit to do so; however, operability of weapon is not an element of crime.

State v. Vickers, 260 Conn. 219, 796 A.2d 502 (2002):

Defendant, who was carrying firearm while at his workplace, had fair warning that his conduct was proscribed by statute providing that no person shall carry any pistol upon his person, except when such person is within his dwelling house or place of business, without a permit to carry the same, and thus, defendant was not deprived of his right to due process; court construed phrase “place of business” as meaning that in which one had possessory or proprietary interest, and this construction was neither unexpected nor indefensible and, therefore, was binding upon the defendant.

State v. Lutters, 270 Conn. 198, 853 A.2d 434 (2004):

Taxicab, in which taxicab driver had a proprietary interest, did not fall within the “place of business” exception to the offense of carrying a pistol without a permit; sister statute expressly prohibits a person from transporting, without a permit, a pistol or revolver in a motor vehicle.

Gonzalez v. Village of West Milwaukee, 2010 U.S. Dist. LEXIS 46281 (E.D. Wis. 2010):

Conduct is “otherwise disorderly” if it is similar to the types of conduct enumerated in the statute in that it has a tendency to disrupt good order “[I]t is the combination of conduct and circumstances that is crucial in applying the statute to a particular situation.” Convictions under such proscription typically involve conduct that is inappropriate because of the circumstances involved. *Id.* at 672-73.

No reasonable person would dispute that walking into a retail store openly carrying a firearm is highly disruptive conduct which is virtually certain to create a disturbance. This is so because when employees and shoppers in retail stores see a person carrying a lethal weapon, they are likely to be frightened and possibly even panicky. Many employees and shoppers are likely to think that the person with the gun is either deranged or about to commit a felony or both. Further, it is almost certain that someone will call the police. And when police respond to a “man with a gun” call, they have no

idea what the armed individual's intentions are. The volatility inherent in such a situation could easily lead to someone being seriously injured or killed.

Plaintiff's conduct caused store employees to become frightened and to notify their managers. The managers also became frightened and called the police, who immediately responded. The responding officers clearly had reason to believe that the combination of plaintiff's conduct and the circumstances in which it was committed "tended to provoke a disturbance" and constituted disorderly conduct.

Commentary

The Connecticut statute permitting the carrying of firearms does not specifically address whether or not a pistol or revolver, carried upon the person in a public place, may be carried openly or must be concealed. The mere carrying of a properly permitted firearm openly in a public place does not explicitly violate Conn. Gen. Stat. § 29-35. However, depending upon the totality of the facts and circumstances, an individual carrying a properly permitted firearm openly in a public place may violate other criminal statutes, for example, Disorderly Conduct (Conn. Gen. Stat. § 53a-182), Breach of Peace (Conn. Gen. Stat. § 181), or Threatening in the Second Degree (Conn. Gen. Stat. § 53a-62). Properly permitted individuals who desire to carry their firearms openly are best advised to exercise mature judgment in determining when, if ever, it is appropriate to do so.

Sec. 29-36. Alteration of firearm identification mark, number or name.

(a) No person shall remove, deface, alter or obliterate the name of any maker or model of any maker's number or other mark of identification on any firearm as defined in section 53a-3. The possession of any firearm upon which any identifying mark, number or name has been removed, defaced, altered or obliterated shall be prima facie evidence that the person owning or in possession of such firearm has removed, defaced, altered or obliterated the same.

(b) Any person who violates any provision of this section shall be fined not more than one thousand dollars or imprisoned not more than five years or both and any firearm found in the possession of any person in violation of said provision shall be forfeited.

ANNOTATIONS:

State v. Turner, 62 Conn. App. 376, 771 A.2d 206 (2001):

Statute making possession of any pistol or revolver with obliterated identification mark prima facie evidence that person possessing pistol or revolver has altered, removed or obliterated the mark did not create unconstitutional presumption.

Sec. 29-36f. Eligibility certificate for pistol or revolver.

(a) Any person who is twenty-one years of age or older may apply to the Commissioner of Emergency Services and Public Protection for an eligibility certificate for a pistol or revolver.

(b) The Commissioner of Emergency Services and Public Protection shall issue an eligibility certificate unless said commissioner finds that the applicant: (1) Has failed to successfully complete a course approved by the Commissioner of Emergency Services and Public Protection in the safety and use of pistols and revolvers including, but not limited to, a safety or

training course in the use of pistols and revolvers available to the public offered by a law enforcement agency, a private or public educational institution or a firearms training school, utilizing instructors certified by the National Rifle Association or the Department of Environmental Protection and a safety or training course in the use of pistols or revolvers conducted by an instructor certified by the State or the National Rifle Association; (2) has been convicted of a felony or of a violation of subsection (c) of section 21a-279, section 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d; (3) has been convicted as a delinquent for the commission of a serious juvenile offense, as defined in section 46b-120; (4) has been discharged from custody within the preceding twenty years after having been found not guilty of a crime by reason of mental disease or defect pursuant to section 53a-13; (5) has been confined to a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding twelve months by order of a probate court; (6) is subject to a restraining or protective order issued by a court in a case involving the use, attempted use or threatened use of physical force against another person (7) is subject to a firearms seizure order issued pursuant to subsection (d) of section 29-38c after notice of hearing; (8) is prohibited from shipping, transporting, possessing or receiving a firearm pursuant to 18 USC 922(g)(4); or (9) is an alien illegally or unlawfully in the United States.

Sec. 29-36g. Application for eligibility certificate. Criminal history records check. Deadline for approval or denial of application. Form of certificate. Change of address. Confidentiality of name and address of certificate holder. Scope of certificate.

(a) Requests for eligibility certificates under section 29-36f, shall be submitted to the Commissioner of Emergency Services and Public Protection on application forms prescribed by the commissioner. No eligibility certificate for a pistol or revolver shall be issued under the provisions of said section unless the applicant for such certificate gives to the Commissioner of Emergency Services and Public Protection, upon the commissioner's request, full information concerning the applicant's criminal record and relevant information concerning the applicant's mental health history. The commissioner shall require each applicant to submit to state and national criminal history records checks in accordance with section 29-17a. The commissioner shall take a full description of such applicant. The commissioner shall take the fingerprints of such applicant or conduct any other method of positive identification required by the State Police Bureau of Identification or the Federal Bureau of Investigation. The commissioner shall record the date the fingerprints were taken in the applicant's file and shall conduct criminal history records checks in accordance with section 29-17a.

(b) The commissioner shall, not later than sixty days after receipt of the national criminal history records check from the Federal Bureau of Investigation, either approve the application and issue the eligibility certificate or deny the application and notify the applicant of the reason for such denial in writing.

(c) An eligibility certificate for a pistol or revolver shall be of such form and content as the commissioner may prescribe, shall be signed by the certificate holder and shall contain an identification number, the name, address, place and date of birth, height, weight and eye color of the certificate holder and a full-face photograph of the certificate holder.

(d) A person holding an eligibility certificate issued by the commissioner shall notify the commissioner not later than two business days after any change of such person's address. The notification shall include both the old address and the new address of such person.

(e) Notwithstanding the provisions of sections 1-210 and 1-211, the name and address of a person issued an eligibility certificate for a pistol or revolver under the provisions of section 29-36f shall be confidential and shall not be disclosed, except (1) such information may be disclosed to law enforcement officials acting in the performance of their duties, (2) the Commissioner of Emergency Services and Public Protection may disclose such information to the extent necessary to comply with a request made pursuant to section 29-33, as amended by this act, for verification that such certificate is still valid and has not been suspended or revoked, and (3) such information may be disclosed to the Commissioner of Mental Health and Addiction Services to carry out the provisions of subsection (c) of section 17a-500.

(f) An eligibility certificate for a pistol or revolver shall not authorize the holder thereof to carry a pistol or revolver upon his person in circumstances for which a permit to carry a pistol or revolver issued pursuant to subsection (b) of section 29-28 is required under section 29-35.

Sec. 29-36h. Fee for eligibility certificate. Expiration and renewal of eligibility certificate.

(a) The fee for each eligibility certificate for a pistol or revolver originally issued under the provisions of section 29-36f shall be thirty-five dollars and for each renewal thereof thirty-five dollars, which fees shall be paid to the Commissioner of Emergency Services and Public Protection. Upon deposit of such fees in the General Fund, the fees shall be credited to the appropriation to the Department of Emergency Services and Public Protection to a separate nonlapsing account for the purposes of the issuance of eligibility certificates under said section.

(b) An eligibility certificate originally issued under the provisions of section 29-36f, shall expire five years after the date it becomes effective and each renewal thereof shall expire five years after the expiration date on the certificate being renewed.

(c) The renewal fee shall apply for each renewal which is requested not earlier than thirty-one days before, and not later than thirty-one days after, the expiration date of the certificate being renewed.

(d) No fee or portion thereof paid under the provisions of this section for issuance or renewal of an eligibility certificate shall be refundable except if the eligibility certificate for which the fee or portion thereof was paid was not issued or renewed.

(e) The Commissioner of Emergency Services and Public Protection shall send a notice of the expiration of an eligibility certificate issued pursuant to section 29-36f, to the holder of such certificate, by first class mail, at the address of such person as shown by the records of the commissioner, not less than ninety days before such expiration, and shall enclose therein a form for the renewal of said certificate. An eligibility certificate issued pursuant to said section, shall be valid for a period of ninety days from the expiration date, except this provision shall not apply to any certificate which has been revoked or for which revocation is pending, pursuant to section 29-36i.

Sec. 29-36i. Revocation of eligibility certificate.

(a) Any eligibility certificate for a pistol or revolver shall be revoked by the Commissioner of Emergency Services and Public Protection upon the occurrence of any event which would have disqualified the holder from being issued the certificate pursuant to section 29-36f.

(b) Upon the revocation of any eligibility certificate, the person whose eligibility certificate is revoked shall be notified in writing and such certificate shall be forthwith delivered to the Commissioner of Emergency Services and Public Protection. Any person who fails to surrender such certificate within five days of notification in writing of revocation thereof shall be guilty of a class C misdemeanor.

Sec. 29-36k. Transfer, delivery or surrender of firearms by persons ineligible to possess firearms. Destruction of firearms. Penalty.

(a) Not later than two business days after the occurrence of any event that makes a person ineligible to possess a pistol or revolver or other firearm, such person shall (1) transfer in accordance with section 29-33 all pistols and revolvers which such person then possesses to any person eligible to possess a pistol or revolver and transfer in accordance with any applicable state and federal laws all other firearms to any person eligible to possess such other firearms by obtaining an authorization number for the sale or transfer of the firearm from the Commissioner of Emergency Services and Public Protection, and submit a sale or transfer of firearms form to said commissioner within two business days, except that a person described in subdivision (3) of subsection (a) of section 53a-217 may only transfer a pistol, revolver or other firearm under this subdivision to a federally licensed firearms dealer pursuant to the sale of the pistol, revolver or other firearm to the federally licensed firearms dealer, or (2) deliver or surrender such pistols and revolvers and other firearms to the Commissioner of Emergency Services and Public Protection. The commissioner shall exercise due care in the receipt and holding of such pistols and revolvers and other firearms. For the purposes of this section, a "person described in subdivision (3) of subsection (a) of section 53a-217" means a person described in said subdivision, regardless of whether such person was convicted under said subdivision.

(b) Such person, or such person's legal representative, may, at any time up to one year after such delivery or surrender, transfer such pistols and revolvers in accordance with the provisions of section 29-33 to any person eligible to possess a pistol or revolver and transfer such other firearms, in accordance with any applicable state and federal laws, to any person eligible to possess such other firearms, provided any such person described in subdivision (3) of subsection (a) of section 53a-217, or such person's legal representative, may only transfer such pistol, revolver or other firearm to a federally licensed firearms dealer pursuant to the sale of the pistol, revolver or other firearm to the federally licensed firearms dealer. Upon notification in writing by the transferee and such person, the Commissioner of Emergency Services and Public Protection shall, within ten days, deliver such pistols and revolvers or other firearms to the transferee. If, at the end of such year, such pistols and revolvers or other firearms have not been so transferred, the commissioner shall cause them to be destroyed.

(c) Any person who fails to transfer, deliver or surrender any such pistols and revolvers and other firearms as provided in this section shall be subject to the penalty provided for in section 53a-217 or 53a-217c.

Sec. 29-36l. Verification of eligibility of persons to receive or possess firearms. State database. Instant criminal background check. Immunity of seller or transferor. Authorization number required.

(a) The Commissioner of Emergency Services and Public Protection shall establish a state database, that any person, firm or corporation who sells or otherwise transfers pistols or revolvers may access, by telephone or other electronic means in addition to the telephone, for

information to be supplied immediately, on whether a permit to carry a pistol or revolver, issued pursuant to subsection (b) of section 29-28, a permit to sell at retail a pistol or revolver, issued pursuant to subsection (a) of section 29-28, or an eligibility certificate for a pistol or revolver, issued pursuant to section 29-36f, is valid and has not been revoked or suspended.

(b) Upon establishment of the database, the commissioner shall notify each person, firm or corporation holding a permit to sell at retail pistols or revolvers issued pursuant to subsection (a) of section 29-28 of the existence and purpose of the system and the means to be used to access the database.

(c) The Department of Emergency Services and Public Protection shall establish days and hours during which the telephone number or other electronic means shall be operational for purposes of responding to inquiries, taking into consideration the normal business hours of retail firearm businesses.

(d) (1) The Department of Emergency Services and Public Protection shall be the point of contact for initiating a background check through the National Instant Criminal Background Check System (NICS), established under section 103 of the Brady Handgun Violence Prevention Act, on individuals purchasing firearms.

(2) The Department of Emergency Services and Public Protection, Department of Mental Health and Addiction Services and Judicial Department shall, in accordance with state and federal law regarding confidentiality, enter into a memorandum of understanding with the Federal Bureau of Investigation for the purpose of implementing the National Instant Criminal Background Check System in the state. The Department of Emergency Services and Public Protection shall report the name, date of birth and physical description of any person prohibited from possessing a firearm pursuant to 18 USC 922(g) or (n) to the National Instant Criminal Background Check System Index, Denied Persons Files.

(e) Any person, firm or corporation that contacts the Department of Emergency Services and Public Protection to access the database established under this section and determine if a person is eligible to receive or possess a firearm shall not be held civilly liable for the sale or transfer of a firearm to a person who receipt or possession of such firearm is unlawful or for refusing to sell or transfer a firearm to a person who may lawfully receive or possess such firearm if such person, firm or corporation relied, in good faith, on the information provided to such person, firm or corporation by said department, unless the conduct of such person, firm or corporation was unreasonable or reckless.

(f) Any person, firm or corporation that sells, delivers or otherwise transfers any firearm pursuant to section 29-33 or 29-37a, shall contact the Department of Emergency Services and Public Protection to access the database established under this section and receive an authorization number for such sale, delivery or transfer. The provisions of this subsection shall not apply to: (1) Any sale, delivery or transfer of an antique firearm manufactured in or before 1898, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system manufactured in or before 1898; (2) any sale, delivery or transfer of any replica of any firearm described in subdivision (1) of this subsection if such replica uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; (3) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 USC 921 et seq.; (4) the transfer of firearms to and from gunsmiths for the purposes of

repair only; and (5) any sale, delivery or transfer of any firearm to any agency of the United States, the state of Connecticut or any local government.

Sec 29-36m. Regulations.

The Commissioner of Emergency Services and Public Protection shall adopt regulations in accordance with the provisions of Chapter 54 to carry out the provisions of sections 18-18i, 29-27, 29-28, subsection (a) of section 29-30, section 29-32, subsection (b) of section 29-32b, sections 29-33, 29-34, 29-36f to 29-36l, inclusive, subsection (a) of section 29-37, subsections (a) and (b) of section 53-202d and section 53a-217c.

Sec. 29-36n. Protocol concerning transfer or surrender of pistols and revolvers.

(a) The Commissioner of Emergency Services and Public Protection, in conjunction with the Chief State's Attorney and the Connecticut Police Chiefs Association, shall develop a protocol to ensure that persons who become ineligible to possess a pistol or revolver have, in accordance with section 29-36k, transferred such pistol or revolver to a person eligible to possess such pistol or revolver or have delivered or surrendered such pistol or revolver to said commissioner.

(b) The Commissioner of Emergency Services and Public Protection, in conjunction with the Chief State's Attorney and the Connecticut Police Chiefs Association, shall update the protocol developed pursuant to subsection (a) of this section to reflect the provisions of sections 29-7h, 29-28, 29-28a, 29-29, 29-30, 29-32 and 29-35, subsections (b) and (e) of section 46b-15, subsections (c) and (d) of section 46b-38c and sections 53-202a, 53-202l, 53-202m and 53a-217 and shall include in such protocol specific instructions for transfer, delivery or surrender of pistols and revolvers when the assistance of more than one law enforcement agency is necessary to effect the requirements of section 29-36k.

Sec. 29-37. Penalties.

(a) Any person violating any provision of section 29-28 or 29-31 shall be fined not more than five hundred dollars or imprisoned not more than three years or both, and any pistol or revolver found in the possession of any person in violation of any of said provisions shall be forfeited.

(b) Any person violating any provisions of subsection (a) of section 29-35 may be fined not more than one thousand dollars and shall be imprisoned not less than one year or more than five years, and, in the absence of any mitigating circumstances as determined by the court, one year of the sentence imposed may not be suspended or reduced by the court. The court shall specifically state the mitigating circumstances, or the absence thereof, in writing for the record. Any pistol or revolver found in the possession of any person in violation of any provision of subsection (a) of section 29-35 shall be forfeited.

(c) Any person violating any provision of subsection (b) of section 29-35 shall have committed an infraction and shall be fined thirty-five dollars.

Sec. 29-37a. Sale or delivery at retail of firearm other than pistol or revolver. Procedure.

(a) No person, firm or corporation may deliver, at retail, any firearm, as defined in section 53a-3, other than a pistol or revolver, to any person unless such person makes application on a form prescribed and furnished by the Commissioner of Emergency Services and Public Protection, which shall be attached by the vendor to the federal sale or transfer document and filed and

retained by the vendor for at least twenty years or until such vendor goes out of business. Such application shall be available for inspection during normal business hours by law enforcement officials. No sale or delivery of any firearm shall be made until the expiration of two weeks from the date of the application, and until the person, firm or corporation making such sale, delivery or transfer has insured that such application has been completed properly and has obtained an authorization number from the Commissioner of Emergency Services and Public Protection for such sale, delivery or transfer. The Department of Emergency Services and Public Protection shall make every effort, including performing the national instant criminal background check, to determine if the applicant is eligible to receive such firearm. If it is determined that the applicant is ineligible to receive such firearm, the Commissioner of Emergency Services and Public Protection shall immediately notify the person, firm or corporation to whom such application was made and no such firearm shall be sold or delivered to such applicant by such person, firm or corporation. When any firearm is delivered in connection with the sale or purchase, such firearm shall be enclosed in a package, the paper or wrapping of which shall be securely fastened, and no such firearm when delivered on any sale or purchase shall be loaded or contain any gunpowder or other explosive or any bullet, ball or shell.

(b) Upon the delivery of the firearm, the purchaser shall sign in triplicate a receipt for such firearm which shall contain the name, address and date and place of birth of such purchaser, the date of sale and the caliber, make, model and manufacturer's number and a general description of the firearm. Not later than twenty-four hours after such delivery, the vendor shall send by first class mail or electronically transfer one receipt to the Commissioner of Emergency Services and Public Protection and one receipt to the chief of police or, where there is no chief of police, the warden of the borough or the chief executive officer, of the town in which the purchaser resides, and shall retain one receipt, together with the original application, for at least five years. The waiting period specified in subsection (a) of this section during which delivery may not be made and the provisions of this subsection shall not apply to any federal marshal, parole officer or peace officer, or to the delivery at retail of (1) any firearm to a holder of a valid state permit to carry a pistol or revolver issued under the provisions of section 29-28 or a valid eligibility certificate issued under the provisions of section 29-36f, (2) any firearm to an active member of the armed forces of the United States or of any reserve component thereof, (3) any firearm to a holder of a valid hunting license issued pursuant to chapter 490, or (4) antique firearms. For the purposes of this section, "antique firearm" means any firearm which was manufactured in or before 1898 and any replica of such firearm provided such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition except rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and not readily available in the ordinary channel of commercial trade.

Sec. 29-37b. Retail dealer to equip pistols and revolvers with gun locking device and provide written warning at time of sale. Penalty.

(a) Each person, firm or corporation which engages in the retail sale of any pistol or revolver, at the time of sale of any such pistol or revolver, shall (1) equip such pistol or revolver with a reusable trigger lock, gun lock or gun locking device appropriate for such firearm, which lock or device shall be constructed of material sufficiently strong to prevent it from being easily disabled and have a locking mechanism accessible by key or by electronic or other mechanical accessory specific to such lock or device to prevent unauthorized removal, and (2) provide to the purchaser thereof a written warning which shall state in block letters not less than one inch in height "UNLAWFUL STORAGE OF A LOADED FIREARM MAY RESULT IN IMPRISONMENT OR FINE."

(b) Each such person, firm or corporation shall conspicuously post and at all times display the warning specified in subsection (a) of this section in block letters not less than three inches in height.

(c) Any person, firm or corporation which violates any provision of this section shall be fined not less than five hundred dollars for each violation.

Sec. 29-37d. Firearms dealer to install burglar alarm system on premises of its establishment. Exceptions.

On and after July 1, 1993, each business organization which engages in the retail sale of firearms, as defined in section 53a-3, as a regular course of trade or business, shall have a burglar alarm system installed on the premises of its establishment in which ten or more firearms are stored and kept for sale. Such alarm system shall be directly connected to the local police department or monitored by a central station and shall activate upon unauthorized entry or interruption to such system. For the purposes of this section, "business organization" means a sole proprietorship, partnership, firm, corporation or other form of business or legal entity. The provisions of this section shall not apply to any person who (1) sells or exchanges a firearm for the enhancement of a personal collection or as a hobby, (2) sells all or part of a personal collection of firearms, or (3) sells firearms from his own residence and keeps for sale not more than ten firearms.

Sec. 29-37e. False statement or information in connection with the sale or transfer of firearm other than pistol or revolver prohibited.

(a) No person shall make any false statement or give any false information connected with any purchase, sale, delivery or other transfer of any firearm other than a pistol or revolver. Any person violating any provision of this subsection shall be guilty of a class D felony.

(b) Any firearm found in the possession of any person in violation of this section shall be forfeited.

Sec. 29-37f. Qualifications of retail store employees who sell firearms.

No person, firm or corporation that engages in the retail sale of goods, where the principal part of such trade or business is the retail sale of goods other than firearms, shall employ a person to sell firearms in a retail store unless such person (1) is at least eighteen years of age, (2) has submitted to state and national criminal history records checks and such checks indicate that such person has not been convicted of a felony or a violation specified in subdivision (2) of subsection (b) of section 29-36f, and (3) has successfully completed a course or testing approved by the Commissioner of Emergency Services and Public Protection in firearms safety and statutory procedures relating to the sale of firearms. The sale of firearms by such person, firm or corporation shall be accomplished only by an employee qualified pursuant to this section. Any employer who employs a person to sell firearms in violation of the provisions of this section shall be liable for a civil penalty of not more than ten thousand dollars per day for each violation. The Attorney General shall institute a civil action to recover such penalty.

Sec. 29-37g. Gun show requirements.

(a) For the purposes of this section, (1) "gun show" means any event (A) at which fifty or more firearms are offered or exhibited for sale, transfer or exchange to the public and (B) at which two

or more persons are exhibiting one or more firearms for sale, transfer or exchange to the public; and (2) “gun show promoter” means any person who organizes, plans, promotes or operates a gun show.

(b) Not later than thirty days before commencement of a gun show, the gun show promoter shall notify the Commissioner of Emergency Services and Public Protection and the chief of police or, where there is not chief of police, the warden of the borough or the chief executive officer of the town in which the gun show is to take place of the date, time, duration and location of the gun show.

(c) No person, firm or corporation shall sell, deliver or otherwise transfer a firearm at a gun show until such person, firm or corporation has complied with the provisions of section 29-36/.

Sec. 29-37i. (Formerly Sec. 29-37c). Responsibilities re storage of loaded firearms with respect to minors.

No person shall store or keep any loaded firearm on any premises under his control if he knows or reasonably should know that a minor is likely to gain access to the firearm without the permission of the parent or guardian of the minor unless such person (1) keeps the firearm in a securely locked box or other container or in a location which a reasonable person would believe to be secure or (2) carries the firearm on his person or within such close proximity thereto that he can readily retrieve and use it as if he carried it on his person. For the purposes of this section, “minor” means any person under the age of sixteen years.

ANNOTATIONS:

State v. Wilchinski, 242 Conn. 211, 700 A.2d 1 (1997):

For purposes of Conn. Gen. Stat. §29-37i(1), “locked” modifies both “container” and “box” for the keeping of firearms. The legislative history of § 29-37i further indicates that, although no specific storage method is required, some physical impediment to access is mandatory... The most appropriate and efficient means to achieve the goal of restricting access to a loaded firearm depends on facts uniquely within the knowledge of the individual gun owner. The most obvious variables include the ages of children in the household, the physical layout of the home, and the availability of locked safes or closets. A high shelf in a closet may be a secure location when the only child in the household is a toddler, but when older children are present in the home, it may be necessary to use trigger locks and a locked container...“§ 29-37i defines a standard of care for the storage of loaded firearms and § 53a-217a punishes the criminally negligent violation of that standard of care.”

Sec. 29-37j. Purchase of firearm with intent to transfer it to person prohibited from purchasing or possessing.

(a) Any person who purchases a firearm, as defined in section 53a-3, pursuant to section 29-33 or 29-37a with the intent to transfer such firearm to any other person who the transferor knows or has reason to believe is prohibited from purchasing or otherwise receiving such a firearm pursuant to section 29-33 or 29-37a shall be fined not more than one thousand dollars or imprisoned not more than five years or both.

(b) Any person prohibited from purchasing or otherwise receiving or possessing a firearm and who solicits, employs or assists any person in violating the provisions of subsection (a) of this

section shall be guilty of a class B misdemeanor. If the violation of subsection (a) of this section involves a transfer of more than one firearm, such person shall be guilty of a class A misdemeanor. Each transfer shall constitute a separate offense.

(c) Any person convicted of violating the provisions of subsection (a) or (b) of this section and who was convicted of a felony within the prior five-year period shall be guilty of a class D felony.

Sec. 29-38. Weapons in vehicles.

(a) Any person who knowingly has, in any vehicle owned, operated or occupied by such person, any weapon, any pistol or revolver for which a proper permit has not been issued as provided in section 29-28, or any machine gun which has not been registered as required by section 53-202, shall be fined not more than one thousand dollars or imprisoned not more than five years or both, and the presence of any such weapon, pistol or revolver, or machine gun in any vehicle shall be prima facie evidence of a violation of this section by the owner, operator and each occupant thereof. The word "weapon", as used in this section, means any BB. gun, any blackjack, any metal or brass knuckles, any police baton or nightstick, any dirk knife or switch knife, any knife having an automatic spring release device by which a blade is released from the handle, having a blade of over one and one-half inches in length, any stiletto, any knife the edged portion of the blade of which is four inches or over in length, any martial arts weapon or electronic defense weapon, as defined in section 53a-3, or any other dangerous or deadly weapon or instrument.

(b) The provisions of this section shall not apply to: (1) Any officer charged with the preservation of the public peace while engaged in the pursuit of such officer's official duties; (2) any security guard having a baton or nightstick in a vehicle while engaged in the pursuit of such guard's official duties; (3) any person enrolled in and currently attending a martial arts school, with official verification of such enrolment and attendance, or any certified martial arts instructor, having any such martial arts weapon in a vehicle while traveling to or from such school or to or from an authorized event or competition; (4) any person having a BB. gun in a vehicle provided such weapon is unloaded and stored in the trunk of such vehicle or in a locked container other than the glove compartment or console; and (5) any person having a knife, the edged portion of the blade of which is four inches or over in length, in a vehicle if such person is (A) any member of the armed forces of the United States, as defined in section 27-103, or any reserve component thereof, or of the armed forces of this state, as defined in section 27-2, when on duty or going to or from duty, (B) any member of any military organization when on parade or when going to or from any place of assembly, (C) any person while transporting such knife as merchandise or for display at an authorized gun or knife show, (D) any person while lawfully removing such person's household goods or effects from one place to another, or from one residence to another, (E) any person while actually and peaceably engaged in carrying any such knife from such person's place of abode or business to a place or person where or by whom such knife is to be repaired, or while actually and peaceably returning to such person's place of abode or business with such knife after the same has been repaired, (F) any person holding a valid hunting, fishing or trapping license issued pursuant to chapter 490 or any salt water fisherman while having such knife in a vehicle for lawful hunting, fishing or trapping activities, or (G) any person participating in an authorized historic reenactment.

Sec. 29-38b. Determination of commitment status of person who applies for or seeks renewal of firearm permit or certificate. Report on status of application.

(a) The Commissioner of Emergency Services and Public Protection, in fulfilling his obligations under sections 29-28 to 29-38, inclusive, and section 53-202d, shall verify that any person who, on or after October 1, 1998, applies for or seeks renewal of a permit to sell at retail a pistol or revolver, a permit to carry a pistol or revolver, an eligibility certificate for a pistol or revolver or a certificate of possession for an assault weapon has not been confined in a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding twelve months by order of a probate court, by making an inquiry to the Department of Mental Health and Addiction Services in such a manner so as to only receive a report on the commitment status of the person with respect to whom the inquiry is made including identifying information in accordance with the provisions of subsection (b) of section 17a-500.

(b) If the Commissioner of Emergency Services and Public Protection determines pursuant to subsection (a) of this section that a person has been confined in a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding twelve months by order of a probate court, said commissioner shall report the status of such person's application for or renewal of a permit to sell at retail a pistol or revolver, a permit to carry a pistol or revolver, an eligibility certificate for a pistol or revolver or a certificate of possession for an assault weapon to the Commissioner of Mental Health and Addition Services for the purpose of fulfilling his responsibilities under subsection (c) of section 17a-500.

Section 29-38c. Seizure of firearms of person posing risk of imminent personal injury to self or others.

(a) Upon complaint on oath by any state's attorney or assistant state's attorney or by any two police officers, to any judge of the Superior Court, that such state's attorney or police officers have probable cause to believe that (1) a person poses a risk of imminent personal injury to himself or herself or to other individuals, (2) such person possesses one or more firearms, and (3) such firearm or firearms are within or upon any place, thing or person, such judge may issue a warrant commanding a proper officer to enter into or upon such place or thing, search the same or the person and take into such officer's custody any and all firearms. Such state's attorney or police officers shall not make such complaint unless such state's attorney or police officers have conducted an independent investigation and have determined that such probable cause exists and that there is no reasonable alternative available to prevent such person from causing imminent personal injury to himself or herself or to others with such firearm.

(b) A warrant may issue only on affidavit sworn to by the complainant or complainants before the judge and establishing the grounds for issuing a warrant, which affidavit shall be part of the seizure file. In determining whether grounds for the application exist or whether there is probable cause to believe they exist, the judge shall consider: (1) Recent threats or acts of violence by such person directed toward other persons; (2) recent threats or acts of violence by such person directed toward himself or herself; and (3) recent acts of cruelty to animals as provided in subsection (b) of section 53-247 by such person. In evaluating whether such recent threats or acts of violence constitute probable cause to believe that such person poses a risk of imminent personal injury to himself or herself or to others, the judge may consider other factors including, but not limited to (A) the reckless use, display or brandishing of a firearm by such person, (B) a history of the use, attempted use or threatened use of physical force by such person against other persons, (C) prior involuntary confinement of such person in a hospital for persons with psychiatric disabilities, and (D) the illegal use of controlled substances or abuse of alcohol by such person. If the judge is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, such judge shall issue a warrant naming or describing the person, place or thing to be searched. The warrant shall be directed to any police

officer of a regularly organized police department or any state police officer. It shall state the grounds or probable cause for its issuance and it shall command the officer to search within a reasonable time the person, place or thing named for any and all firearms. A copy of the warrant shall be given to the person named therein together with a notice informing the person that such person has the right to a hearing under this section and the right to be represented by counsel at such hearing.

(c) The applicant for the warrant shall file a copy of the application for the warrant and all affidavits upon which the warrant is based with the clerk of the court for the geographical area within which the search will be conducted no later than the next business day following the execution of the warrant. Prior to the execution and return of the warrant, the clerk of the court shall not disclose any information pertaining to the application for the warrant or any affidavits upon which the warrant is based. The warrant shall be executed and returned with reasonable promptness consistent with due process of law and shall be accompanied by a written inventory of all firearms seized.

(d) Not later than fourteen days after the execution of a warrant under this section, the court for the geographical area where the person named in the warrant resides shall hold a hearing to determine whether the seized firearms should be returned to the person named in the warrant or should continue to be held by the state. At such hearing the state shall have the burden of proving all material facts by clear and convincing evidence. If, after such hearing, the court finds by clear and convincing evidence that the person poses a risk of imminent personal injury to himself or herself or to other individuals, it may order that the firearm or firearms seized pursuant to the warrant issued under subsection (a) of this section continue to be held by the state for a period not to exceed one year, otherwise the court shall order the seized firearm or firearms to be returned to the person named in the warrant. If the court finds that the person poses a risk of imminent personal injury to himself or herself or to other individuals, it shall give notice to the Department of Mental Health and Addiction Services which may take such action pursuant to chapter 319i as it deems appropriate.

(e) Any person whose firearm or firearms have been ordered seized pursuant to subsection (d) of this section, or such person's legal representative, may transfer such firearm or firearms in accordance with the provisions of section 29-33 or other applicable state or federal law, to any person eligible to possess such firearm or firearms. Upon notification in writing by such person, or such person's legal representative, and the transferee, the head of the state agency holding such seized firearm or firearms shall within ten days deliver such firearm or firearms to the transferee.

ANNOTATIONS:

In Re Addie May Nesbitt, 124 Conn. App. 400; 5 A.3d 518, *cert. denied*, 299 Conn. 917; 10 A.3d 1051 (2010):

Statutory definition of "possess" is set forth in *General Statutes § 53a-3 (2)*: "Possess' means to have physical possession or otherwise to exercise dominion or control over tangible property" Respondent "possessed" the firearms in the present case even though they were in the evidence room in the Litchfield barracks. Respondent had a possessory interest in the weapons because she owned them, and, in the absence of the warrant, could have gone to the Litchfield barracks to reclaim the weapons upon her release from the hospital.

In Re Nardelli-Firearms Safety Hearing, 50 Conn. Supp. 246, 918 A.2d 1081 (2007):

In ordering the return of seized firearms, the court found that although the state arguably had raised significant concerns regarding an individual's mental health and possible paranoia, the state had failed provide clear and convincing evidence that an individual posed a risk of imminent personal injury to himself or other individual with firearms where, among other things, an individual had always called the police when he felt threatened, and had no criminal record or record of reckless firearms use or misuse.

State v. Avery, 1999 Conn. Super. LEXIS 3231 (Conn. Super. 1999):

In ordering the return of firearms seized pursuant to Conn. Gen. Stat. §29-38(c), the court found that the warrant lacked legal sufficiency since it did not contain a factual representation sufficient for the court to support a finding that "no reasonable alternative" is available before a warrant may be considered by a judge. Among other things, the court found that police had not asked the individual to voluntarily surrender his weapons to police or others when the individual was being held in custody and did not have immediate access to the firearms.

Sec. 29-38d. Interstate transportation of firearms through state.

(a) The provisions of sections 29-35 and 29-38 shall not apply to the interstate transportation of firearms through this state in accordance with 18 USC 926A and 927, as amended from time to time, by any person who is not otherwise prohibited from shipping, transporting, receiving or possessing a firearm. Such person may transport a firearm for any lawful purpose from any place where such person may lawfully possess and carry such firearm through this state to any other place where such person may lawfully possess and carry such firearm provided such transportation is in accordance with subsection (b) of this section.

(b) During the transportation of a firearm through this state as authorized in subsection (a) of this section, such firearm shall be unloaded and neither such firearm nor any ammunition being transported shall be readily accessible or directly accessible from the passenger compartment of this vehicle. If the vehicle does not have a compartment separate from the passenger compartment, such firearm shall be unloaded and such firearm and any ammunition being transported shall be contained in a locked container other than the glove compartment or console.

(c) No person who is transporting a firearm through this state in accordance with this section may use or carry such firearm or sell, deliver or otherwise transfer such firearm while in this state.

Sec. 29-38e. Statewide firearms trafficking task force. Composition. Duties.

(a) There shall be within the Division of State Police, within the Department of Emergency Services and Public Protection, a statewide firearms trafficking task force for the effective cooperative enforcement of the laws of this state concerning the distribution and possession of firearms.

(b) The task force shall be comprised of municipal and state law enforcement officers and may include federal law enforcement officers. Such task force shall be authorized to conduct any investigation authorized by this section at any place within the state as may be deemed necessary.

(c) The task force may request and may receive from any federal, state or local agency, corporation and assistance in the performance of its duties, including the temporary assignment of personnel which may be necessary to carry out the performance of its functions.

(d) The task force may enter into mutual assistance and cooperation agreements with other states pertaining to firearms law enforcement matters extending across state boundaries, and may consult and exchange information and personnel with agencies of other states with reference to firearms law enforcement problems of mutual concern.

(e) The Commissioner of Emergency Services and Public Protection may appoint a commanding officer and such other personnel as the commissioner deems necessary for the duties of the task force, within available appropriations.

(f) The task force shall: (1) Review the problem of illegal trafficking in firearms and its effects, including its effects on the public, and implement solutions to address the problem; (2) identify persons illegally trafficking in firearms and focus resources to prosecute such persons; (3) track firearms which were sold or distributed illegally and implement solutions to remove such firearms from persons illegally in possession of them; and (4) coordinate its activities with other law enforcement agencies within and without the state.

Sec. 29-38f. Statewide Firearms Trafficking Task Force Policy Board. Composition. Duties.

(a) There shall be a State-Wide Firearms Trafficking Task Force Policy Board within the Division of State Police, within the Department of Emergency Services and Public Protection, for administrative purposes only, consisting of the Commissioner of Emergency Services and Public Protection, the Chief State's Attorney, the agent in Connecticut in charge of the federal Bureau of Alcohol, Tobacco and Firearms, the president of the Connecticut Police Chiefs Association and five chiefs of police designated by said association, each of them serve for a term of one year, provided one such chief of police shall be from a municipality with a population of one hundred thousand or more.

(b) The policy board shall direct the formulation of policies and operating procedures of the task force.

(c) The policy board may apply for and administer any federal, state, local or private appropriations or grant funds made available for the operation of the task force.

(d) The receipts from the sale of seized firearms pursuant to section 54-36e shall be deposited in the General Fund and credited to a separate, nonlapsing forfeit firearms account which shall be established by the Comptroller. All monies in the account are deemed to be appropriated and shall be expended for the purposes established in section 29-38e.

Sec. 29-152m. Permit to carry firearm required. Training required. Regulations

(a) No professional bondsman licensed under chapter 533, surety bail bond agent licensed under chapter 700f or bail enforcement agent licensed under sections 29-152f to 29-152i, inclusive, shall carry a pistol, revolver or other firearm while engaging in the business of a professional bondsman, surety bail bond agent or bail enforcement agent, as the case may be, or while traveling to or from such business unless such bondsman or agent obtains a special permit from the Commissioner of Emergency Services and Public Protection in accordance with

the provisions of subsection (b) of this section. The permit required under this section shall be in addition to the permit requirement imposed under section 29-28.

(b) The Commissioner of Emergency Services and Public Protection may grant to any professional bondsman licensed under chapter 533, surety bail bond agent licensed under chapter 700f or bail enforcement agent licensed under sections 29-152f to 29-152i, inclusive, a permit to carry a pistol or revolver or other firearm while engaging in the business of professional bondsman, surety bail bond agent or bail enforcement agent, as the case may be, or while traveling to or from such business, provided that such bondsman or agent has proven to the satisfaction of the commissioner that such bondsman or agent has successfully completed a course, approved by the commissioner, of training in the safety and use of firearms. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 concerning the approval of schools, institutions or organizations offering such courses, requirements for instructors and the required number of hours and content of such courses.

Sec. 29-161z. Permit to carry firearms required. Firearm safety course. Regulations. Instructor approval. Penalty. License, permit or approval suspension or revocation. Appeal

(a) No employee of a licensed security service and no employee hired by a firm or corporation to perform work as a security officer may carry a pistol, revolver or other firearm while on duty or directly en route to or from such employment unless such employee obtains a special permit from the Commissioner of Emergency Services and Public Protection in accordance with the provisions of subsection (b) of this section. No licensed security service and no firm or corporation may permit any employee to carry a pistol, revolver or other firearm while on duty or directly en route to or from such employment unless it obtains proof that such employee has obtained such permit from the commissioner. The permit required under this section shall be in addition to the permit requirement imposed under section 29-28.

(b) The Commissioner of Emergency Services and Public Protection may grant to any suitable employee of a licensed security service, or to an employee hired by a firm or corporation to perform work as a uniformed or nonuniformed security officer, a special permit to carry a pistol or revolver or other firearm while actually on duty on the premises of the employer, or, while directly en route to or from such employment, provided that such employee has proven to the satisfaction of the commissioner that such employee has successfully completed a course, approved by the commissioner, of training in the safety and use of firearms. The commissioner may grant to such employee a temporary permit pending issuance of the permit, provided such employee has submitted an application and successfully completed such training course immediately following employment. All armed security officers shall complete such safety course and yearly complete a refresher safety course approved by the commissioner. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 [FN1] concerning the approval of schools, institutions or organizations offering such courses, requirements for instructors and the required number of hours and content of such courses.

(c) Application for a special permit shall be made on forms provided by the commissioner and shall be accompanied by a sixty-two-dollar fee. Such permit shall have the same expiration date as the pistol permit issued under subsection (b) of section 29-28 and may be renewed for additional five-year periods.

Sec. 46b-38b. Investigation of family violence crime by peace officer. Arrest. Assistance to victim. Guidelines. Education and training program.

(a) Whenever a peace officer determines upon speedy information that a family violence crime, except a family violence crime involving a dating relationship, has been committed within such officer's jurisdiction, such officer shall arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not (1) be dependent on the specific consent to the victim, (2) consider the relationship of the parties, or (3) be based solely on a request by the victim. Whenever a peace officer determines that a family violence crime has been committed, such officer may seize any firearm or electronic defense weapon, as defined in section 53a-3, at the location where the crime is alleged to have been committed that is in the possession of any person arrested for the commission of such crime or suspected of its commission or that is in plain view. Not later than seven days after any such seizure, the law enforcement agency shall return such firearm or electronic defense weapon in its original condition to the rightful owner thereof unless such person is ineligible to possess such firearm or electronic defense weapon or unless otherwise ordered by the court. *(This statute not re-printed in its entirety, refer to C.G.S. 46b-38b for subsections (b) through (f).)*

Sec. 52-571f. Strict liability of person who illegally transfers a firearm.

Any person who sells, delivers or otherwise transfers a firearm, as defined in section 53a-3, to a person knowing that such other person is prohibited from possessing such firearm shall be strictly liable for damages for the injury or death of another person resulting from the use of such firearm by any person.

Sec. 52-571g. Strict liability of person who fails to securely store a loaded firearm.

Any person whose act or omission constitutes a violation of section 29-37i shall be strictly liable for damages when a minor obtains a firearm, as defined in section 53a-3, and causes the injury or death of such minor or any other person. For the purposes of this section, "minor" means any person under the age of sixteen years.

Sec. 53-202. Machine guns.

(a) As used in this section:

(1) "Machine gun" shall apply to and include a weapon of any description, loaded or unloaded, which shoots, is designed to shoot or can be readily restored to shoot automatically more than one projectile, without manual reloading, by a single function of the trigger, and shall also include any part or combination of parts designed for use in converting a weapon into a machine gun and any combination of parts from which a machine gun can be assembled if such parts are in the possession of or under the control of a person.

(2) "Crime of violence" shall apply to and include any of the following-named crimes or an attempt to commit any of the same: Murder, manslaughter, kidnapping, sexual assault and sexual assault with a firearm, assault in the first or second degree, robbery, burglary, larceny and riot in the first degree. (3) "Projectile" means any size bullet that when affixed to any cartridge case may be propelled through the bore of a machine gun.

(b) Any person who possesses or uses a machine gun in the perpetration or attempted perpetration of a crime of violence shall be imprisoned not less than ten years nor more than twenty years.

(c) Any person who (1) possesses or uses a machine gun for an offensive or aggressive purpose, or (2) notwithstanding the provisions of subdivision (3) of subsection (h) of this section, transfers, sells or gives a machine gun to a person under sixteen years of age, including the temporary transfer of a machine gun to such person for use in target shooting or on a firing or shooting range or for any other purpose, shall be fined not more than one thousand dollars or imprisoned not less than five years nor more than ten years or be both fined and imprisoned.

(d) The possession or use of a machine gun shall be presumed to be for an offensive or aggressive purpose: (1) When the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun was found; or (2) when in possession of, or used by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any state or federal court of record of the United States of America, its territories or insular possessions; or (3) when the machine gun is of the kind described in subsection (g) hereof and has not been registered as therein required; or (4) when empty or loaded projectiles of any caliber which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

(e) The presence of a machine gun in any room, boat or vehicle shall be presumptive evidence of the possession or use of a machine gun by each person occupying such room, boat or vehicle.

(f) Each manufacturer shall keep a register of all machine guns manufactured or handled by the manufacturer. Such register shall show the model and serial number, the date of manufacture, sale, loan, gift, delivery or receipt, of each machine gun, the name, address and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received and the purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given or delivered. Upon demand, any manufacturer shall permit any marshal or police officer to inspect such manufacturer's entire stock of machine guns, and parts and supplies thereof, and shall produce the register, herein required, for inspection. Any person who violates any provision of this subsection shall be fined not more than two thousand dollars.

(g) Each machine gun in this state adapted to use projectiles of any caliber shall be registered in the office of the Commissioner of Emergency Services and Public Protection within twenty-four hours after its acquisition and, thereafter, annually, on July first. Blanks for registration shall be prepared by said commissioner and furnished upon application. To comply with this subsection, the application as filed shall show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which the gun was acquired. The registration data shall not be subject to inspection by the public. Any person who fails to register any gun as required hereby shall be presumed to possess the same for an offensive or aggressive purpose. The provisions of this subsection shall not apply to any machine gun which has been registered under the provisions of subsection (f) and which is still in the actual possession of the manufacturer.

(h) No provision of this section shall apply to: (1) The manufacture of machine guns for sale or transfer to the United States government, to any state, territory or possession of the United States or to any political subdivision thereof or to the District of Columbia; (2) the possession of a machine gun rendered inoperable by welding of all critical functioning parts and possessed as

a curiosity, ornament or keepsake; or (3) a machine gun acquired, transferred or possessed in accordance with the National Firearms Act, as amended, provided such machine gun shall be subject to the provisions of subsection (g) of this section.

Sec. 53-202a. Assault weapons: Definition.

(a) As used in this section and sections 53-202b to 53-202k, inclusive, "assault weapon" means:
(1) Any selective-fire firearm capable of fully automatic, semiautomatic or burst fire at the option of the user or any of the other following specified semiautomatic firearms.

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|---|--|
| Algimec Agmi; | Heckler & Koch HK-91, HK-93, HK-94 and SP-89; |
| Armalite AR180; | Holmes MP-83; |
| Australian Automatic Arms SAP Pistol; | MAC-10, MAC-11, and MAC-11 Carbine type; |
| Auto-Ordnance Thompson type; | Intratec TEC-9 and Scorpion; |
| Avtomat Kalashnikov AK-47 type; | Iver Johnson Enforcer model 3000; |
| Barret Light-Fifty model 82A1; | Ruger Mini-14/5F folding stock model only; |
| Beretta AR-70; | Scarab Skorpion; |
| Bushmaster Auto Rifle and Auto Pistol; | SIG 57 AMT and 500 series; |
| Calico models M-900, M-950 and 100-P; | Spectre Auto Carbine and Auto Pistol; |
| Chartered Industries of Singapore SR-88; | Springfield Armory BM59, SAR-48 and G-3; |
| Colt AR-15 and Sporter; | Sterling MK-6 and MK-7; |
| Daewoo K-1, K-2, Max-1 and Max-2; | Steyr AUG; |
| Encom MK-IV, MP-9 and MP-45; | Street Sweeper and Striker 12 revolving cylinder shotguns; |
| Fabrique Nationale FN/FAL, FN/LAR, or FN/FMC; | USAS-12; |
| FAMAS MAS 223; | UZI Carbine, Mini-Carbine and Pistol; |
| Feather AT-9 and Mini-AT; | Weaver Arms Nighthawk; |
| Federal XC-900 and XC-450; | Wilkinson "Linda" Pistol |
| Franchi SPAS-12 and LAW-12; | |
| Galil AR and ARM; | |
| Goncz High-Tech Carbine and High-Tech; Long Pistol; | |

(2) A part or combination of parts designed or intended to convert a firearm into an assault weapon, as defined in subdivision (1) of this subsection or any combination of parts from which an assault weapon, as defined in subdivision (1) of this subsection, may be rapidly assembled if those parts are in possession or under the control of the same person;

(3) Any semiautomatic firearm not listed in subdivision (1) of this subsection that meets the following criteria:

(A) A semiautomatic rifle that has an ability to accept a detachable magazine and has at least two of the following:

- (i) A folding or telescoping stock;
- (ii) A pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) A bayonet mount;
- (iv) A flash suppressor or threaded barrel designed to accommodate a flash suppressor; and
- (v) A grenade launcher; or

(B) A semiautomatic pistol that has an ability to accept a detachable magazine and has at least two of the following:

- (i) An ammunition magazine that attaches to the pistol outside of the pistol grip;
- (ii) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip or silencer;
- (iii) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;
- (iv) A manufactured weight of fifty ounces or more when the pistol is unloaded; and
- (v) A semiautomatic version of an automatic firearm; or

(C) A semiautomatic shotgun that has at least two of the following:

- (i) A folding or telescoping stock;
- (ii) A pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) A fixed magazine capacity in excess of five rounds; and
- (iv) An ability to accept a detachable magazine; or

(4) A part or combination of parts designed or intended to convert a firearm into an assault weapon, as defined in subdivision (3) of this subsection, or any combination of parts from which an assault weapon, as defined in subdivision (3) of this subsection, may be rapidly assembled if those parts are in the possession or under the control of the same person.

(b) As used in this section and sections 53-202b to 53-202k, inclusive, the term "assault weapon" does not include any firearm modified to render it permanently inoperable.

ANNOTATIONS:

Benjamin v. Bailey, 234 Conn. 455, 662 A.2d 1226 (1995):

Statutes banning assault weapons did not violate the right to bear arms recognized by the Conn. Const. art. I §15; Use of the modifier "type" in Conn. Gen. Stat. §53-202a did not create a vagueness issue because "AK 47 type", MAC 10, MAC 11, and MAC 11 Carbine type", and "Auto-Ordinance Thompson type" were sufficiently clear as to the firearms listed to satisfy due process .

State v. Kalman, 93 Conn. App. 129, 887 A. 2d 950 (2006):

During the trial the court received testimony that in analyzing whether a particular weapon is an "AK-47 type," the state police determine whether it looks like an AK-47, works like an AK-47 and whether the parts can be interchanged with other AK-47 weapons. The court found that utilization of that test was a valid way to determine whether the particular weapon was of the "type" prohibited by the statute.

Sec. 53-202b. Sale or transfer of assault weapon prohibited. Class C felony.

(a) (1) Any person who, within this state, distributes, transports or imports into the state, keeps for sale, or offers or exposes for sale, or who gives any assault weapon, except as provided by sections 29-37j and 53-202a to 53-202k, inclusive, and subsection (h) of section 53a-46a, shall be guilty of a class C felony and shall be sentenced to a term of imprisonment of which two years may not be suspended or reduced.

(2) Any person who transfers, sells or gives any assault weapon to a person under eighteen years of age in violation of subdivision (1) of this subsection shall be sentenced to a term of imprisonment of six years, which shall not be suspended or reduced and shall be in addition and consecutive to the term of imprisonment imposed under subdivision (1) of this subsection.

(b) The provisions of subsection (a) of this section shall not apply to:

(1) The sale of assault weapons to the Department of Emergency Services and Public Protection, police departments, the Department of Correction or the military or naval forces of this state or of the United States for use in the discharge of their official duties;

(2) A person who is the executor or administrator of an estate that includes an assault weapon for which a certificate of possession has been issued under section 53-202d which is disposed of as authorized by the Probate Court, if the disposition is otherwise permitted by sections 29-37j and 53-202a to 53-202k, inclusive, and subsection (h) of section 53a-46a;

(3) The transfer by bequest or intestate succession of an assault weapon for which a certificate of possession has been issued under section 53-202d.

Sec. 53-202c. Possession of assault weapon prohibited. Class D felony.

(a) Except as provided in section 53-202e, any person who, within this state, possesses any assault weapon, except as provided in sections 29-37j, 53-202a to 53-202k, inclusive, and 53-202o and subsection (h) of section 53a-46a, shall be guilty of a class D felony and shall be sentenced to a term of imprisonment of which one year may not be suspended or reduced; except that a first-time violation of this subsection shall be a class A misdemeanor if (1) the person presents proof that he lawfully possessed the assault weapon prior to October 1, 1993, and (2) the person has otherwise possessed the firearm in compliance with subsection (d) of section 53-202d.

(b) The provisions of subsection (a) of this section shall not apply to the possession of assault weapons by members or employees of the Department of Emergency Services and Public Protection, police departments, the Department of Correction or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in sections 29-37j and 53-202a to 53-202k, inclusive, and subsection (h) of section 53a-46a prohibit the possession or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(c) The provisions of subsection (a) of this section shall not apply to the possession of an assault weapon by any person prior to July 1, 1994, if all of the following are applicable:

(1) The person is eligible under sections 29-37j and 53-202a to 53-202k, inclusive, and subsection (h) of section 53a-46a to apply for a certificate of possession for the assault weapon by July 1, 1994;

(2) The person lawfully possessed the assault weapon prior to October 1, 1993; and

(3) The person is otherwise in compliance with sections 29-37j and 53-202a to 53-202k, inclusive, and subsection (h) of 53a-46a.

(d) The provisions of subsection (a) of this section shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon for which a certificate of possession has been issued under section 53-202d, if the assault weapon is possessed at a place set forth in subdivision (1) of subsection (d) of section 53-202d or as authorized by the Probate Court.

Sec. 53-202d. Certificate of possession of assault weapon. Certificate of transfer of assault weapon to gun dealer. Circumstances where possession of assault weapon authorized.

(a) Any person who lawfully possesses an assault weapon, as defined in section 53-202a, prior to October 1, 1993, shall apply by October 1, 1994, or, if such person is a member of the military or naval forces of this state or of the United States and is unable to apply by October 1, 1994, because he or she is or was on official duty outside of this state, shall apply within ninety days of returning to the state to the Department of Emergency Services and Public Protection, for a certificate of possession with respect to such assault weapon. The certificate shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth and thumbprint of the owner, and any other information as the department may deem appropriate. The department shall adopt regulations in accordance with the provisions of chapter 54, to establish procedures with respect to the application for and issuance of certificates of possession pursuant to this section. Notwithstanding the provisions of sections 1-210-1211, the name and address of a person issued a certificate of possession shall be confidential and shall not be disclosed, except such records may be disclosed to (1) law enforcement agencies and (2) the Commissioner of Mental Health and Addiction Services to carry out the provisions of subsection (c) of section 17a-500.

(b) No assault weapon possessed pursuant to this section may be sold or transferred on or after January 1, 1994, to any person within this state other than to a licensed gun dealer, as defined in subsection (d) of section 53-202f, or as provided in section 53-202e, or by bequest or intestate succession. Any person who obtains title to an assault weapon for which a certificate of possession has been issued under this section by bequest or intestate succession shall, within ninety days of obtaining title, apply to the Department of Emergency Services and Public Protection for a certificate of possession as provided in subsection (a) of this section, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer or remove the weapon from the state. Any person who moves into the state in lawful possession of an assault weapon, shall, within ninety days, either render the weapon permanently inoperable, sell the weapon to a licensed gun dealer or remove the weapon from this state, except any person who is a member of the military or naval forces of this state or of the United States, is in lawful possession of an assault weapon and has been transferred into the state after October 1, 1994, may, within ninety days of arriving in the state, apply to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon.

(c) If an owner of an assault weapon sells or transfers the weapon to a licensed gun dealer, he or she shall, at the time of delivery of the weapon, execute a certificate of transfer and cause the certificate to be mailed or delivered to the Commissioner of Emergency Services and Public Protection. The certificate shall contain (1) The date of sale or transfer; (2) the name and address of the seller or transferor and the licensed gun dealer, their social security numbers or motor vehicle operator license numbers, if applicable; (3) the licensed gun dealer's federal firearms license number and seller's permit number; (4) a description of the weapon, including the caliber of the weapon and its make, model and serial number; and (5) any other information the commissioner prescribes. The licensed gun dealer shall present his or her motor vehicle operator's license or Social Security card, federal firearms license and seller's permit to the seller or transferor for inspection at the time of purchase or transfer. The Commissioner of Emergency Services and Public Protection shall maintain a file of all certificates of transfer at such commissioner's central office.

(d) Any person who has been issued a certificate of possession of an assault weapon under this section may possess it only under the following conditions:

(1) At the person's residence, place of business or other property owned by that person, or on property owned by another with the owner's express permission;

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets;

(3) While on a target range which holds a regulatory or business license for the purpose of practicing shooting at the target range;

(4) While on the premises of a licensed shooting club;

(5) While attending an exhibition, display or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms;
or

(6) While transporting the assault weapon between any of the places mentioned in this subsection, or to any licensed gun dealer, as defined in subsection (d) of section 53-202f, for servicing or repair pursuant to subsection (c) of section 53-202f, provided the assault weapon is transported as required by section 53-202f.

Sec. 53-202e. Relinquishment of assault weapon to law enforcement agency.

Any individual may arrange in advance to relinquish an assault weapon to a police department or the Department of Emergency Services and Public Protection. The assault weapon shall be transported in accordance with the provisions of section 53-202f.

Sec. 53-202f. Transportation of assault weapon. Authorized actions of gun dealer.

(a) While transporting an assault weapon between any of the places mentioned in subdivision (1) to (6), inclusive, of subsection (d) of section 53-202d, no person shall carry a loaded assault weapon concealed from public view or knowingly have, in any motor vehicle owned, operated or occupied by him (1) a loaded assault weapon, or (2) an unloaded assault weapon unless such weapon is kept in the trunk of such vehicle or in a case or other container which is inaccessible to the operator of or any passenger in such vehicle. Any person who violates the provisions of this subsection shall be fined not more than five hundred dollars or imprisoned not more than three years or both.

(b) Any licensed gun dealer, as defined in subsection (d) of this section, who lawfully possesses an assault weapon pursuant to section 53-202d, in addition to the uses allowed in section 53-202d, may transport the assault weapon between dealers or out of the state, display it at any gun show licensed by a state or local governmental entity or sell it to a resident outside the state. Any transporting of the assault weapon allowed by this subsection must be done as required by subsection (a) of this section.

(c) (1) Any licensed gun dealer, as defined in subsection (d) of this section, may take possession of any assault weapon for the purposes of servicing or repair from any person to whom has been issued a certificate of possession for such weapon pursuant to section 29-37j and 53-202a to 53-202k, inclusive, and subsection (h) of section 53a-46a.

(2) Any licensed gun dealer may transfer possession of any assault weapon received pursuant to subdivision (1) of this subsection, to a gunsmith for purposes of accomplishing service or repair of the same. Transfers are permissible only to the following person:

(A) A gunsmith who is in the dealer's employ;

(B) A gunsmith with whom the dealer has contracted for gunsmithing services, provided the gunsmith receiving the assault weapon holds a dealer's license issued pursuant to Chapter 44, commencing with Section 921, of Title 18 of the United States Code and regulations issued pursuant thereto.

(d) The term "licensed gun dealer", as used in section 29-37j and 53-202a-53-202k, inclusive, and subsection (h) of section 53a-46a means a person who has a federal firearms license and a permit to sell firearms pursuant to section 29-28.

Sec. 53-202g. Report of loss or theft of assault weapon or other firearm. Penalty.

(a) Any person who lawfully possesses an assault weapon under sections 29-37j and 53-202a to 53-202k, inclusive, and subsection (h) of section 53a-46a or a firearm, as defined in section 53a-3, that is lost or stolen from such person shall report the loss or theft to the organized local police department for the town in which the loss or theft occurred or, if such town does not have an organized local police department, to the state police troop having jurisdiction for such town within seventy-two hours of when such person discovered or should have discovered the loss or theft. Such department or troop shall forthwith forward a copy of such report to the Commissioner of Emergency Services and Public Protection. The provisions of this subsection shall not apply to the loss or theft of an antique firearm as defined in subsection (b) of section 29-37a.

(b) Any person who fails to make a report required by subsection (a) of this section within the prescribed time period shall commit an infraction and be fined not more than ninety dollars for a first offense and be guilty of a class D felony for any subsequent offense, except that, if such person intentionally fails to make such report within the prescribed time period, such person shall be guilty of a class C felony. Any person who violates subsection (a) of this section for the first offense shall not lose such person's right to hold or obtain any firearm permit under the general statutes.

Commentary

The purpose of this statute is to encourage those individuals who discover that they have lost or misplaced a firearm to report this fact promptly to the authorities. A permit to carry a firearm cannot be revoked for failure to report the loss or theft of a firearm if the failure to report such loss or theft is a first offense. However, if an individual is convicted of a felony for intentionally failing to report the loss or theft of a firearm, that individual's permit to carry a firearm must be revoked on the basis of that felony conviction under both state and federal law. Although not specifically addressed by the statute, an individual who properly reports the loss or theft of a firearm should not be subjected to revocation of his/her permit to carry a firearm on that basis alone, absent additional circumstances evidencing a continuing danger to public safety.

Sec. 53-202h. Temporary transfer or possession of assault weapon for transport to out-of-state event.

The provisions of subsection (a) of section 53-202b and subsection (a) of section 53-202c shall not apply to the temporary transfer or possession of an assault weapon, for which a certificate of possession has been issued pursuant to section 53-202d, for purposes of transporting such weapon to and from any shooting competition or exhibition, display or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms, which competition, exhibition, display or educational project is held outside this state.

Sec. 53-202i. Circumstances in which manufacture or transportation of assault weapons not prohibited.

Nothing in sections 29-37j and 53-202a to 53-202k, inclusive and subsection (h) of section 53a-46a shall be construed to prohibit an person, firm or corporation engaged in the business of manufacturing assault weapons in this state from manufacturing or transporting assault weapons in this state for sale within this state in accordance with subdivision (1) of subsection (b) of section 53-202b or for sale outside of this state.

Sec. 53-202j. Commission of class A, B or C felony with an assault weapon: Eight-year nonsuspendable sentence.

Any person who commits a class A, B or C felony and in the commission of such felony uses, or is armed with and threatens the use of, or displays, or represents by his words or conduct that he possesses an assault weapon, as defined in section 53-202a, shall be imprisoned for a term of eight years, which shall not be suspended or reduced and shall be in addition and consecutive to any term of imprisonment imposed for conviction of such felony.

Sec. 53-202k. Commission of a class A, B or C felony with a firearm: Five-year nonsuspendable sentence.

Any person who commits a class A, B or C felony and in the commission of such felony uses, or is armed with and threatens the use of, or displays, or represents by his words or conduct that he possesses any firearm, as defined in section 53a-3, except an assault weapon, as defined in section 53-202a, shall be imprisoned for a term of five years, which shall not be suspended or reduced and shall be in addition and consecutive to any term of imprisonment imposed for conviction of such felony.

ANNOTATIONS:

State v. Grant, 294 Conn. 151, 161-62, 982 A.2d 169 (2009):

For purposes of General Statutes § 53-202k, a BB gun does not fall outside the definitional purview of § 53a-3 (19), which defines the term firearm, merely because it operates without gunpowder.

Sec. 53-202l. Armor piercing and incendiary .50 caliber ammunition: Definition. Sale or transfer prohibited. Class D Felony.

(a) For the purposes of this section:

(1) "Armor piercing .50 caliber bullet" means any .50 caliber bullet that is (A) designed for the purpose of, (B) held out by the manufacturer or distributor as, or (C) generally recognized as having a specialized capability to penetrate armor or bulletproof glass, including, but not limited to, such bullets commonly designated as "M2 Armor-Piercing" or "AP", "M8 Armor-Piercing Incendiary" or "API", "M20 Armor-Piercing Incendiary Tracer" or "APIT", "M903 Caliber .50 Saboted Light Armor Penetrator" or "SLAP", or "M962 Saboted Light Armor Penetrator Tracer" or "SPLAT".

(2) "Incendiary .50 caliber bullet" means any .50 caliber bullet that is (A) designed for the purpose of, (B) held out by the manufacturer or distributor as, or (C) generally recognized as having a specialized capability to ignite upon impact, including, but not limited to, such bullets commonly designated as "M1 Incendiary", "M23 Incendiary", "M8 Armor-Piercing Incendiary" or "API", or "M20 Armor-Piercing Incendiary Tracer" or "APIT".

(b) Any person who knowingly distributes, transports or imports into the state, keeps for sale or offers or exposes for sale or gives to any person any ammunition that is an armor piercing .50 caliber bullet or an incendiary .50 caliber bullet shall be guilty of a class D felony, except that a first-time violation of this subsection shall be a class A misdemeanor.

(c) The provisions of subsection (b) of this section shall not apply to the following:

(1) The sale of such ammunition to the Department of Emergency Services and Public Protection, police departments, the Department of Correction or the military or naval forces of this state or of the United States for use in the discharge of their official duties;

(2) A person who is the executor or administrator of an estate that includes such ammunition that is disposed of as authorized by the Probate Court; or

(3) The transfer by bequest or intestate succession of such ammunition.

(d) If the court finds that a violation of this section is not of a serious nature and that the person charged with such violation (1) will probably not offend in the future, (2) has not previously been convicted of a violation of this section, and (3) has not previously had a prosecution under this section suspended pursuant to this subsection, it may order suspension of prosecution in accordance with the provisions of subsection (h) of section 29-33.

Sec. 53-202m. Circumstances when assault weapons exempt from limitations on transfers and registration requirements.

Notwithstanding any provision of the general statutes, sections 53-202a to 53-202l, inclusive, shall not be construed to limit the transfer or require the registration of an assault weapon as defined in subdivision (3) or (4) of subsection (a) of section 53-202a, provided such firearm was legally manufactured prior to September 13, 1994.

Sec. 53-202n. Possession of specified assault weapon permitted under certain circumstances. Notice requirement.

(a) For the purpose of subsection (a) of section 53-202c, this section and section 53-202o, "specified assault weapon" means any type of the following firearms: Auto-Ordnance Thompson type, Avtomat Kalashnikov AK-47 type, or MAC-10, MAC-11 and MAC-11 Carbine type.

(b) The provisions of subsection (a) of section 53-202c shall not apply to any person who (1) in good faith purchased or otherwise obtained title to a specified assault weapon on or after October 1, 1993, and prior to May 8, 2002, in compliance with any state and federal laws concerning the purchase or transfer of firearms, (2) is not otherwise disqualified or prohibited from possessing such specified assault weapon, and (3) has notified the Department of Emergency Services and Public Protection in accordance with subsection (c) of this section prior to October 1, 2003, that he or she possesses such specified assault weapon.

(c) A person complies with the notice requirement of subdivision (3) of subsection (b) of this section if such person provides the Department of Emergency Services and Public Protection with: (1) A copy of the proof of purchase for such specified assault weapon, and (2) one of the following: (A) A copy of state form DPS-3 with respect to such specified assault weapon, (B) a copy of federal ATF form 4473 with respect to such specified assault weapon, or (C) a sworn affidavit from such person that such specified assault weapon was purchased in compliance with any state and federal laws concerning the purchase or transfer of firearms; except that, if such person does not have a copy of the proof of purchase for such specified assault weapon, such person may satisfy the requirement of subdivision (1)

of this subsection, by not later than January 1, 2003, providing such information as the department may require on a form prescribed by the department together with a sworn affidavit from such person that such specified assault weapon was purchased in compliance with any state and federal laws concerning the purchase or transfer of firearms.

(d) Any person who is a member of the military or naval forces of this state or of the United States and is unable to meet the notice requirements of subdivision (3) of subsection (b) and of subsection (c) of this section by October 1, 2003, because such person is or was on official duty outside this state, may file such notice within ninety days of returning to the state.

(e) As proof that a person has complied with the notice requirement of this section that such notice has been received by the Department of Emergency Services and Public Protection, the department shall issue a certificate of possession for such specified assault weapon. Such certificate shall contain a description of the firearm that identifies it uniquely, including all identification marks, and the full name, address and date of birth of the owner.

Sec. 53-202o. Affirmative defense in prosecution of possession of specified assault weapon.

(a) In any prosecution for a violation of section 53-202c based on the possession by the defendant of a specified assault weapon, it shall be an affirmative defense that the defendant (1) in good faith purchased or otherwise obtained title to such specified assault weapon on or after October 1, 1993, and prior to May 8, 2002, in compliance with any state and federal laws concerning the purchase or transfer of firearms, (2) is not otherwise disqualified or prohibited from possessing such specified assault weapon, and (3) has possessed such specified assault weapon in compliance with subsection (d) of section 53-202d.

(b) In any such prosecution, if such defendant proves such affirmative defense by a preponderance of the evidence, the specified assault weapon shall be returned to such defendant upon such defendant notifying the Department of Emergency Services and Public Protection in accordance with subdivision (3) of subsection (b) and of subsection (c) of section 53-202n and obtaining a certificate of possession, provided such notification is made not later than October 1, 2003.

Sec. 53-202aa. Firearms trafficking: Class C or Class B felony.

(a) A person is guilty of firearms trafficking if such person, knowingly and intentionally, directly or indirectly, causes one or more firearms that such person owns, is in the possession of or is in control of to come into possession of or control of another person who such person knows or has reason to believe is prohibited from owning or possessing any firearm under state or federal law.

(b) Any person who violates any provision of this section shall be guilty of a class C felony if such person, on or after October 1, 2007, sells, delivers or otherwise transfers five or fewer firearms, and a class B felony if such person, on or after October 1, 2007, sell, delivers or otherwise transfers more than five firearms.

(c) For purposes of this section, "firearm" means "firearms" as defined in section 53a-3, but does not include a rifle or shotgun or an antique firearm as defined in subsection (b) of section 29-37a.

Sec. 53-203. Unlawful discharge of firearms.

Any person who intentionally, negligently or carelessly discharges any firearm in such a manner as to be likely to cause bodily injury or death to persons or domestic animals, or the wanton destruction of property shall be guilty of a class C misdemeanor.

Sec. 53-204. Hunting or discharging firearm from public highway.

Any person who hunts or discharges any firearm from any public highway shall be fined not more than one hundred dollars. This section shall not apply to any law or conservation enforcement officer in the performance of his duty. Enforcement officers of the Department of Environmental Protection are empowered to arrest for the violation of the provisions of this section.

Sec. 53-205. Loaded shotguns, rifles and muzzleloaders in vehicles and snowmobiles.

(a) No person shall carry or possess in any vehicle or snowmobile any shotgun or rifle or muzzleloader of any gauge or caliber while such shotgun or rifle or muzzleloader contains in the barrel, chamber or magazine any loaded shell or cartridge capable of being discharged or when such muzzleloader has a percussion cap in place or when the powder pan of the flint lock contains powder. Muzzleloader as used in this section means a rifle or shotgun, incapable of firing a self-contained cartridge and which may be loaded at the muzzle end.

(b) The enforcement officers of the Department of Environmental Protection are empowered to enforce this section.

(c) The provisions of this section shall not apply to members of the military departments of the government or state while on duty or while traveling to or from assignments, or to enforcement officers, security guards or other persons employed to protect public or private property while in the performance of such duties.

(d) Any person who violates any provision of this section shall be guilty of a class D misdemeanor.

Sec. 53-206. Carrying of dangerous weapons prohibited.

(a) Any person who carries upon his or her person a BB. gun blackjack, metal or brass knuckles, or any dirk knife, or any switch knife, or any knife having an automatic spring release device by which a blade is released from the handle, having a blade of over one and one-half inches in length, or stiletto, or any knife the edged portion of the blade of which is four inches or more in length, any police baton or nightstick, or any martial arts weapon or electronic defense weapon, as defined in section 53a-3, or any other dangerous or deadly weapon or instrument, shall be fined not more than five hundred dollars or imprisoned not more than three years or both. Whenever any person is found guilty of a violation of this section, any weapon or other instrument within the provisions of this section, found upon the body of such person, shall be forfeited to the municipality wherein such person was apprehended, notwithstanding any failure of the judgment of conviction to expressly impose such forfeiture.

(b) The provisions of this section shall not apply to (1) any officer charged with the preservation of the public peace while engaged in the pursuit of such officer's official duties; (2) the carrying of a baton or nightstick by a security guard while engaged in the pursuit of such guard's official duties; (3) the carrying of a knife, the edged portion of the blade of which is four inches or more in length, by (A) any member of the armed forces of the United States, as defined in section 27-103, or any reserve component thereof, or of the armed forces of the state as defined in section 27-2, when on duty or going to or from duty, (B) any member of any military organization when on parade or when going to or

from any place of assembly, (C) any person while transporting such knife as merchandise or for display at an authorized gun or knife show, (D) any person who is found with such knife concealed upon one's person while lawfully removing such person's household goods or effects from one place to another, or from one residence to another, (E) any person while actually and peaceably engaged in carrying any such knife from such person's place of abode or business to a place or person where or by whom such knife is to be repaired, or while actually and peaceably returning to such person's place of abode or business with such knife after the same has been repaired, (F) any person holding a valid hunting, fishing or trapping license issued pursuant to chapter 490 or any salt water fisherman carrying such knife for lawful hunting, fishing or trapping activities, or (G) any person while participating in an authorized historic reenactment; (4) the carrying by any person enrolled in or currently attending, or an instructor at, a martial arts school of a martial arts weapon while in a class or at an authorized event or competition or while transporting such weapon to or from such class, event or competition; (5) the carrying of a BB. gun by any person taking part in a supervised event or competition of the Boy Scouts of America or the Girl Scouts of America or in any other authorized event or competition while taking part in such event or competition or while transporting such weapon to or from such event or competition; and (6) the carrying of a BB. gun by any person upon such person's own property or the property of another person provided such other person has authorized the carrying of such weapon on such property, and the transporting of such weapon to or from such property.

ANNOTATIONS:

State v. Holloway, 11 Conn. App. 665, 528 A.2d 1176 (1987):

The definition of a dangerous instrument found in Section 53a-2 applies to Section 53-206.

State v. Prat, 66 Conn. App. 91, 784 A.2d 367 (2001):

Convictions for assault in first degree and carrying a dangerous instrument, both of which resulted from defendant's act of striking victim with baseball bat, did not constitute multiple punishments for the same offense in violation of the double jeopardy clause; each statute required proof of an element that was not found in the other.

State v. Ramos, 271 Conn. 785, 860 A.2d 249 (2004):

In prosecution for carrying a dangerous weapon, a defendant is entitled to instruction on self-defense when the defendant's use of a knife that is less than four inches long makes the knife a dangerous instrument.

State v. Campbell, 300 Conn. 368; 13 A.3d 661 (2011):

Implicit exception to statute, which prohibited carrying dangerous weapons, for carrying of a knife in one's residence or place of abode, did not apply to defendant who was carrying switchblade knife in common hallway of college dormitory in which he was a resident; exception only applied to long knives.

State v. Sealy, 208 Conn. 689, 546 A.2d 271 (1988):

Stairway and landing where defendant was carrying knife outside of his apartment were common hallway, rather than part of his residence or abode which was only apartment on third floor, and, thus, defendant was carrying dangerous weapon; although he had principal use of third floor landing and stairway, other persons had right to use that area.

Sec. 53-206b. Unlawful training in the use of firearms, explosive or incendiary devices or techniques capable of causing injury. Class C felony.

(a) as used in this section:

(1) "Civil disorder" means a public disturbance involving acts of violence by a group of three or more persons which causes an immediate danger of or results in damage to the property of or injury to any other person.

(2) "Explosive or incendiary device" means (A) dynamite and all other forms of high explosives, (B) any explosive bomb, grenade, missile or similar device, and (C) any incendiary bomb or grenade, fire bomb or similar device, including any device which (i) consists of or includes a breakable container which contains a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound, and (ii) can be carried or thrown by an individual.

(3) "Firearm" means a firearm as defined in section 53a-3.

(b) No person shall (1) teach or demonstrate to any person the use, application or making of any firearm, explosive or incendiary device, or technique capable of causing injury or death to a person, knowing or intending that such firearm, explosive, incendiary device or technique will be unlawfully employed for use in, or in furtherance of, a civil disorder; or (2) assemble with one or more persons for the purpose of training with, practicing with or being instructed in the use of any firearm, explosive or incendiary device, or technique capable of causing injury or death to a person, intending to employ unlawfully such firearm, explosive, incendiary device or technique for use in, or in furtherance of, a civil disorder.

(c) Any person who violates any provision of this section shall be guilty of a class C felony.

(d) Nothing in this section shall make unlawful any act of any peace officer, as defined in section 53a-3, performed in the lawful discharge of his duties.

Sec. 53-206c. Sale, carrying and brandishing of facsimile firearms prohibited. Class B misdemeanor.

(a) For the purposes of this section:

(1) "Facsimile of a firearm" means (A) any nonfunctional imitation of an original firearm which was manufactured, designed and produced since 1898, or (B) any nonfunctional representation of a firearm other than an imitation of an original firearm, provided such representation could reasonably be perceived to be a real firearm. Such term does not include any look-a-like, nonfiring, collector replica of an antique firearm developed prior to 1898, or traditional BB. or pellet-firing air gun that expels a metallic or paint-contained projectile through the force of air pressure.

(2) "Firearm" means firearm as defined in Section 53a-3.

(b) No person shall give, offer for sale or sell any facsimile of a firearm. The provisions of this subsection shall not apply to any facsimile of a firearm, which, because of its distinct color, exaggerated size or other design feature, cannot reasonably be perceived to be a real firearm.

(c) Except in self-defense, no person shall carry, draw, exhibit or brandish a facsimile of a firearm or simulate a firearm in a threatening manner, with intent to frighten, vex or harass another person.

(d) No person shall draw, exhibit or brandish a facsimile of a firearm or simulate a firearm in the presence of a peace officer, firefighter, emergency medical technician or paramedic engaged in the performance of his duties knowing or having reason to know that such peace officer, firefighter, emergency medical technician or paramedic is engaged in the performance of his duties, with intent to impede such person in the performance of such duties.

(e) Any person who violates any provision of this section shall be guilty of a class B misdemeanor.

Sec. 53-206d. Carrying of firearm while under the influence of intoxicating liquor or drug prohibited. Hunting while under the influence of intoxicating liquor or drug or while impaired by the consumption of intoxicating liquor prohibited.

(a) (1) No person shall carry a pistol, revolver, machine gun, shotgun, rifle or other firearm, which is loaded and from which a shot may be discharged, upon his person (A) while under the influence of intoxicating liquor or any drug, or both, or (B) while the ratio of alcohol in the blood of such person is eight-hundredths of one percent or more of alcohol, by weight.

(2) Any person who violates any provision of this subsection shall be guilty of a class B misdemeanor.

(b) (1) No person shall engage in hunting while under the influence of intoxicating liquor or any drug, or both or while impaired by the consumption of intoxicating liquor. A person shall be deemed under the influence when at the time of the alleged offense the person (A) is under the influence of intoxicating liquor or any drug, or both, or (B) has an elevated blood alcohol content. For the purposes of this subdivision, "elevated blood alcohol content" means (i) a ratio of alcohol in the blood of such person that is eight-hundredths of one percent or more of alcohol, by weight, or (ii) if such person has been convicted of a violation of this subsection, a ratio of alcohol in the blood of such person that is seven-hundredths of one percent or more of alcohol, by weight. A person shall be deemed impaired when at the time of the alleged offense the ratio of alcohol in the blood of such person was more than seven-hundredths of one percent of alcohol, by weight, but less than eight-hundredths of one percent of alcohol, by weight.

(2) Any person who violates any provision of this subsection shall be guilty of a class A misdemeanor.

(3) Enforcement officers of the Department of Environmental Protection are empowered to arrest for a violation of the provisions of this subsection.

Sec. 53-206f. Failure of parent or guardian to halt illegal possession of firearm by minor child.

Any parent or guardian of a minor child who, knowing that such child possesses a firearm, as defined in section 53a-3, and is ineligible to possess such firearm, fails to make reasonable efforts to halt such possession shall be guilty of (1) a class A misdemeanor, or (2) if such child causes the injury or death of another person with such firearm, a class D felony.

Sec. 53a-3. Definitions.

Except where different meanings are expressly specified, the following terms have the following meanings when used in this title:

(2) "Possess" means to have physical possession or otherwise to exercise dominion or control over tangible property;

(6) "Deadly weapon" means any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles. The definition of "deadly weapon" in this subdivision shall be deemed not to apply to section 29-38 or 53-206;

(7) "Dangerous instrument" means any instrument, article or substance which, under the circumstances in which it is used or attempted or threatened to be used, is capable of causing death or serious

physical injury, and includes a "vehicle" as that term is defined in this section and includes a dog that has been commanded to attack, except a dog owned by a law enforcement agency of the state or any political subdivision thereof or of the federal government when such dog is in the performance of its duties under the direct supervision, care and control of an assigned law enforcement officer;

(15) "Machine gun" means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a submachine gun;

(16) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger;

(17) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger;

(18) "Pistol" or "revolver" means any firearm having a barrel less than twelve inches;

(19) "Firearm" means any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded from which a shot may be discharged;

(20) "Electronic defense weapon" means a weapon which by electronic impulse or current is capable of immobilizing a person temporarily, but is not capable of inflicting death or serious physical injury, including a stun gun or other conductive energy device;

(21) "Martial arts weapon" means a nunchaku, kama, kasari-fundo, octagon sai, tonfa or chinese star;

Sec. 53a-8. Criminal liability for acts of another.

(a) A person, acting with the mental state required for commission of an offense, who solicits, requests, commands, importunes or intentionally aids another person to engage in conduct which constitutes an offense shall be criminally liable for such conduct and may be prosecuted and punished as if he were the principal offender.

(b) A person who sells, delivers or provides any firearm, as defined in subdivision (19) of section 53a-3, to another person to engage in conduct which constitutes an offense knowing or under circumstances in which he should know that such other person intends to use such firearm in such conduct shall be criminally liable for such conduct and shall be prosecuted and punished as if he were the principal offender.

Sec. 53a-16a. Affirmative defense in certain situations involving firearms; exceptions.

In any prosecution for an offense under section 53a-55a, 53a-56a, 53a-60a, 53a-92a, 53a-94a, 53a-102a or 53a-103a, it shall be an affirmative defense that the pistol, revolver, rifle, shotgun, machine gun or other firearm was not a weapon from which a shot could be discharged, but it shall not be an affirmative defense to any prosecution under section 53a-55, 53a-56, 53a-60, 53a-92, 53a-94, 53a-102 or 53a-103.

Sec. 53a-16b. Affirmative defense of coparticipant to offense with firearm.

In any prosecution of an offense under section 53a-55a, 53a-56a, 53a-60a, 53a-92a, 53a-94a, 53a-102a or 53a-103a in which the defendant was not the only participant, it shall be an affirmative defense that the defendant: (1) Was not armed with a pistol, revolver, machine gun, shotgun, rifle or other firearm, and (2) had no reasonable ground to believe that any other participant was armed with such a weapon.

Sec. 53a-211. Possession of a sawed-off shotgun or silencer: Class D felony.

(a) A person is guilty of possession of a sawed-off shotgun or a silencer when he owns, controls or possesses any sawed-off shotgun that has a barrel of less than eighteen inches or an overall length of less than twenty-six inches or when he owns, controls or possesses any silencer designed to muffle the noise of a firearm during discharge.

(b) The provisions of this section shall not apply to person, firms, corporations or museums licensed or otherwise permitted by federal or state law to possess, control or own a sawed-off shotguns or silencers.

(c) Possession of a sawed-off shotgun or a silencer is a class D felony.

Sec. 53a-212. Stealing a firearm: Class D felony.

(a) A person is guilty of stealing a firearm when, with intent to deprive another of his firearm or to appropriate the same to himself or a third party, he wrongfully takes, obtains or withholds a firearm, as defined in subdivision (19) of section 53a-3.

(b) Stealing a firearm is a class D felony.

Sec. 53a-216. Criminal use of firearm or electronic defense weapon: Class D felony.

(a) A person is guilty of criminal use of a firearm or electronic defense weapon when he commits any class A, B or C or unclassified felony as defined in section 53a-25 and in the commission of such felony he uses or threatens the use of a pistol, revolver, machine gun, shotgun, rifle or other firearm or electronic defense weapon. No person shall be convicted of criminal use of a firearm or electronic defense weapon and the underlying felony upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) Criminal use of a firearm or electronic defense weapon is a class D felony for which five years of the sentence imposed may not be suspended or reduced by the court.

Sec. 53a-217. Criminal possession of a firearm or electronic defense weapon: Class D felony.

(a) A person is guilty of criminal possession of a firearm or electronic defense weapon when such person possesses a firearm or electronic defense weapon and (1) has been convicted of a felony, (2) has been convicted as delinquent for the commission of a serious juvenile offense, as defined in section 46b-120, (3) knows that such person is subject to (A) a restraining or protective order of a court of this state that has been issued against such person, after notice and an opportunity to be heard has been provided to such person, in case involving the use, attempted use or threatened use of physical force against another person, or (B) a foreign order of protection, as defined in section 46b-15a, that has been issued against such person in a case involving the use, attempted use or threatened use of

physical force against another person, (4) knows that such person is either subject to a firearms seizure order issued pursuant to subsection (d) of section 29-38c after notice and an opportunity to be heard has been provided to such person, or (5) is prohibited from shipping, transporting, possessing or receiving a firearm pursuant to 18 USC 922(g)(4) . For the purposes of this section “convicted” means having a judgment of conviction entered by a court of competent jurisdiction.

(b) Criminal possession of a firearm or electronic defense weapon is a class D felony, for which two years of the sentence imposed may not be suspended or reduced by the court.

ANNOTATIONS:

State v. Knight, 266 Conn. 658, 835 A.2d 47 (2003):

The Penal Code defines the word "possess," as it applies to § 53a-217, as "to have physical possession or otherwise to exercise dominion or control over tangible property"

Sec. 53a-217a. Criminally negligent storage of a firearm: Class D felony.

(a) A person is guilty of criminally negligent storage of a firearm when he violates the provisions of section 29-37i and a minor obtains the firearm and causes the injury or death of himself or any other person. For the purposes of this section, “minor” means any person under the age of sixteen years.

(b) The provisions of this section shall not apply if the minor obtains the firearm as a result of an unlawful entry to any premises by any person.

(c) Criminally negligent storage of a firearm is a class D felony.

ANNOTATIONS:

State v. Wilchinski, 242 Conn. 211, 700 A.2d 1 (1997):

“The text and legislative history of § 53a-217a clearly indicate that gun owners must use age appropriate physical impediments to prevent children from gaining access to and misusing guns. The statute therefore has a core meaning that is sufficiently clear to satisfy the due process requirements of the state and federal constitutions.”

Sec. 53a-217b. Possession of a weapon on school grounds: Class D felony.

(a) A person is guilty of possession of a weapon on school grounds when, knowing that such person is not licensed or privileged to do so, such person possesses a firearm or deadly weapon, as defined in section 53a-3, (1) in or on the real property comprising a public or private elementary or secondary school, or (2) at a school-sponsored activity as defined in subsection (h) of section 10-233a.

(b) The provisions of subsection (a) of this section shall not apply to the otherwise lawful possession of a firearm (1) by a person for use in a program approved by school officials in or on such school property or at such school-sponsored activity, (2) by a person in accordance with an agreement entered into between school officials and such person or such person’s employer, (3) by a peace officer, as defined in subdivision (9) of section 53a-3, or (4) by a person while traversing such school property for the purpose of gaining access to public or private lands open to hunting or for other lawful purposes, provided such firearm is not loaded and the entry on such school property is permitted by the local or regional board of education.

(c) Possession of a weapon on school grounds is a class D felony.

Sec. 53a-217c. Criminal possession of a pistol or revolver: Class D felony.

(a) A person is guilty of criminal possession of a pistol or revolver when such person possesses a pistol or revolver, as defined in section 29-27, and (1) has been convicted of a felony or of a violation of subsection (c) of section 21a-279, section 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d, (2) has been convicted as delinquent for the commission of a serious juvenile offense, as defined in section 46b-120, (3) has been discharged from custody within the preceding twenty years after having been found not guilty of a crime by reason of mental disease or defect pursuant to section 53a-13, (4) has been confined in a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding twelve months by order of a probate court, (5) knows that such person is subject to (A) a restraining order or protective order of a court of this state that has been issued against such person, after notice and an opportunity to be heard has been provided to such person, in a case involving the use, attempted use or threatened use of physical force against another person, (B) a foreign order of protection, as defined in section 46b-15a, that has been issued against such person in a case involving the use, or threatened use of physical force against another person, (6) knows that such person is subject to a firearms seizure order issued pursuant to subsection (d) of section 29-38c after notice and an opportunity to be heard has been provided to such person, (7) is prohibited from shipping, transporting, possessing or receiving a firearm pursuant to 18 USC 922(g)(4) , or (8) is an alien illegally or unlawfully in the United States. For the purposes of this section, "convicted," means having a judgment of conviction entered by a court of competent jurisdiction.

(b) Criminal possession of a pistol or revolver is a class D felony.

Sec. 53a-217d. Criminal possession of body armor: Class A misdemeanor.

(a) A person is guilty of criminal possession of body armor when he possesses body armor and has been (1) convicted of a capitol felony, a class A felony, except a conviction under section 53a-196a, a class B felony, except a conviction under section 53a-86, 53a-122 or 53a-196b, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153 or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, or (2) convicted as delinquent for the commission of a serious juvenile offense, as defined in section 46b-120.

(b) For the purposes of this section, "body armor" means any material designed to be worn on the body and to provide bullet penetration resistance and "convicted" means having a judgment of conviction entered by a court of competent jurisdiction.

(c) Criminal possession of body armor is a class A misdemeanor.

Sec. 54-36e. Firearms to be turned over to state police. Sale at public auction.

(a) Except as provided in sections 26-85 and 26-90, firearms, adjudged by the court to be contraband pursuant to subsection (c) of section 54-36a, or adjudicated a nuisance pursuant to section 54-33g, shall be turned over to the Bureau of Identification of the Connecticut Division of State Police within the Department of Emergency Services and Public Protection for destruction or appropriate use or disposal by sale at public auction.

(b) Firearms turned over to the state police pursuant to subsection (a) of this section which are not destroyed or retained for appropriate use shall be sold at public auctions, conducted by the

Commissioner of Administrative Services or such commissioner's designee. Pistols and revolvers, as defined in section 53a-3, which are antiques, as defined in section 29-33, or curios or relics, as defined in the Code of Federal Regulations, Title 27, Chapter 1, Part 178, or modern pistols and revolvers which have a current retail value of one hundred dollars or more may be sold at such public auctions, provided such pistols and revolvers shall be sold only to persons who have a valid permit to sell a pistol or revolver, or a valid permit to carry a pistol or revolver, issued pursuant to section 29-28. Rifles and shotguns, as defined in section 53a-3, shall be sold only to persons qualified under federal law to purchase such rifles and shotguns. The proceeds of any such sale shall be paid to the State Treasurer and deposited by the State Treasurer in the forfeit firearms account within the General Fund.

Sec. 54-36n. Identification and tracing of seized and recovered firearms.

(a) Whenever a law enforcement agency seizes a firearm in connection with a criminal arrest or pursuant to a search warrant without an arrest or otherwise recovers a firearm, such agency shall forthwith take all appropriate steps to identify and trace the history of such firearm.

(b) In complying with the provisions of subsection (a) of this section, a law enforcement agency shall use the National Tracing Center of the Federal Bureau of Alcohol, Tobacco and Firearms. Such law enforcement agency shall immediately transmit the National Tracing Center, by facsimile or by entering such information on the Connecticut On-Line Law Enforcement Communication Teleprocessing (COLLECT) System when said system becomes available for transmitting such information directly to the National Tracing Center, all information necessary to comply with the provisions of subsection (a) of this section.

(c) The Department of Emergency Services and Public Protection shall take appropriate action to allow the COLLECT System to be used by law enforcement agencies in complying with the provisions of this section.

(d) Whenever a firearm is identified and is determined to have been stolen, the law enforcement agency shall return such firearm to the rightful owner thereof provided such owner is not prohibited from possessing such firearm and such agency does not need to retain such firearm as evidence in a criminal prosecution.

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PART 2: FEDERAL STATUTES

18 U.S.C. § 921. Definitions.

(a) As used in this chapter--

(1) The term “person” and the term “whoever” include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(2) The term “interstate or foreign commerce” includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(4) The term “destructive device” means--

(A) any explosive, incendiary, or poison gas--

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term “destructive device” shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an

explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term “short-barreled shotgun” means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

(7) The term “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term “short-barreled rifle” means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term “importer” means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term “licensed importer” means any such person licensed under the provisions of this chapter.

(10) The term “manufacturer” means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term “licensed manufacturer” means any such person licensed under the provisions of this chapter.

(11) The term “dealer” means (A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term “licensed dealer” means any dealer who is licensed under the provisions of this chapter.

(12) The term “pawnbroker” means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

(13) The term “collector” means any person who acquires, holds, or disposes of firearms as curios or relics, as the Attorney General shall by regulation define, and the term “licensed collector” means any such person licensed under the provisions of this chapter.

(14) The term “indictment” includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(15) The term “fugitive from justice” means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(16) The term “antique firearm” means--

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

(B) any replica of any firearm described in subparagraph (A) if such replica--

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term “antique firearm” shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(17)(A) The term “ammunition” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(B) The term “armor piercing ammunition” means--

(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

(C) The term “armor piercing ammunition” does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(18) The term “Attorney General” means the Attorney General of the United States”

(19) The term “published ordinance” means a published law of any political subdivision of a State which the Attorney General determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Attorney General, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(20) The term “crime punishable by imprisonment for a term exceeding one year” does not include--

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(21) The term “engaged in the business” means--

(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(22) The term “with the principal objective of livelihood and profit” means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection: *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term “terrorism” means activity, directed against United States persons, which--

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended--

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(23) The term “machinegun” has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

(24) The terms “firearm silencer” and “firearm muffler” mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

(25) The term “school zone” means--

(A) in, or on the grounds of, a public, parochial or private school; or

(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

(26) The term “school” means a school which provides elementary or secondary education, as determined under State law.

(27) The term “motor vehicle” has the meaning given such term in section 13102 of title 49, United States Code.

(28) The term “semiautomatic rifle” means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(29) The term “handgun” means--

(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

[(30), (31) Repealed. Pub.L. 103-322, Title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000]

(32) The term “intimate partner” means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

(33)(A) Except as provided in subparagraph (C), the term “misdemeanor crime of domestic violence” means an offense that--

(i) is a misdemeanor under Federal, State, or Tribal law; and

(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim

(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless--

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

- (aa) the case was tried by a jury, or
- (bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(34) The term “secure gun storage or safety device” means--

(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

(35) The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

18 U.S.C. § 922. Unlawful acts.

(a) It shall be unlawful--

(1) for any person--

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that--

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver--

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if--

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are

Signature Date"

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person--

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien--

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) has been convicted in any court of a misdemeanor crime of domestic violence.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person--

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien--

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment--

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or

ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to--

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm--

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection--

(A) the term "firearm" does not include the frame or receiver of any such weapon;

(B) the term "major component" means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term "Security Exemplar" means an object, to be fabricated at the direction of the Attorney General, that is--

(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and

(ii) suitable for testing and calibrating metal detectors:

Provided, however, That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a "Security Exemplar" which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which--

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

(q)(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm--

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is--

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm--

(i) on private property not part of school grounds;

(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

(iv) by a law enforcement officer acting in his or her official capacity.

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to--

(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless--

(A) after the most recent proposal of such transfer by the transferee--

(i) the transferor has--

(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

(II) verified the identity of the transferee by examining the identification document presented;

(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the

transferee would be in violation of Federal, State, or local law; or (II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

(C)(i) the transferee has presented to the transferor a permit that--

(I) allows the transferee to possess or acquire a handgun; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because--

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only--

(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

- (B) a statement that the transferee--
- (i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;
 - (ii) is not a fugitive from justice;
 - (iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);
 - (iv) has not been adjudicated as a mental defective or been committed to a mental institution;
 - (v) is not an alien who--
 - (I) is illegally or unlawfully in the United States; or
 - (II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
 - (vi) has not been discharged from the Armed Forces under dishonorable conditions; and
 - (vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to--

(A) the chief law enforcement officer of the place of business of the transferor; and

(B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law--

(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any

record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages--

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term "chief law enforcement officer" means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless--

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

(B)(i) the system provides the licensee with a unique identification number; or (ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d) of this title) of the transferee containing a photograph of the transferee.

(2) If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall--

(A) assign a unique identification number to the transfer;

(B) provide the licensee with the number; and

(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if-

(A)(i) such other person has presented to the licensee a permit that--

(I) allows such other person to possess or acquire a firearm; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because--

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.

(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages--

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

[(v), (w) Repealed. Pub.L. 103-322, Title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000]

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile--

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess--

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to--

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile--

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except--

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term "juvenile" means a person who is less than 18 years of age.

(y) Provisions relating to aliens admitted under nonimmigrant visas--

(1) Definitions.--In this subsection--

(A) the term "alien" has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

(B) the term "nonimmigrant visa" has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

(2) Exceptions.--Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is--

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is--

(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

(3) Waiver--

(A) Conditions for waiver.--Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if--

(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

(ii) the Attorney General approves the petition.

(B) Petition.--Each petition under subparagraph (B) shall--

(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

(C) Approval of petition.--The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner--

(i) would be in the interests of justice; and

(ii) would not jeopardize the public safety.

(z) Secure gun storage or safety device.--

(1) In general.--Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

(2) Exceptions.--Paragraph (1) shall not apply to--

(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

(3) Liability for use.--

(A) In general.--Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

(B) Prospective actions.--A qualified civil liability action may not be brought in any Federal or State court.

(C) Defined term.--As used in this paragraph, the term "qualified civil liability action"--

(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if--

(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

ANNOTATIONS:

United States v. Hayes, 555 U.S. 415, 129 S. Ct. 1079, 1084, 172 L. Ed. 2d 816 (2009):

18 U.S.C.S. § 921(a)(33)(A) does not require a predicate-offense statute that includes, as a discrete element, the existence of a domestic relationship between offender and victim. Instead, in a prosecution under 18 U.S.C.S. § 922(g)(9), it suffices for the government to charge and prove a prior conviction that was, in fact, for an offense committed by the defendant against a spouse or other domestic victim.

18 U.S.C. § 923. Licensing.

(a) No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility for licensing as the Attorney General shall by regulation prescribe and shall include a photograph and fingerprints of the applicant.

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if--

(A) the applicant is twenty-one years of age or over;

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (n) of this chapter;

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable

period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time;

(F) the applicant certifies that--

(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and (II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(iii) that the applicant has sent or delivered a form to be prescribed by the Attorney General, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license; and

(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).

(2) The Attorney General must approve or deny an application for a license within the 60-day period beginning on the date it is received. If the Attorney General fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Attorney General to act. If the Attorney General approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

(e) The Attorney General may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has willfully violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device). The Attorney General may, after notice and opportunity for hearing, revoke the license of a dealer who willfully transfers armor piercing ammunition. The Attorney General's action under this subsection may be reviewed only as provided in subsection (f) of this section.

(f)(1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Attorney General stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

(2) If the Attorney General denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation

of a license, the Attorney General shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

(3) If after a hearing held under paragraph (2) the Attorney General decides not to reverse his decision to deny an application or revoke a license, the Attorney General shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a de novo judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding whether or not such evidence was considered at the hearing held under paragraph (2). If the court decides that the Attorney General was not authorized to deny the application or to revoke the license, the court shall order the Attorney General to take such action as may be necessary to comply with the judgment of the court.

(4) If criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Attorney General shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Attorney General more than one year after the filing of the indictment or information.

(g)(1)(A) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form, as the Attorney General may by regulations prescribe. Such importers, manufacturers, and dealers shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section. The Attorney General, when he has reasonable cause to believe a violation of this chapter has occurred and that evidence thereof may be found on such premises, may, upon demonstrating such cause before a Federal magistrate judge and securing from such magistrate judge a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector, or any licensed importer or manufacturer of ammunition, for the purpose of inspecting or examining--

(i) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under this chapter or rules or regulations under this chapter, and

(ii) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises.

(B) The Attorney General may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such reasonable cause or warrant--

(i) in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

(ii) for ensuring compliance with the record keeping requirements of this chapter--

(I) not more than once during any 12-month period; or

(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee; or

(iii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(C) The Attorney General may inspect the inventory and records of a licensed collector without such reasonable cause or warrant--

(i) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

(ii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(D) At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Attorney General designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. The inspection and examination authorized by this paragraph shall not be construed as authorizing the Attorney General to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Attorney General seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Attorney General may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition, and he may provide information to the extent such information may be contained in the records required to be maintained by this chapter, when so requested by any Federal, State, or local law enforcement agency.

(2) Each licensed collector shall maintain in a bound volume the nature of which the Attorney General may by regulations prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section.

(3)(A) Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Attorney General and forwarded to the office specified thereon and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place, not later than the close of business on the day that the multiple sale or other disposition occurs.

(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this

subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.

(4) Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records required to be kept by this chapter shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, such records shall be delivered within thirty days after the business discontinuance to the Attorney General. However, where State law or local ordinance requires the delivery of records to other responsible authority, the Attorney General may arrange for the delivery of such records to such other responsible authority.

(5)(A) Each licensee shall, when required by letter issued by the Attorney General, and until notified to the contrary in writing by the Attorney General, submit on a form specified by the Attorney General, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Attorney General in such letter may specify.

(B) The Attorney General may authorize such record information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter. A licensee may use an alternate method of reporting if the licensee describes the proposed alternate method of reporting and the need therefor in a letter application submitted to the Attorney General, and the Attorney General approves such alternate method of reporting.

(6) Each licensee shall report the theft or loss of a firearm from the licensee's inventory or collection, within 48 hours after the theft or loss is discovered, to the Attorney General and to the appropriate local authorities.

(7) Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Attorney General for information contained in the records required to be kept by this chapter as may be required for determining the disposition of 1 or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally or in writing, as the Attorney General may require. The Attorney General shall implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed by and authorized by the agency to request such information.

(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Attorney General shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

(j) A licensed importer, licensed manufacturer, or licensed dealer may, under rules or regulations prescribed by the Attorney General, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms in the community, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any

motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Any inspection or examination of inventory or records under this chapter by the Attorney General at such temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at such temporary location. Nothing in this subsection shall be construed to authorize the Attorney General to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, which is in effect before the date of the enactment of the Firearms Owners' Protection Act, including the right of a licensee to conduct "curios or relics" firearms transfers and business away from their business premises with another licensee without regard as to whether the location of where the business is conducted is located in the State specified on the license of either licensee.

(k) Licensed importers and licensed manufacturers shall mark all armor piercing projectiles and packages containing such projectiles for distribution in the manner prescribed by the Attorney General by regulation. The Attorney General shall furnish information to each dealer licensed under this chapter defining which projectiles are considered armor piercing ammunition as defined in section 921(a)(17)(B).

(l) The Attorney General shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.

18 U.S.C. § 926a. Interstate transportation of firearms.

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: *Provided*, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

ANNOTATIONS:

Torraco v. Port Authority of New York and New Jersey, 615 F.3d 129 (2d Cir. 2010):

Provision of Firearms Owners' Protection Act (FOPA) generally allowing person not otherwise prohibited from transporting, shipping, or receiving firearm to transport firearm for lawful purpose from "any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm" without incurring criminal liability under local gun laws was so vague and amorphous that its enforcement would strain judicial competence, and therefore § 1983 did not provide damages remedy for alleged violation of statute. Police Officers are not required to know gun laws of all 50 states, and if officer has probable cause to arrest, and is reasonably cautious in determining that requirements of FOPA are not met, then officer is not liable for false arrest or violation of § 1983.

Revell v. Port Authority of New York & New Jersey, 598 F. 3d 128 (3rd Cir. 2010):

In upholding a dismissal of 42 U.S.C. § 1983 claims, the court found that the plaintiff could not avail himself of 18 USC 926A protection since §926A clearly requires the traveler to part ways with his weapon and ammunition during travel such that any firearm and ammunition is not readily accessible during travel.

Coalition of New Jersey Sportsmen v. Florio, 744 F. Supp. 2d. 602 (D.N.J. 1990):

Federal statute permitting transportation of firearms from one state in which they are legal, through another state in which they are illegal, to a third state in which they are legal, provided firearms were transported in prescribed safe manner, did not preempt state statute regulating possession of weapons.

Matter of Two Seized Firearms, 127 N.J. 84, 602 A.2d 728 (N.J. 1992):

Federal statute which assures gun owners freedom to travel from state to state with weapons legally possessed in state of residence did not preclude forfeiture in New Jersey of loaded handgun found in glove compartment of Florida motorist's van and a loaded handgun kept underneath and behind the driver's seat; both handguns were "readily accessible" and loaded.

Law Enforcement Officer's Safety Act (LEOSA):

18 U.S.C. § 926b. Carrying of concealed firearms by qualified law enforcement officers.

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that--

- (1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or
- (2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term "qualified law enforcement officer" means an employee of a governmental agency who--

- (1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;
- (2) is authorized by the agency to carry a firearm;
- (3) is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
- (4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
- (5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- (6) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

(e) As used in this section, the term "firearm"--

- (1) except as provided in this subsection, has the same meaning as in section 921 of this title;

(2) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

(3) does not include--

- (A) any machinegun (as defined in section 5845 of the National Firearms Act);
- (B) any firearm silencer (as defined in section 921 of this title); and
- (C) any destructive device (as defined in section 921 of this title).

(f) For the purposes of this section, a law enforcement officer of the Amtrak Police Department, a law enforcement officer of the Federal Reserve, or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest.

18 U.S.C. § 926c. Carrying of concealed firearms by qualified retired law enforcement officers.

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that--

- (1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or
- (2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term "qualified retired law enforcement officer" means an individual who--

- (1) separated from service in good standing from service with a public agency as a law enforcement officer;
- (2) before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
- (3)(A) before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or (B) separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- (4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;
- (5)(A) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or (B) has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);
- (6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is--

(1) a photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm; or

(2)(A) a photographic identification issued by the agency from which the individual separated from service as a law enforcement officer; and (B) a certification issued by the State in which the individual resides or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met--

(I) the active duty standards for qualification in firearms training, as established by the State, to carry a firearm of the same type as the concealed firearm; or

(II) if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm.

(e) As used in this section--

(1) the term "firearm"--

(A) except as provided in this paragraph, has the same meaning as in section 921 of this title;

(B) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

(C) does not include--

(i) any machinegun (as defined in section 5845 of the National Firearms Act);

(ii) any firearm silencer (as defined in section 921 of this title); and

(iii) any destructive device (as defined in section 921 of this title); and

(2) the term "service with a public agency as a law enforcement officer" includes service as a law enforcement officer of the Amtrak Police Department, service as a law enforcement officer of the Federal Reserve, or service as a law enforcement or police officer of the executive branch of the Federal Government.

ANNOTATIONS:

Johnson v. N.Y. State Dept. of Corr. Services, 709 F. Supp. 2d 178 (N.D.N.Y. 2010):

Congress did not expressly intend to create private cause of action under Law Enforcement Officers Safety Act (LEOSA), precluding retired corrections officers' action against state agencies for declarative and injunctive relief under LEOSA provision permitting retired officers to carry concealed weapons in interstate commerce; any rights expressly conferred by LEOSA were contingent upon retired officer's possession of identification, but nothing in LEOSA bestowed either explicit right to obtain that identification or federal remedy for state agency's failure to issue such identification.

Commentary

The Law Enforcement Officers Safety Improvements Act of 2010, Public Law No: 111-272 (2010), made significant changes to the scope of this statute. Formerly, only retired police officers who served for at least fifteen years were eligible for LEOSA's benefits. The definition of "qualified retired law enforcement officer" was expanded in 2010 to include individuals, although not formally retired under the commonly understood meaning of that term, who separated in good standing from service with a public agency as a law enforcement officer and, before such separation, (1) were authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, (2) had statutory powers of arrest and, (3) served as a law enforcement officer for an aggregate of 10 years or more; or separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency.

In order to meet the strict statutory standards, qualified retired law enforcement officers must carry photographic identification, consistent with LEOSA requirements, issued by the agency from which the individual separated from service as a law enforcement officer, indicating that the officer has been tested or otherwise found by the agency to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm. The statute does not define the meaning of the term "type." The legislative history establishes, however, that law enforcement agencies possess the authority to enforce some limitation on the type of firearm to be carried. As such, qualification does not permit qualified retired law enforcement officers to simply carry any weapon they choose. The extent of a law enforcement agency's ability to restrict the type of weapon a qualified retired law enforcement officer is authorized to carry is, however, unclear. Weapons carried pursuant to the authority of LEOSA must be concealed.

Connecticut has not established statewide proficiency standards with a firearm applicable to all law enforcement officers. As a result, qualified retired law enforcement officers must meet the active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm they intend to carry as established by the agency from which they retired. Different agencies have established different standards. Qualified retired law enforcement officers must meet the standards of the agency from which the individual separated from service as a law enforcement officer.

Certification of firearms proficiency is valid under LEOSA for one year. Qualified retired law enforcement officers must, therefore, be recertified on a yearly basis. The privileges afforded by LEOSA automatically expire upon expiration of the one year period. Retired law enforcement officers who continue to carry firearms after their LEOSA certification has expired must meet the standards applicable to the jurisdiction in which they are located.

The LEOSA-qualified person does not generally require a state-issued permit for carrying concealed firearms. LEOSA overrides state and local laws, but not other federal laws, e.g., the federal Gun-Free School Zone Act of 1995 which prohibits carrying a firearm within 1000 feet of any elementary or secondary school or federal laws and agency policies that restrict the carrying of concealed firearms in certain federal buildings and lands.

Finally, it should be noted that The Law Enforcement Officers Safety Act of 2004, and the Law Enforcement Officers Safety Act Improvements Act of 2010, provide no authority for anyone to act in the capacity of a law enforcement official.

18 U.S.C. § 930. Possession of firearms and dangerous weapons in Federal facilities.

(a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

.....

(d) Subsection (a) shall not apply to-- (1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law; (2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or (3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

(e) (1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both. (2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (d).

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APPENDIX A

SELECTED FIREARMS OFFENSES — “CHEAT SHEET”

<u>Offense Section</u>	<u>Description</u>	<u>Statutory Maximum</u>
18 U.S.C. § 922(a)(1)	Willful engagement in firearms business without a license (cf. 26 U.S.C. § 5861(a))	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(a)(2)	Willful shipment or transport of firearm to unlicensed recipient	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(a)(3)	Willful receipt of firearm from out of state by unlicensed person	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(a)(4)	Knowing interstate transport of certain weapons by unlicensed person	5 years (§ 924(a)(1)(B))
18 U.S.C. § 922(a)(5)	Willful transfer, sale, or transport of weapon by unlicensed person to another unlicensed, out-of-state person	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(a)(6)	Knowing making of false statement in connection with purchase of firearm (cf. § 924(a)(1)(A), 26 U.S.C. § 5861(l))	10 years (§ 924(a)(2))
18 U.S.C. § 922(a)(7)	Willful manufacture or importation of armor-piercing ammunition	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(a)(8)	Willful sale or delivery of armor-piercing ammunition	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(b)(1)	Willful sale by licensee to juvenile (cf. § 922(x)(1))	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(b)(2)	Willful sale by licensee to person in violation of state law	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(b)(3)	Willful sale by licensee to out-of-state recipient	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(b)(4)	Willful sale by licensee of certain prohibited weapons	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(b)(5)	Willful sale by licensee without proper record-keeping	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(d)	Knowing sale to prohibited person	10 years (§ 924(a)(2))
18 U.S.C. § 922(e)	Willful delivery of firearm to common carrier without written notice	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(g)	Knowing possession of firearm by prohibited person	10 years (§ 924(a)(2))
18 U.S.C. § 922(i)	Knowing shipment or transport of stolen firearm	10 years (§ 924(a)(2))
18 U.S.C. § 922(j)	Knowing possession, etc., of stolen firearm (cf. § 922(u), § 924(l), (m))	10 years (§ 924(a)(2))
18 U.S.C. § 922(k)	Knowing possession, receipt, shipment, or transport of firearm with altered or obliterated serial number (cf. 26 U.S.C. § 5861(g), (h), (i))	5 years (§ 924(a)(1)(B))
18 U.S.C. § 922(l)	Knowing importation or receipt of firearms (cf. 26 U.S.C. § 5861(k))	5 years (§ 924(a)(1)(C))
18 U.S.C. § 922(m)	Knowing falsification of records by licensee (cf. 26 U.S.C. § 5861(l))	1 year (§ 924(a)(3))
18 U.S.C. § 922(n)	Knowing shipment, transport, or receipt of firearm by person under felony indictment	5 years (§ 924(a)(1)(D))
18 U.S.C. § 922(o)	Knowing possession of machine gun	10 years (§ 924(a)(2))
18 U.S.C. § 922(p)	Knowing manufacture, importation, sale, shipment, or possession of firearms designed to avoid detection	5 years (§ 924(f))
18 U.S.C. § 922(q)(2), (3)	Knowing possession or knowing or reckless discharge of firearm in school zone	5 years <i>consecutive</i> (§ 924(a)(4))
18 U.S.C. § 922(r)	Knowing assembly of shotgun or semiautomatic rifle from imported parts	5 years (§ 924(a)(1)(B))
18 U.S.C. § 922(s)	Knowing sale or transfer of handgun without background check	1 year (§ 924(a)(5))

18 U.S.C. § 922(t)	Knowing transfer of firearm without background check	1 year (§ 924(a)(5))
18 U.S.C. § 922(u)	Knowing theft of firearms from licensee (cf. § 922(j), § 924(l), (m))	10 years (§ 924(i))
18 U.S.C. § 922(v)	Knowing possession, transfer, or manufacture of semiautomatic assault weapon	5 years (§ 924(a)(1)(B))
18 U.S.C. § 922(w)	Knowing possession or transfer of large capacity ammunition feeding device	5 years (§ 924(a)(1)(B))
18 U.S.C. § 922(x)(1)	Sale or transfer of handgun to juvenile (mens rea varies) (cf. § 922(b)(1))	1 or 10 years (§ 924(a)(6)(B))
18 U.S.C. § 922(x)(2)	Knowing possession of handgun by juvenile	1 year (§ 924(a)(6)(A))
18 U.S.C. § 924(a)(1)(A)	Knowing making of false statements (cf. § 922(a)(6), 26 U.S.C. § 5861(l))	5 years (§ 924(a)(1)(A))
18 U.S.C. § 924(a)(3)(A)	Knowing making of false statements by licensee (cf. § 922(m))	1 year (§ 924(a)(3))
18 U.S.C. § 924(b)	Shipping, transport, or receipt of firearm with intent to commit felony	10 years (§ 924(b))
18 U.S.C. § 924(c)	Carrying, using, or possessing firearm in connection with crime of violence or drug trafficking crime	5, 7, 10, 25, or 30 year <i>consecutive mandatory minimum</i>
18 U.S.C. § 924(e)	Armed Career Criminal Act: person convicted under § 922(g) who has three prior convictions for serious drug offenses or violent felonies	15 years <i>mandatory minimum</i> (§ 924(e))
18 U.S.C. § 924(g)	Interstate travel to acquire or transfer firearm with intent to commit specified offenses	10 years (§ 924(g))
18 U.S.C. § 924(h)	Transfer of firearm knowing it will be used to commit specified offenses	10 years (§ 924(h))
18 U.S.C. § 924(j)	Causing death during § 924(c) violation	Death, life, or any term of years (§ 924(j))
18 U.S.C. § 924(k)	Smuggling firearm into U.S. with intent to commit specified offenses	10 years (§ 924(k))
18 U.S.C. § 924(l)	Theft of firearm (cf. § 922(j), (u), § 924(m))	10 years (§ 924(l))
18 U.S.C. § 924(m)	Theft of firearm from licensee (cf. § 922(j), (u), § 924(l))	10 years (§ 924(m))
18 U.S.C. § 924(n)	Travel into or within U.S. with intent to violate § 922(a)(1)(A)	10 years (§ 924(n))
18 U.S.C. § 924(o)	Conspiracy to violate § 924(c)	20 years or more (§ 924(o))
18 U.S.C. § 929(a)	§ 924(c) violation while in possession of armor-piercing ammunition	5 years <i>consecutive mandatory minimum</i>
18 U.S.C. § 930(a)	Knowing possession of firearm in federal facility	1 year (§ 930(a))
26 U.S.C. § 5861(a)	Failure to register as dealer, manufacturer, or importer, or to pay required tax (cf. 18 U.S.C. § 922(a)(1))	10 years (§ 5871)
26 U.S.C. § 5861(b)	Receipt or possession of firearm transferred in violation of chapter	10 years (§ 5871)
26 U.S.C. § 5861(c)	Receipt or possession of firearm made in violation of chapter	10 years (§ 5871)
26 U.S.C. § 5861(d)	Receipt or possession of unregistered firearm	10 years (§ 5871)
26 U.S.C. § 5861(e)	Transfer of firearm in violation of chapter	10 years (§ 5871)
26 U.S.C. § 5861(f)	Making of firearm in violation of chapter	10 years (§ 5871)

26 U.S.C. § 5861(g)	Obliteration, alteration or removal of serial number (cf. 18 U.S.C. § 922(k))	10 years (§ 5871)
26 U.S.C. § 5861(h)	Receipt or possession of firearm with obliterated, removed, or altered serial number (cf. 18 U.S.C. § 922(k))	10 years (§ 5871)
26 U.S.C. § 5861(i)	Receipt or possession of firearm unidentified by serial number (cf. 18 U.S.C. § 922(k))	10 years (§ 5871)
26 U.S.C. § 5861(j)	Transport, delivery, or receipt of unregistered firearm	10 years (§ 5871)
26 U.S.C. § 5861(k)	Receipt or possession of unlawfully imported firearm (cf. 18 U.S.C. § 922(l))	10 years (§ 5871)
26 U.S.C. § 5861(l)	Knowingly making false entry on application or record (cf. 18 U.S.C. §§ 922(m), 924(a)(1)(A), 924(a)(3))	10 years (§ 5871)

Selected Offenses Involving Use

18 U.S.C. § 36
18 U.S.C. § 111
18 U.S.C. § 112
18 U.S.C. § 924(c)
18 U.S.C. § 2113(d)
18 U.S.C. § 2114

Selected Offenses Involving Possession, Receipt

18 U.S.C. § 922(a)(3)
18 U.S.C. § 922(g)
18 U.S.C. § 922(j)
18 U.S.C. § 922(k)
18 U.S.C. § 922(l)
18 U.S.C. § 922(n)
18 U.S.C. § 922(o)
18 U.S.C. § 922(p)
18 U.S.C. § 922(q)
18 U.S.C. § 922(v)
18 U.S.C. § 924(b), (c)
26 U.S.C. § 5861(b), (c), (d), (h), (i), (j), (k)

Selected Offenses Involving Sale, Transfer

18 U.S.C. § 922(a)(5), (8)
18 U.S.C. § 922(b)(1), (2), (3), (4), (5)
18 U.S.C. § 922(d)
18 U.S.C. § 922(j)
18 U.S.C. § 922(s), (t)
18 U.S.C. § 922(x)
18 U.S.C. § 924(h)
26 U.S.C. § 5861(e)

Selected Offenses Involving Shipping, Transport

18 U.S.C. § 922(a)(2), (3), (4), (5)
18 U.S.C. § 922(i)
18 U.S.C. § 922(k)
18 U.S.C. § 922(n)
18 U.S.C. § 922(p)
18 U.S.C. § 924(b)
26 U.S.C. § 5861(j)

Selected Offenses Involving Manufacture

18 U.S.C. § 922(a)(7)
18 U.S.C. § 922(p)
18 U.S.C. § 922(r)
18 U.S.C. § 922(v)
26 U.S.C. § 5861(f)

Selected Offenses Involving False Statements

18 U.S.C. § 922(a)(6)
18 U.S.C. § 922(m)
18 U.S.C. § 924(a)(1)(A)
18 U.S.C. § 924(a)(3)(A)
26 U.S.C. § 5861(l)

Guideline Enhancements for Firearms, Dangerous Weapons

U.S.S.G. § 2A2.2(b)(2) Aggravated assault
U.S.S.G. § 2A2.3(a)(1) Minor assault
U.S.S.G. § 2A2.4(b)(1) Obstructing or impeding officers
U.S.S.G. § 2A3.1(b)(1) Criminal sexual abuse
U.S.S.G. § 2A4.1(b)(3) Kidnapping
U.S.S.G. § 2A6.2(b)(1) Stalking or domestic violence
U.S.S.G. § 2B1.1(c)(1) Theft
U.S.S.G. § 2B2.1(b)(3) Burglary
U.S.S.G. § 2B2.1(b)(4) Burglary
U.S.S.G. § 2B2.3(b)(2) Trespass
U.S.S.G. § 2B3.1(b)(2) Robbery
U.S.S.G. § 2B3.2(b)(3) Extortion
U.S.S.G. § 2B5.1(b)(3) Counterfeiting
U.S.S.G. § 2D1.1(b)(1) Drugs
U.S.S.G. § 2D1.11(b)(1) Listed chemicals
U.S.S.G. § 2E2.1(b)(1) Extortionate credit
U.S.S.G. § 2F1.1(b)(6) Fraud
U.S.S.G. § 2H4.1(b)(2) Peonage, involuntary servitude
U.S.S.G. § 2L1.1(b)(4) Alien smuggling
U.S.S.G. § 2P1.2(a)(1) Prison contraband
U.S.S.G. § 5K2.6 Weapons
U.S.S.G. § 5K2.17 High-capacity semiautomatic firearms

TOWN OF AVON

Chapter 36 MISCELLANEOUS PROVISIONS

Sec. 36-1. Discharge of firearms; violation and penalties.

(a) No minor under 16 years of age, shall discharge any firearm, air rifle or air pistol within the limits of the Town, unless such discharge shall be in the presence and under the supervision of the parent or legal guardian of such minor, or a qualified instructor on an authorized range.

(b) Unless otherwise permitted by law, no person shall discharge any firearm outdoors and within 500 feet of any building situated anywhere in the Town, except as to buildings on his own land or on land used in conjunction with a duly organized rifle, fish and game, or gun club, or in an area approved by the Chief of Police.

(c) A landowner may extend to others by written consent, the right to use his property for hunting, target practice or other purposes requiring the use of firearms.

(d) Any person violating any provision of this section, or a parent or legal guardian permitting violation by a minor less than 16 years of age, shall be fined not less than \$40.00 and not more than \$100.00. Each day such violation shall continue after notice to the owner may be deemed a separate offense.

(Ord. No. 11, § 1)

State law references: Penalty for ordinance violations, G.S. § 7-148(c)(10)(A); unlawful discharge of firearms, G.S. § 53-204.

CITY OF BRISTOL

ARTICLE I. IN GENERAL

Sec. 16-2. Regulated conduct, activities, substances and acts in public parks.

(e) Dangerous devices.

(1) *Firearms, fireworks and projectile devices.* No person shall possess illegal firearms, and no person, other than a police or security officer, shall carry openly any legal firearm. No person shall possess or discharge a firearm, firecracker, firework, bow, cross-bow, or traditional BB or pellet-firing air gun that expels a metallic or paint-contained projectile through the force of air pressure. This provision shall not apply to the display of fireworks under municipal authority, nor to activities authorized specifically by the board of park commissioners or confined within those areas specifically designated.

(2) *Knives.* No person shall possess any dirk knife, or any switch knife, or any knife having an automatic spring release device by which a blade is released from the handle, having a blade of over one and one-half (1 1/2) inches in length, or stiletto, or any knife the edged portion of the blade of which is four (4) inches or over in length unless it is being used for the purpose of food preparation.

TOWN OF DURHAM

ARTICLE II. ALLYN BROOK PARK

Sec. 11.5-26. Rules of conduct.

(11) *Firearms.* It shall be unlawful for any person to bring into or have in his possession:

- a. Any pistol or revolver or objects in which loaded or blank cartridges may be used, except for official starters at authorized track and field events.
- b. Any rifle, shotgun, air gun, spring gun, slingshot, bow or other weapon in which the propelling force is gunpowder, a spring or compressed air.

CITY OF HARTFORD

ARTICLE II. PISTOL PERMITS

DIVISION 1. GENERALLY

Sec. 21-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ammunition means any projectile or other device which will or is designed to or may readily be converted to be expelled from any pistol or revolver.

Antique pistol or revolver means any pistol or revolver which was manufactured in or before 1898 and any replica of such pistol or revolver provided such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition except rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and not readily available in the ordinary channel of commercial trade.

Chief of police means the chief of police of the city police department.

Permit includes the word "license."

Person means any individual, corporation, company, association, firm, partnership, society, joint stock company, or organization of any kind.

Pistol and revolver mean any firearm having a barrel less than twelve (12) inches in length.

Transfer includes to sell, assign, lease, loan, give away, or otherwise cause the lawful title or rightful possession of a firearm to vest in another.

DIVISION 2. SALE OR TRANSFER OF PISTOLS AND REVOLVERS

Sec. 21-51. Permit--Required.

It shall be unlawful for any person to advertise, sell, deliver, or offer or expose for sale or delivery, or have in his possession with intent to sell or deliver, or loan, exchange, give away or otherwise transfer the lawful ownership or possession of any pistol or revolver at retail without having a permit therefor issued as provided in this division.

Sec. 21-52. Same--Application.

An application for a permit to sell or transfer pistols and revolvers shall be made in writing to the chief of police on such suitable forms provided or approved by him, setting forth the name and social security number of the applicant, the applicant's residence or registered address, and the address where business is to be conducted. The applicant must be a bona fide resident of, or have a place of business in the city in order to be eligible for a permit. The application for a permit shall also state that the applicant (including in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership or association) is eighteen (18) years of age or older, that he is not under indictment for nor has been convicted in any court of a felony, is not a

fugitive from justice, is not addicted to the use of narcotics, has not been a patient in a mental institution within the past five (5) years, and is not mentally retarded.

Sec. 21-53. Same--Issuance.

(a) The chief of police shall issue a permit to sell or transfer pistols and revolvers to applicants who have satisfactorily complied with the requirements of this division. It shall be the duty of the chief of police to refuse the permit to any applicant who fails, refuses or is unable to comply with all of the requirements specified in this division.

(b) The chief of police shall notify the applicant not later than eight (8) weeks after a sufficient application has been submitted that the request for a permit has been approved or denied.

Sec. 21-54. Same--Expiration.

A permit for the sale or transfer of pistols and revolvers shall expire five (5) years after the date it becomes effective; and renewal thereof shall expire five (5) years after the expiration date of the permit being renewed.

Sec. 21-55. Same--Fee.

The fee for each permit issued under the provisions of this division shall be fifteen dollars (\$15.00).

Sec. 21-56. Same--Revocation.

The chief of police shall have the authority to revoke a permit issued under this division upon determining that the permit holder has violated any provision of this division or is no longer able to fully comply with all of the requirements specified in this division, and the money paid for such permit shall be forfeited to the city.

Sec. 21-57. Same--Display at place of sale.

No sale of any pistol or revolver shall be made except in the room, store or place described in the permit for the sale of pistols and revolvers, and such permit or a copy thereof certified by the authority issuing the same shall be exposed to view within the room, store or place where pistols or revolvers are sold or offered or exposed for sale.

Sec. 21-58. Required records.

(a) Content of records. Any seller of pistols and revolvers other than a manufacturer selling to a bona fide wholesaler or a retailer or a wholesaler selling to a bona fide retailer shall keep a record of all such pistols and revolvers sold, leased, loaned, given away or otherwise transferred. Such record shall contain the following information:

(1) The name, social security number, age, address, and permit number of the transferor;

- (2) The name, social security number, age, address, and permit number of the transferee;
 - (3) The date of the sale;
 - (4) The name of the manufacturer, the caliber, make, model and serial number of the pistol or revolver.
- (b) Inspection. Records of transfers shall be open for inspection by any duly authorized law enforcement official or by the chief of police or city clerk of the city at all reasonable times.
- (c) Evidence of identification of transferee. The person to whom the pistol or revolver is to be delivered must provide evidence of his identification. Such evidence must include a picture identification, as well as information as to the bearer's age and address. The record of transfer shall be signed by the transferor and the transferee, each in the presence of the other.

Sec. 21-59. Application to purchase.

- (a) Required; delivery; waiting period. No person shall transfer a pistol or revolver at retail or otherwise transfer except upon written application on a form prescribed and furnished by the commissioner of public safety in triplicate. A copy of the application is to be mailed by first class mail on the day of receipt to the chief of police and one (1) to the commissioner of public safety. No sale or delivery of any pistol or revolver shall be made until the expiration of two (2) weeks from the date of the mailing of such copies.
- (b) Exceptions. The waiting period specified in subsection (a) of this section during which delivery may be made shall not apply to the holder of a valid state permit to carry pistols and revolvers, nor to any federal marshal, sheriff, parole officer or peace officer. The provisions of this section shall not apply to antique pistols or revolvers.
- (c) Prohibited acts. No person shall sell at retail, deliver or otherwise transfer any pistol or revolver to any alien. No person shall make any false statement or give any false information connected with any purchase or other transfer of any pistol or revolver. No person shall sell or otherwise transfer any pistol or revolver to any other person under the age of eighteen (18) years of age.

Sec. 21-60. Report of sale or transfer.

Any transferor of pistols and revolvers shall, upon selling or otherwise transferring a pistol or revolver, make a report of the sale or gift, which report shall contain the date of sale or transfer, name, age, address, occupation, physical description of purchaser or donee, the purpose for which purchased, the kind, description, including serial number of the pistol or revolver, and the consideration paid therefor, the city and state permit

number, if any, and/or the driver's license number, if any. Such report of sale shall be open for inspection by any duly authorized law enforcement official or by the chief of police or the city clerk at all reasonable times. In addition, the information contained in this section shall be provided by the seller to the chief of police no later than the last business day of each calendar month representing all sales, lease, loans, gifts, or other transfers of any pistol or revolver by the seller.

DIVISION 2A. LOST OR STOLEN FIREARMS

Sec. 21-61. Statement of intent.

The city's experience is that many firearms used in violent crimes are weapons which have been stolen. Existing state law provides for a statewide firearms tracking task force within the division of state police. Requiring owners of firearms to promptly report to the police the loss or theft of firearms will enable the Hartford Police Department to timely investigate and hopefully solve the incidents of initial theft and may well result in taking firearms off the street before they can be used to perpetrate a violent crime. In addition, this legislation provides the city with a vehicle to recover costs expended in connection with police services from owners who fail to report stolen firearms. The section is within the city's police powers authority and its power to protect the public interest.

Sec. 21-62. [Owner to report loss or theft of firearm.]

In the city, any person who is the lawful owner of a firearm and any permitted firearm's owner shall report the loss or theft thereof from premises in the city or from their person to the Hartford Police Department within seventy-two (72) hours of becoming aware of said theft or loss.

Sec. 21-63. [Failure to report loss or theft of firearm.]

In the event that a lost or stolen firearm is determined to have been used to aid or abet the commission of a felony in the city and it shall become known to the Hartford Police that the owner of said firearm failed to report its loss or theft within seventy-two (72) hours of becoming aware of such loss or theft to the organized local police department in the municipality, or the Connecticut State Police, then the Corporation Counsel for the City of Hartford, on a showing of good cause, and consistent with state law, may sue the said owner to recover the costs to the city of police services and other expenses associated with the investigation and prosecution of said felony.

DIVISION 3. PERMIT TO CARRY PISTOL OR REVOLVER

Sec. 21-71. Required.

It shall be unlawful for any person to have in his possession in the city any pistol or revolver, except when such person is within his dwelling house or place of business, unless a permit to carry a pistol or revolver has been issued in accordance with the provisions of this division.

Sec. 21-72. Application.

(a) Documents required generally. Every person applying for a permit to carry a pistol or revolver in the city shall provide the following documents to the Hartford police department, records division, between 8:00 a.m. and 6:00 p.m., Monday through Friday, or 8:00 a.m. to 12:00 noon on Saturday:

(1) A completed, notarized application form to be provided by the police department;

(2) Proof of citizenship in the form of a birth certificate or naturalization papers;

(3) Character references from three (3) persons who can testify to the applicant's character and reputation in the community. The three (3) persons cannot be relatives, city police officers, or civilian employees of the city police department. Character references must indicate how long the person has known the applicant, and an evaluation of the character, reputation and suitability of the applicant to carry a pistol or revolver. Character references shall be mailed to:

Hartford Police Department
50 Jennings Road
Hartford, CT 06120
c/o Pistol Permit Unit

(4) A certified check, cashier's check or money order in the amount of fourteen dollars (\$14.00) made payable to the Federal Bureau of Investigation, for the cost of an investigation by that agency of the applicant's fingerprints.

(b) Documents required for specific use. If you are applying for a permit to carry a pistol or revolver for one (1) of the following reasons, the appropriate documents listed below must accompany the application:

(1) Security guard: A letter from the company, on company letterhead, stating the need for a permit.

(2) Business use: In the case of a business owner, a state sales tax certificate. In the case of an employee required to carry large sums of money, a notarized letter on the employer's letterhead indicating that fact.

(3) Target practice: A club membership card, or a notarized letter of permission to use a pistol range, or a minimum of four (4) receipts in the applicant's name for use of any range. NRA membership alone does not constitute membership in a club.

(c) Fingerprinting. The applicant must be fingerprinted at the police department evidentiary services division, between 10:00 a.m. and 2:00 p.m. on Tuesdays or Thursdays (except holidays).

(d) Range safety and qualification test. The applicant must contact the police department, records unit, permit section, six (6) weeks after being fingerprinted to make an appointment for a range safety and qualification test. Range tests are to be conducted on Wednesdays at 8:00 a.m., by appointment only. The applicant is to report on the day of his appointment to the records unit with his pistol or revolver wrapped in paper and secured with string and shall bring ten (10) rounds of ammunition wrapped separately.

Sec. 21-73. Issuance, fee.

Upon satisfactorily completing all aspects of the application requirements for a permit to carry a pistol or revolver, the applicant will be scheduled to meet with the commander of the records unit of the police department. At that time, a fee of fifteen dollars (\$15.00) in cash, check or money order made payable to the city shall be paid and a permit issued. If, at any point in the process an application is denied, the payment to the Federal Bureau of Investigation shall be nonrefundable, however, no other charges for processing the application shall be made.

Sec. 21-74. Exceptions to division.

The provisions of this division shall not apply to the carrying of any pistol or revolver by any sheriff, parole officer or peace officer of any other state while engaged in the pursuit of his official duties, or federal marshal or federal law enforcement agent, or to any member of the armed forces of the United States, or of this state, when on duty or going to or from duty, or to any member of any military organization when on parade or when going to or from any place of assembly, or to the transportation of pistols or revolvers as merchandise, or to any person carrying any pistol or revolver while contained in the package in which it was originally wrapped at the time of sale and while carrying the same from the place of sale to the purchaser's residence or place of business, or to any person removing his household goods or effects from one (1) place to another, or to any person while carrying any such pistol or revolver from his place of residence or business to a place or person where or by whom such pistol or revolver is to be repaired or while returning to his place or residence or business after the same has been repaired, or to any person carrying a pistol or revolver in or through the state for the purpose of taking part in competitions or attending any meeting or exhibition of an organized collectors' group if such person is a bona fide resident of the United States having a permit or license to carry a firearm issued by the authority of any other state or subdivision of the United States, or to any person carrying a pistol or revolver to and from a testing range at the request of the issuing authority, or to any person carrying an antique pistol or revolver.

TOWN OF MONTVILLE

§ 277-6. Firearms prohibited.

Carrying and/or discharging of firearms is not permitted on open space land.

CITY OF NEW BRITAIN

ARTICLE IV. WEAPONS*

Sec. 16-76. Permit for carrying weapons.

Any person who has reasonable grounds for fearing an unlawful attack upon his person or upon any member of his family, may apply to the chief of police for a permit to carry a firearm. If such permit is granted, it shall be for a limited period of time only, and the issuance of this permit shall be entered in a record kept for this purpose by the chief of police.

Sec. 16-77. Discharging firearms prohibited; exceptions.

No person shall discharge any gun, pistol, cannon or other firearm of any sort or description within the city limits without a permit issued by the chief of police, or by order of a military officer on the occasion of military exercises or parades. The permit issued by the chief of police shall state the date, duration of such permit, and the name of the permittee. A record of such permits shall be kept by the chief of police in a book provided for this purpose.

Sec. 16-78. Sale or use of air rifles and slingshots prohibited.

No person shall carry, use or discharge within the city limits any slingshot, bow and arrow, or any air gun, air rifle or similar device for the discharge of shot, bullet or projectile by compressed air.

Sec. 16-79. Notice to police department of sale or entry of dangerous weapons.

(a) Sale. Any person who sells to another a sling shot, air rifle, BB gun, blackjack, sandbag, metal or brass knuckles, dagger, or any dirk knife or any switch knife, or any knife having an automatic spring release device by which the blade is released from the handle, having a blade of more than one and one-half (1 1/2) inches in length, or stiletto shall within twenty-four (24) hours give written notice to the chief of police of such sale, describing the article sold and the name and address of the purchaser.

(b) Entry. Any person who enters the city with any of the weapons described in paragraph (a) of this section shall report such possession in the manner required by paragraph (a).

Sec. 16-80. Carrying concealed weapons.

(a) No person shall wear under his clothes, or conceal upon or about his person any deadly or dangerous weapon including, but not limited to any pistol, dagger, metal knuckles, razor, slingshot, blackjack, sword or canegun. The provisions of

this paragraph shall not apply to any person who is found with any such weapon or implement concealed upon his person while lawfully removing his household goods or effects from one place to another, or from one residence to another, nor to any person while actually and peaceably engaged in carrying any such weapon or implement from his place of abode or business to a place or person where or by whom such weapon or implement is to be repaired, or while actually and peaceably returning to his place of abode or business with such weapon or implement after the same has been repaired.

(b) This section shall not apply to any law enforcement officer in the discharge of his duty.

CITY OF NORWICH

Sec. 14-5. Firearms; other weapons.

No firearms, air rifles, gas weapons, slingshots, bows and arrows, or any other weapon shall be displayed, carried, or discharged in Mohegan Park, parklets, or recreation areas.

TOWN OF OLD SAYBROOK

§ 402-7. Hunting and firearms.

Hunting or carrying firearms or bow and arrows in any park, beach or facility is prohibited.

TOWN OF ORANGE

Chapter 211, FIREARMS

§ 211-1. Discharge of firearms restricted.

Except as otherwise specifically permitted by law, no person shall discharge a firearm within the Orange town limits without first having obtained a permit from the Orange Chief of Police to do so.

§ 211-2. Factors for issuance of permit.

In determining whether, or under what circumstances, or with what conditions to issue such a permit, the Chief of Police shall consider the purpose for which the discharge of a firearm is intended in the particular case, the type of firearm and ammunition, the location of the proposed activity, and the proximity of the location to structures or areas inhabited or utilized by members of the public, and shall consider how the facts of the particular case relate to potential threats to life, health or property, and to the preservation of public peace, safety and good order.

§ 211-3. Permit term, conditions and revocation.

Such permit, if issued, shall be valid for such period of time and under such conditions as appear on the face of the permit, and may be withdrawn at any time on notice to the holder thereof, if, because of changed conditions, there is found to be a threat to life, health or property, or the public peace, safety and good order.

§ 211-4. Regulations and forms.

The Chief of Police shall promulgate reasonable regulations and forms to implement the provisions of the chapter.

§ 211-5. Penalties for offenses.

Each violation of this chapter shall constitute a separate offense. Any person who violates any provision of this chapter shall be subject to arrest and prosecution by the proper authorities and may be fined an amount not to exceed \$100 for each violation.

TOWN OF ROCKY HILL

Chapter 125: FIREARMS

§ 125-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AIR GUN/RIFLE or BB GUN — Encompasses and means any device in which the expulsive or impelling force is condensed or compressed air or gas.

MINOR — Any person who has not yet attained the age of 18 years.

TOWN OF ROCKY HILL — Any property, public or private, that falls within the geographical boundaries of the Town of Rocky Hill.

§ 125-2. Restrictions on minors.

It shall be unlawful for any minor to possess, purchase or discharge in the Town of Rocky Hill any air gun, air rifle or BB gun, unless said minor is under the direct and immediate presence and supervision of his/her parent or legal guardian.

§ 125-3. Responsibility for damages.

Any damages caused by any person using said air rifle or air gun shall be the responsibility of said person, or his/her parents in the case of minors.

§ 125-4. Penalties for offenses.

Any person violating any provisions of this chapter shall be fined \$25 per day, each day's continued violation constituting a separate offense.

TOWN OF SEYMOUR

Sec. 11-5. Guns and firearms--Declaration of need for regulation.

It is hereby declared that enactment of sections 11-5 through 11-8 is essential as a matter of public necessity and proper for protection and preservation of health, property and the lives of the citizens of the town, to protect the public safety by prohibiting the selling, or offering for sale to any person under the age of 16 years of any air gun or rifle or pistol, BB gun, spring gun, or pistol or any other implement which impels with force a pellet of any kind or any firearm to any person under the age of 16 years and further prohibiting the possession, use or carrying of such a gun or device.

Sec. 11-6. Same--Sale to children prohibited.

It shall be unlawful and is hereby prohibited for any person to sell or offer for sale to any person under the age of 16 years any air gun or rifle or pistol, BB gun, spring gun or pistol, or rifle, or any other implement which impels with force a pellet of any kind or any gun or rifle or pistol which fires or which is designed or intended to fire a bullet, shell or pellet by means of gunpowder, or other chemical propellant which such devices are generally known as firearms, within the limits of the town.

Sec. 11-7. Same--Ownership, possession, use by children prohibited; exception.

(a) It shall be unlawful and is hereby prohibited for any person under the age of 16 years to own, possess, use or carry any air gun or rifle or pistol, BB gun, spring gun or rifle or pistol, or any other implement which impels with force a pellet of any kind or any gun, rifle or pistol which fires or which is designed or intended to fire a bullet, shell or pellet by means of gunpowder or other chemical propellant which such devices are generally known as firearms, within the limits of the town.

(b) Provided, however, that a person under 16 years of age can have the use of a rifle or other device described in this section, provided they are with their parents or guardians and under their supervision.

Sec. 11-8. Same--Confiscation by police authorized.

The police department is hereby authorized, empowered and directed to seize, remove and destroy any gun, rifle, pistol or implement the use of which is prescribed by the terms of sections 11-5 through 11-7.

TOWN OF SOUTH WINDSOR

ARTICLE V. WEAPONS

Sec. 70-191. Discharge of firearms and other dangerous devices.

- (a) No person shall discharge a firearm or dangerous device, out-of-doors, within a distance of 500 feet of a dwelling unless such discharge is with the permission of the owners or occupants of all dwellings within 500 feet.
- (b) No person shall aim and discharge, out-of-doors, a firearm or dangerous device in the direction of a person, building, vehicle or domestic animal within the range of the firearm he is discharging.
- (c) For the purpose of this section, a dangerous device shall be any air rifle, BB gun, slingshot, crossbow, bow and arrow, or any other device capable of projecting an object with sufficient force so as to cause injury to person or domestic animals or to cause damage to property.
- (d) This section shall not apply to any person who shall discharge any firearm or dangerous device in reasonable defense of his person or property or in the performance of any legal duty.
- (e) Any person who shall violate the provisions of this section shall be subject to punishment as provided in section 1-12.

CITY OF STAMFORD

CHAPTER 242. WEAPONS

Sec. 242-1. Discharge of firearms prohibited; exceptions.

It shall be unlawful to discharge any firearm within the city except as follows:

- A. By peace officers acting in performance of their duties as such or by members of the military, naval or air forces of the United States or of this state acting in performance of their duties as such.
- B. By the owner, tenant or authorized agent of such owner or tenant upon his own property for the purpose of extermination of vermin or animals causing damage to the property or for the purpose of killing livestock.
- C. On any shooting range authorized in writing by the Chief of Police.
- D. On any property for the purpose of hunting game, subject to all legal restrictions applicable thereto, and provided that no firearm other than a shotgun shall be used for the purpose and no firearm of any sort shall be discharged within five hundred (500) feet of any dwelling or commercial building or public road, street or highway, and further provided that it shall be unlawful to hunt game, except waterfowl on salt water, before 7:00 a.m.
- E. Hunting of waterfowl at Cove Island Park, including the portion known as "Wallacks Point," above the mean high-water mark on the shore is prohibited.

Sec. 242-2. Issuance of regulations.

Copies of § 242-1 shall be furnished to the office of the Town and City Clerk and he shall give a copy to each person to whom he issues a hunting license.

Sec. 242-3. Specific devices restricted.

Except as otherwise provided in § 242-1, it shall be unlawful for any person within the city to shoot any BB rifle or pistol, air rifle or pistol or similar device, whether the pellets or shot are propelled by spring, compressed air or any other method or device.

TOWN OF TOLLAND

Chapter 112, PARKS AND RECREATION AREAS

§ 112-5. Park regulations.

D.Firearms. No person shall use, carry or possess firearms of any kind or have air- or gas-powered guns, crossbows or bows, or other missile-throwing devices or weapons of any kind within the confines of any Town park.