



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2785

by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

- 430 ILCS 66/10
- 430 ILCS 66/15
- 430 ILCS 66/20
- 430 ILCS 66/70
- 430 ILCS 66/87

Amends the Firearm Concealed Carry Act. Provides that the Department of State Police must notify the applicant stating detailed grounds for the denial and the applicant's right to receive copies of all documents and other evidence that was provided to the Department concerning the application. Provides that in the event that an applicant is denied a license, a copy of any and all objections made by law enforcement agencies shall be made available to the applicant. Provides that upon the referral, applicants shall be given notice by the Department that the application is undergoing review by the Board. Provides that the notice shall include the next date upon which the Concealed Carry Licensing Review Board is expected to convene, and shall inform the applicant that the 90-day time period has been tolled. Provides that all documents and evidence provided to the Board, including a list of the names of all witnesses who provided testimony to the Board, shall be made available to the applicant and the applicant's designated attorney, if any. Provides that an applicant may appeal a denial of an application for a concealed carry license by the Department to the Director for a hearing within 70 calendar days after the denial is delivered to the address listed on the application. Provides that the time deadline for filing a petition for administrative or judicial review shall be 70 calendar days from the date the notice of denial was received by the applicant. Provides that if an applicant brings a petition for judicial review under the Act, the petition must be decided without remand to the Department.

LRB100 09723 SLF 19892 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Concealed Carry Act is amended by
5 changing Sections 10, 15, 20, 70, and 87 as follows:

6 (430 ILCS 66/10)

7 Sec. 10. Issuance of licenses to carry a concealed firearm.

8 (a) The Department shall issue a license to carry a
9 concealed firearm under this Act to an applicant who:

10 (1) meets the qualifications of Section 25 of this Act;

11 (2) has provided the application and documentation
12 required in Section 30 of this Act;

13 (3) has submitted the requisite fees; and

14 (4) does not pose a danger to himself, herself, or
15 others, or a threat to public safety as determined by the
16 Concealed Carry Licensing Review Board in accordance with
17 Section 20.

18 (b) The Department shall issue a renewal, corrected, or
19 duplicate license as provided in this Act.

20 (c) A license shall be valid throughout the State for a
21 period of 5 years from the date of issuance. A license shall
22 permit the licensee to:

23 (1) carry a loaded or unloaded concealed firearm, fully

1 concealed or partially concealed, on or about his or her
2 person; and

3 (2) keep or carry a loaded or unloaded concealed
4 firearm on or about his or her person within a vehicle.

5 (d) The Department shall make applications for a license
6 available no later than 180 days after the effective date of
7 this Act. The Department shall establish rules for the
8 availability and submission of applications in accordance with
9 this Act.

10 (e) An application for a license submitted to the
11 Department that contains all the information and materials
12 required by this Act, including the requisite fee, shall be
13 deemed completed. Except as otherwise provided in this Act, no
14 later than 90 days after receipt of a completed application,
15 the Department shall issue or deny the applicant a license.

16 (f) The Department shall deny the applicant a license if
17 the applicant fails to meet the requirements under this Act or
18 the Department receives a determination from the Board that the
19 applicant is ineligible for a license. The Department must
20 notify the applicant stating detailed ~~the~~ grounds for the
21 denial and the applicant's right to receive copies of all
22 documents and other evidence that was provided to the
23 Department concerning the application. The notice of denial
24 must inform the applicant of his or her right to an appeal
25 through administrative and judicial review.

26 The notification of denial shall be provided as follows:

1 (1) the notice of denial and the written decision of
2 the Board under subsection (f) of Section 20 of this Act
3 shall be sent via certified United States mail by the
4 Department, with signature required and return receipt
5 requested, to the address listed on the application;

6 (2) the appeal period under Section 87 of this Act
7 shall begin to accrue on the date the denial letter is
8 delivered to the address listed on the application; and

9 (3) in any administrative or judicial proceeding
10 concerning the denial of the application, the Department
11 shall provide the following:

12 (A) proof that the denial letter was delivered to
13 the correct address;

14 (B) a copy of the signature of the person who
15 received the denial letter upon its delivery; and

16 (C) proof of the date on which the denial letter
17 was delivered to the address listed on the application.

18 (g) A licensee shall possess a license at all times the
19 licensee carries a concealed firearm except:

20 (1) when the licensee is carrying or possessing a
21 concealed firearm on his or her land or in his or her
22 abode, legal dwelling, or fixed place of business, or on
23 the land or in the legal dwelling of another person as an
24 invitee with that person's permission;

25 (2) when the person is authorized to carry a firearm
26 under Section 24-2 of the Criminal Code of 2012, except

1 subsection (a-5) of that Section; or

2 (3) when the handgun is broken down in a
3 non-functioning state, is not immediately accessible, or
4 is unloaded and enclosed in a case.

5 (h) If an officer of a law enforcement agency initiates an
6 investigative stop, including but not limited to a traffic
7 stop, of a licensee or a non-resident carrying a concealed
8 firearm under subsection (e) of Section 40 of this Act, upon
9 the request of the officer the licensee or non-resident shall
10 disclose to the officer that he or she is in possession of a
11 concealed firearm under this Act, or present the license upon
12 the request of the officer if he or she is a licensee or
13 present upon the request of the officer evidence under
14 paragraph (2) of subsection (e) of Section 40 of this Act that
15 he or she is a non-resident qualified to carry under that
16 subsection. The disclosure requirement under this subsection
17 (h) is satisfied if the licensee presents his or her license to
18 the officer or the non-resident presents to the officer
19 evidence under paragraph (2) of subsection (e) of Section 40 of
20 this Act that he or she is qualified to carry under that
21 subsection. Upon the request of the officer, the licensee or
22 non-resident shall also identify the location of the concealed
23 firearm and permit the officer to safely secure the firearm for
24 the duration of the investigative stop. During a traffic stop,
25 any passenger within the vehicle who is a licensee or a
26 non-resident carrying under subsection (e) of Section 40 of

1 this Act must comply with the requirements of this subsection
2 (h).

3 (h-1) If a licensee carrying a firearm or a non-resident
4 carrying a firearm in a vehicle under subsection (e) of Section
5 40 of this Act is contacted by a law enforcement officer or
6 emergency services personnel, the law enforcement officer or
7 emergency services personnel may secure the firearm or direct
8 that it be secured during the duration of the contact if the
9 law enforcement officer or emergency services personnel
10 determines that it is necessary for the safety of any person
11 present, including the law enforcement officer or emergency
12 services personnel. The licensee or nonresident shall submit to
13 the order to secure the firearm. When the law enforcement
14 officer or emergency services personnel have determined that
15 the licensee or non-resident is not a threat to the safety of
16 any person present, including the law enforcement officer or
17 emergency services personnel, and if the licensee or
18 non-resident is physically and mentally capable of possessing
19 the firearm, the law enforcement officer or emergency services
20 personnel shall return the firearm to the licensee or
21 non-resident before releasing him or her from the scene and
22 breaking contact. If the licensee or non-resident is
23 transported for treatment to another location, the firearm
24 shall be turned over to any peace officer. The peace officer
25 shall provide a receipt which includes the make, model,
26 caliber, and serial number of the firearm.

1 (i) The Department shall maintain a database of license
2 applicants and licensees. The database shall be available to
3 all federal, State, and local law enforcement agencies, State's
4 Attorneys, the Attorney General, and authorized court
5 personnel. Within 180 days after the effective date of this
6 Act, the database shall be searchable and provide all
7 information included in the application, including the
8 applicant's previous addresses within the 10 years prior to the
9 license application and any information related to violations
10 of this Act. No law enforcement agency, State's Attorney,
11 Attorney General, or member or staff of the judiciary shall
12 provide any information to a requester who is not entitled to
13 it by law.

14 (j) No later than 10 days after receipt of a completed
15 application, the Department shall enter the relevant
16 information about the applicant into the database under
17 subsection (i) of this Section which is accessible by law
18 enforcement agencies.

19 (Source: P.A. 98-63, eff. 7-9-13; 98-600, eff. 12-6-13; 99-29,
20 eff. 7-10-15.)

21 (430 ILCS 66/15)

22 Sec. 15. Objections by law enforcement agencies.

23 (a) Any law enforcement agency may submit an objection to a
24 license applicant based upon a reasonable suspicion that the
25 applicant is a danger to himself or herself or others, or a

1 threat to public safety. The objection shall be made by the
2 chief law enforcement officer of the law enforcement agency, or
3 his or her designee, and must include any information relevant
4 to the objection. If a law enforcement agency submits an
5 objection within 30 days after the entry of an applicant into
6 the database, the Department shall submit the objection and all
7 information available to the Board under State and federal law
8 related to the application to the Board within 10 days of
9 completing all necessary background checks. If an applicant is
10 denied a license, a copy of any and all objections made by law
11 enforcement agencies shall be made available to the applicant.

12 (b) If an applicant has 5 or more arrests for any reason,
13 that have been entered into the Criminal History Records
14 Information (CHRI) System, within the 7 years preceding the
15 date of application for a license, or has 3 or more arrests
16 within the 7 years preceding the date of application for a
17 license for any combination of gang-related offenses, the
18 Department shall object and submit the applicant's arrest
19 record to the extent the Board is allowed to receive that
20 information under State and federal law, the application
21 materials, and any additional information submitted by a law
22 enforcement agency to the Board. For purposes of this
23 subsection, "gang-related offense" is an offense described in
24 Section 12-6.4, Section 24-1.8, Section 25-5, Section 33-4, or
25 Section 33G-4, or in paragraph (1) of subsection (a) of Section
26 12-6.2, paragraph (2) of subsection (b) of Section 16-30,

1 paragraph (2) of subsection (b) of Section 31-4, or item (iii)
2 of paragraph (1.5) of subsection (i) of Section 48-1 of the
3 Criminal Code of 2012.

4 (c) The referral of an objection under this Section to the
5 Board shall toll the 90-day period for the Department to issue
6 or deny the applicant a license under subsection (e) of Section
7 10 of this Act, during the period of review and until the Board
8 issues its decision. Upon the referral, applicants shall be
9 given notice by the Department that the application is
10 undergoing review by the Board. The notice shall include the
11 next date upon which the Board is expected to convene, and
12 shall inform the applicant that the 90-day time period has been
13 tolled.

14 (d) If no objection is made by a law enforcement agency or
15 the Department under this Section, the Department shall process
16 the application in accordance with this Act.

17 (Source: P.A. 98-63, eff. 7-9-13; 98-600, eff. 12-6-13.)

18 (430 ILCS 66/20)

19 Sec. 20. Concealed Carry Licensing Review Board.

20 (a) There is hereby created within the Department of State
21 Police a Concealed Carry Licensing Review Board to consider any
22 objection to an applicant's eligibility to obtain a license
23 under this Act submitted by a law enforcement agency or the
24 Department under Section 15 of this Act. The Board shall
25 consist of 7 commissioners to be appointed by the Governor,

1 with the advice and consent of the Senate, with 3 commissioners
2 residing within the First Judicial District and one
3 commissioner residing within each of the 4 remaining Judicial
4 Districts. No more than 4 commissioners shall be members of the
5 same political party. The Governor shall designate one
6 commissioner as the Chairperson. The Board shall consist of:

7 (1) one commissioner with at least 5 years of service
8 as a federal judge;

9 (2) 2 commissioners with at least 5 years of experience
10 serving as an attorney with the United States Department of
11 Justice;

12 (3) 3 commissioners with at least 5 years of experience
13 as a federal agent or employee with investigative
14 experience or duties related to criminal justice under the
15 United States Department of Justice, Drug Enforcement
16 Administration, Department of Homeland Security, or
17 Federal Bureau of Investigation; and

18 (4) one member with at least 5 years of experience as a
19 licensed physician or clinical psychologist with expertise
20 in the diagnosis and treatment of mental illness.

21 (b) The initial terms of the commissioners shall end on
22 January 12, 2015. Thereafter, the commissioners shall hold
23 office for 4 years, with terms expiring on the second Monday in
24 January of the fourth year. Commissioners may be reappointed.
25 Vacancies in the office of commissioner shall be filled in the
26 same manner as the original appointment, for the remainder of

1 the unexpired term. The Governor may remove a commissioner for
2 incompetence, neglect of duty, malfeasance, or inability to
3 serve. Commissioners shall receive compensation in an amount
4 equal to the compensation of members of the Executive Ethics
5 Commission and may be reimbursed for reasonable expenses
6 actually incurred in the performance of their Board duties,
7 from funds appropriated for that purpose.

8 (c) The Board shall meet at the call of the chairperson as
9 often as necessary to consider objections to applications for a
10 license under this Act. If necessary to ensure the
11 participation of a commissioner, the Board shall allow a
12 commissioner to participate in a Board meeting by electronic
13 communication. Any commissioner participating electronically
14 shall be deemed present for purposes of establishing a quorum
15 and voting.

16 (d) The Board shall adopt rules for the review of
17 objections and the conduct of hearings. The Board shall
18 maintain a record of its decisions and all materials considered
19 in making its decisions. All Board decisions and voting records
20 shall be kept confidential and all materials considered by the
21 Board shall be exempt from inspection except upon order of a
22 court.

23 (e) In considering an objection of a law enforcement agency
24 or the Department, the Board shall review the materials
25 received with the objection from the law enforcement agency or
26 the Department. By a vote of at least 4 commissioners, the

1 Board may request additional information from the law
2 enforcement agency, Department, or the applicant, or the
3 testimony of the law enforcement agency, Department, or the
4 applicant. The Board may require that the applicant submit
5 electronic fingerprints to the Department for an updated
6 background check where the Board determines it lacks sufficient
7 information to determine eligibility. The Board may only
8 consider information submitted by the Department, a law
9 enforcement agency, or the applicant. The Board shall review
10 each objection and determine by a majority of commissioners
11 whether an applicant is eligible for a license.

12 (f) The Board shall issue a written decision within 30 days
13 of receipt of the objection from the Department. The decision
14 shall specifically reference all documents and evidence
15 submitted to the Board by the Department, law enforcement
16 agencies, and the applicant. The decision shall include the
17 names of all witnesses who testified at the hearing.

18 The ~~However,~~ the Board need not issue its written a
19 decision within the 30-day time period ~~30 days~~ if:

20 (1) the Board requests information from the applicant,
21 including but not limited to electronic fingerprints to be
22 submitted to the Department, in accordance with subsection
23 (e) of this Section, in which case the Board shall issue
24 its written ~~make a~~ decision within 30 days of receipt of
25 the required information from the applicant;

26 (2) the applicant agrees, in writing, to allow the

1 Board additional time to consider an objection before
2 issuing a written decision; or

3 (3) the Board notifies the applicant and the Department
4 that the Board needs an additional 30 days to issue its
5 written a decision.

6 (g) If the Board determines by a preponderance of the
7 evidence that the applicant poses a danger to himself or
8 herself or others, or is a threat to public safety, then the
9 Board shall affirm the objection of the law enforcement agency
10 or the Department, ~~and~~ shall notify the Department that the
11 applicant is ineligible for a license, and shall provide the
12 Department with a written copy of the decision as outlined in
13 subsection (f) of this Section. If the Board does not determine
14 by a preponderance of the evidence that the applicant poses a
15 danger to himself or herself or others, or is a threat to
16 public safety, then the Board shall notify the Department that
17 the applicant is eligible for a license and shall forward a
18 copy of its written decision to the Department.

19 (h) Meetings of the Board shall not be subject to the Open
20 Meetings Act ~~and records of the Board shall not be subject to~~
21 ~~the Freedom of Information Act~~. However, all documents and
22 evidence provided to the Board, including a list of the names
23 of all witnesses who provided testimony to the Board, shall be
24 made available to the applicant and the applicant's designated
25 attorney, if any. To the extent that the Board has reviewed the
26 medical records of an applicant, or any other records subject

1 to any law or rule providing for the applicant's privacy,
2 copies of the those records shall be provided only to the
3 applicant and the disclosure of the records shall comply with
4 all applicable privacy laws, rules, and regulations. Upon a
5 Board decision denying an application, a copy of the written
6 decision of the Board shall be attached to the notice of denial
7 required under subsection (f) of Section 10 of this Act, and
8 mailed to the applicant.

9 (i) The Board shall report monthly to the Governor and the
10 General Assembly on the number of objections received and
11 provide details of the circumstances in which the Board has
12 determined to deny licensure based on law enforcement or
13 Department objections under Section 15 of this Act. The report
14 shall not contain any identifying information about the
15 applicants.

16 (Source: P.A. 98-63, eff. 7-9-13; 98-600, eff. 12-6-13.)

17 (430 ILCS 66/70)

18 Sec. 70. Violations.

19 (a) A license issued or renewed under this Act shall be
20 revoked if, at any time, the licensee is found to be ineligible
21 for a license under this Act or the licensee no longer meets
22 the eligibility requirements of the Firearm Owners
23 Identification Card Act. The notification and appeals
24 processes for revoked licenses shall be the same as those for
25 denied applications under Sections 10, 15, and 87 of this Act.

1 (b) A license shall be suspended if an order of protection,
2 including an emergency order of protection, plenary order of
3 protection, or interim order of protection under Article 112A
4 of the Code of Criminal Procedure of 1963 or under the Illinois
5 Domestic Violence Act of 1986, is issued against a licensee for
6 the duration of the order, or if the Department is made aware
7 of a similar order issued against the licensee in any other
8 jurisdiction. If an order of protection is issued against a
9 licensee, the licensee shall surrender the license, as
10 applicable, to the court at the time the order is entered or to
11 the law enforcement agency or entity serving process at the
12 time the licensee is served the order. The court, law
13 enforcement agency, or entity responsible for serving the order
14 of protection shall notify the Department within 7 days and
15 transmit the license to the Department.

16 (c) A license is invalid upon expiration of the license,
17 unless the licensee has submitted an application to renew the
18 license, and the applicant is otherwise eligible to possess a
19 license under this Act.

20 (d) A licensee shall not carry a concealed firearm while
21 under the influence of alcohol, other drug or drugs,
22 intoxicating compound or combination of compounds, or any
23 combination thereof, under the standards set forth in
24 subsection (a) of Section 11-501 of the Illinois Vehicle Code.

25 A licensee in violation of this subsection (d) shall be
26 guilty of a Class A misdemeanor for a first or second violation

1 and a Class 4 felony for a third violation. The Department may
2 suspend a license for up to 6 months for a second violation and
3 shall permanently revoke a license for a third violation.

4 (e) Except as otherwise provided, a licensee in violation
5 of this Act shall be guilty of a Class B misdemeanor. A second
6 or subsequent violation is a Class A misdemeanor. The
7 Department may suspend a license for up to 6 months for a
8 second violation and shall permanently revoke a license for 3
9 or more violations of Section 65 of this Act. Any person
10 convicted of a violation under this Section shall pay a \$150
11 fee to be deposited into the Mental Health Reporting Fund, plus
12 any applicable court costs or fees.

13 (f) A licensee convicted or found guilty of a violation of
14 this Act who has a valid license and is otherwise eligible to
15 carry a concealed firearm shall only be subject to the
16 penalties under this Section and shall not be subject to the
17 penalties under Section 21-6, paragraph (4), (8), or (10) of
18 subsection (a) of Section 24-1, or subparagraph (A-5) or (B-5)
19 of paragraph (3) of subsection (a) of Section 24-1.6 of the
20 Criminal Code of 2012. Except as otherwise provided in this
21 subsection, nothing in this subsection prohibits the licensee
22 from being subjected to penalties for violations other than
23 those specified in this Act.

24 (g) A licensee whose license is revoked, suspended, or
25 denied shall, within 48 hours of receiving notice of the
26 revocation, suspension, or denial, surrender his or her

1 concealed carry license to the local law enforcement agency
2 where the person resides. The local law enforcement agency
3 shall provide the licensee a receipt and transmit the concealed
4 carry license to the Department of State Police. If the
5 licensee whose concealed carry license has been revoked,
6 suspended, or denied fails to comply with the requirements of
7 this subsection, the law enforcement agency where the person
8 resides may petition the circuit court to issue a warrant to
9 search for and seize the concealed carry license in the
10 possession and under the custody or control of the licensee
11 whose concealed carry license has been revoked, suspended, or
12 denied. The observation of a concealed carry license in the
13 possession of a person whose license has been revoked,
14 suspended, or denied constitutes a sufficient basis for the
15 arrest of that person for violation of this subsection. A
16 violation of this subsection is a Class A misdemeanor.

17 (h) A license issued or renewed under this Act shall be
18 revoked if, at any time, the licensee is found ineligible for a
19 Firearm Owner's Identification Card, or the licensee no longer
20 possesses a valid Firearm Owner's Identification Card. A
21 licensee whose license is revoked under this subsection (h)
22 shall surrender his or her concealed carry license as provided
23 for in subsection (g) of this Section.

24 This subsection shall not apply to a person who has filed
25 an application with the State Police for renewal of a Firearm
26 Owner's Identification Card and who is not otherwise ineligible

1 to obtain a Firearm Owner's Identification Card.

2 (i) A certified firearms instructor who knowingly provides
3 or offers to provide a false certification that an applicant
4 has completed firearms training as required under this Act is
5 guilty of a Class A misdemeanor. A person guilty of a violation
6 of this subsection (i) is not eligible for court supervision.
7 The Department shall permanently revoke the firearms
8 instructor certification of a person convicted under this
9 subsection (i).

10 (Source: P.A. 98-63, eff. 7-9-13; 98-756, eff. 7-16-14; 98-899,
11 eff. 8-15-14.)

12 (430 ILCS 66/87)

13 Sec. 87. Administrative and judicial review.

14 (a) Whenever an application for a concealed carry license
15 is denied, whenever the Department fails to act on an
16 application within 90 days of its receipt, or whenever a
17 license is revoked or suspended as provided in this Act, the
18 aggrieved party may appeal to the Director for a hearing upon
19 the denial, revocation, suspension, or failure to act on the
20 application, unless the denial was made by the Concealed Carry
21 Licensing Review Board, in which case the aggrieved party may
22 petition the circuit court in writing in the county of his or
23 her residence for a hearing upon the denial. An applicant may
24 appeal a denial of an application for a concealed carry license
25 by the Department to the Director for a hearing within 70

1 calendar days after the denial is delivered to the address
2 listed on the application.

3 (b) All final administrative decisions of the Department or
4 the Concealed Carry Licensing Review Board under this Act shall
5 be subject to judicial review under the provisions of the
6 Administrative Review Law except that a petition for
7 administrative or judicial review shall be filed within 70
8 calendar days from the date the notice of denial was received
9 by the applicant. If an applicant brings a petition for
10 judicial review under this Act, the petition must be decided
11 without remand to the Department. The term "administrative
12 decision" is defined as in Section 3-101 of the Code of Civil
13 Procedure.

14 (c) Immediately upon receiving notice that the application
15 has been denied, the applicant or the applicant's attorney, if
16 any, may formally request copies of all documents and evidence
17 considered by the Department in making its determination. The
18 Department shall provide the requested documents and evidence
19 within 14 calendar days of receiving the written request.

20 (Source: P.A. 98-63, eff. 7-9-13.)