



Sen. Dale A. Righter

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1 AMENDMENT TO SENATE BILL 1038

2 AMENDMENT NO. _____. Amend Senate Bill 1038 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Firearm Concealed Carry Act is amended by
5 changing Sections 10, 15, 20, 55, 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

1 Section 20.

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

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

7 (1) carry a loaded or unloaded concealed firearm, fully
8 concealed or partially concealed, on or about his or her
9 person; and

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

12 (d) The Department shall make applications for a license
13 available no later than 180 days after the effective date of
14 this Act. The Department shall establish rules for the
15 availability and submission of applications in accordance with
16 this Act.

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

23 (f) The Department shall deny the applicant a license if
24 the applicant fails to meet the requirements under this Act or
25 the Department receives a determination from the Board that the
26 applicant is ineligible for a license. The Department must

1 notify the applicant stating the grounds for the denial. The
2 notice of denial must inform the applicant of his or her right
3 to an appeal through administrative or de novo ~~and~~ judicial
4 review.

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

7 (1) when the licensee is carrying or possessing a
8 concealed firearm on his or her land or in his or her
9 abode, legal dwelling, or fixed place of business, or on
10 the land or in the legal dwelling of another person as an
11 invitee with that person's permission;

12 (2) when the person is authorized to carry a firearm
13 under Section 24-2 of the Criminal Code of 2012, except
14 subsection (a-5) of that Section; or

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

18 (h) If an officer of a law enforcement agency initiates an
19 investigative stop, including but not limited to a traffic
20 stop, of a licensee or a non-resident carrying a concealed
21 firearm under subsection (e) of Section 40 of this Act, upon
22 the request of the officer the licensee or non-resident shall
23 disclose to the officer that he or she is in possession of a
24 concealed firearm under this Act, or present the license upon
25 the request of the officer if he or she is a licensee or
26 present upon the request of the officer evidence under

1 paragraph (2) of subsection (e) of Section 40 of this Act that
2 he or she is a non-resident qualified to carry under that
3 subsection. The disclosure requirement under this subsection
4 (h) is satisfied if the licensee presents his or her license to
5 the officer or the non-resident presents to the officer
6 evidence under paragraph (2) of subsection (e) of Section 40 of
7 this Act that he or she is qualified to carry under that
8 subsection. Upon the request of the officer, the licensee or
9 non-resident shall also identify the location of the concealed
10 firearm and permit the officer to safely secure the firearm for
11 the duration of the investigative stop. During a traffic stop,
12 any passenger within the vehicle who is a licensee or a
13 non-resident carrying under subsection (e) of Section 40 of
14 this Act must comply with the requirements of this subsection
15 (h).

16 (h-1) If a licensee carrying a firearm or a non-resident
17 carrying a firearm in a vehicle under subsection (e) of Section
18 40 of this Act is contacted by a law enforcement officer or
19 emergency services personnel, the law enforcement officer or
20 emergency services personnel may secure the firearm or direct
21 that it be secured during the duration of the contact if the
22 law enforcement officer or emergency services personnel
23 determines that it is necessary for the safety of any person
24 present, including the law enforcement officer or emergency
25 services personnel. The licensee or nonresident shall submit to
26 the order to secure the firearm. When the law enforcement

1 officer or emergency services personnel have determined that
2 the licensee or non-resident is not a threat to the safety of
3 any person present, including the law enforcement officer or
4 emergency services personnel, and if the licensee or
5 non-resident is physically and mentally capable of possessing
6 the firearm, the law enforcement officer or emergency services
7 personnel shall return the firearm to the licensee or
8 non-resident before releasing him or her from the scene and
9 breaking contact. If the licensee or non-resident is
10 transported for treatment to another location, the firearm
11 shall be turned over to any peace officer. The peace officer
12 shall provide a receipt which includes the make, model,
13 caliber, and serial number of the firearm.

14 (i) The Department shall maintain a database of license
15 applicants and licensees. The database shall be available to
16 all federal, State, and local law enforcement agencies, State's
17 Attorneys, the Attorney General, and authorized court
18 personnel. Within 180 days after the effective date of this
19 Act, the database shall be searchable and provide all
20 information included in the application, including the
21 applicant's previous addresses within the 10 years prior to the
22 license application and any information related to violations
23 of this Act. No law enforcement agency, State's Attorney,
24 Attorney General, or member or staff of the judiciary shall
25 provide any information to a requester who is not entitled to
26 it by law.

1 (j) No later than 10 days after receipt of a completed
2 application, the Department shall enter the relevant
3 information about the applicant into the database under
4 subsection (i) of this Section which is accessible by law
5 enforcement agencies.

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

8 (430 ILCS 66/15)

9 Sec. 15. Objections by law enforcement agencies.

10 (a) Any law enforcement agency may submit an objection to a
11 license applicant based upon a reasonable suspicion that the
12 applicant is a danger to himself or herself or others, or a
13 threat to public safety. The objection shall be made by the
14 chief law enforcement officer of the law enforcement agency, or
15 his or her designee, and must include any information relevant
16 to the objection. Objections previously filed against an
17 applicant shall not be considered as a basis for an objection
18 for renewal of a concealed carry license unless another
19 incident has occurred since the license applicant's last review
20 by the Board. A law enforcement agency that submits an
21 objection to a license applicant to the Department may withdraw
22 the objection before it is submitted to the Board. If a law
23 enforcement agency submits an objection within 30 days after
24 the entry of an applicant into the database, the Department
25 shall submit the objection, unless withdrawn or rejected as

1 provided for in this Section, and all information available to
2 the Board under State and federal law related to the
3 application to the Board within 10 days of completing all
4 necessary background checks and any verification performed by
5 the Department. The Department may review and verify a law
6 enforcement agency objection to a license applicant before the
7 Department's submission of the objection to the Board. Any
8 verification shall determine: (i) if the requirements under
9 this Act for the submission of an objection by a law
10 enforcement agency has been met, (ii) that the objection has
11 been filed against the proper person, and (iii) that
12 information relevant to the objection has been included. A law
13 enforcement agency objection that fails this verification
14 shall be returned to the objecting law enforcement agency and
15 the law enforcement agency shall have 30 calendar days after
16 receiving notification from the Department to submit the
17 required information, provide the Department a response, or
18 withdraw the objection. If the objecting law enforcement agency
19 fails to respond within 30 calendar days, the Department shall
20 reject the objection and process the application.

21 (b) If an applicant has 5 or more arrests for any reason,
22 that have been entered into the Criminal History Records
23 Information (CHRI) System, within the 7 years preceding the
24 date of application for a license, or has 3 or more arrests
25 within the 7 years preceding the date of application for a
26 license for any combination of gang-related offenses, the

1 Department shall object and submit the applicant's arrest
2 record to the extent the Board is allowed to receive that
3 information under State and federal law, the application
4 materials, and any additional information submitted by a law
5 enforcement agency to the Board. For purposes of this
6 subsection, "gang-related offense" is an offense described in
7 Section 12-6.4, Section 24-1.8, Section 25-5, Section 33-4, or
8 Section 33G-4, or in paragraph (1) of subsection (a) of Section
9 12-6.2, paragraph (2) of subsection (b) of Section 16-30,
10 paragraph (2) of subsection (b) of Section 31-4, or item (iii)
11 of paragraph (1.5) of subsection (i) of Section 48-1 of the
12 Criminal Code of 2012.

13 (c) The referral of an objection under this Section to the
14 Board shall toll the 90-day period for the Department to issue
15 or deny the applicant a license under subsection (e) of Section
16 10 of this Act, during the period of review and until the Board
17 issues its decision.

18 (c-5) If a law enforcement agency submits an erroneous
19 objection or decides to withdraw an objection, the law
20 enforcement agency shall notify the Department immediately and
21 the objection shall be considered null and void. The Department
22 shall notify the Board that the objection has been rescinded
23 and the application shall be returned to the Department for
24 completion of the application process.

25 (d) If no objection is made by a law enforcement agency or
26 the Department under this Section, the Department shall process

1 the application in accordance with this Act.

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

3 (430 ILCS 66/20)

4 Sec. 20. Concealed Carry Licensing Review Board.

5 (a) There is hereby created within the Department of State
6 Police a Concealed Carry Licensing Review Board to consider any
7 objection to an applicant's eligibility to obtain a license
8 under this Act submitted by a law enforcement agency or the
9 Department under Section 15 of this Act. The Board shall
10 consist of 7 commissioners to be appointed by the Governor,
11 with the advice and consent of the Senate, with 3 commissioners
12 residing within the First Judicial District and one
13 commissioner residing within each of the 4 remaining Judicial
14 Districts. No more than 4 commissioners shall be members of the
15 same political party. The Governor shall designate one
16 commissioner as the Chairperson. The Board shall consist of:

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

19 (2) 2 commissioners with at least 5 years of experience
20 serving as an attorney with the United States Department of
21 Justice;

22 (3) 3 commissioners with at least 5 years of experience
23 as a federal agent or employee with investigative
24 experience or duties related to criminal justice under the
25 United States Department of Justice, Drug Enforcement

1 Administration, Department of Homeland Security, or
2 Federal Bureau of Investigation; and

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

6 (b) The initial terms of the commissioners shall end on
7 January 12, 2015. Thereafter, the commissioners shall hold
8 office for 4 years, with terms expiring on the second Monday in
9 January of the fourth year. Commissioners may be reappointed.
10 Vacancies in the office of commissioner shall be filled in the
11 same manner as the original appointment, for the remainder of
12 the unexpired term. The Governor may remove a commissioner for
13 incompetence, neglect of duty, malfeasance, or inability to
14 serve. Commissioners shall receive compensation in an amount
15 equal to the compensation of members of the Executive Ethics
16 Commission and may be reimbursed for reasonable expenses
17 actually incurred in the performance of their Board duties,
18 from funds appropriated for that purpose.

19 (c) The Board shall meet at the call of the chairperson as
20 often as necessary to consider objections to applications for a
21 license under this Act. If necessary to ensure the
22 participation of a commissioner, the Board shall allow a
23 commissioner to participate in a Board meeting by electronic
24 communication. Any commissioner participating electronically
25 shall be deemed present for purposes of establishing a quorum
26 and voting.

1 (d) The Board shall adopt rules for the review of
2 objections and the conduct of hearings, including minimum
3 standards for information required to file with an objection.
4 The Board shall maintain a record of its decisions and all
5 materials considered in making its decisions. All Board
6 decisions and voting records shall be kept confidential and all
7 materials considered by the Board shall be exempt from
8 inspection except upon order of a court.

9 (d-5) Immediately upon the receipt from the Department of
10 notice of an objection, the Board shall notify the applicant of
11 the referral of the application to the Board and that the
12 90-day period for the Department to issue or deny a license has
13 been tolled. The notification of referral shall include the
14 identity of the law enforcement agency submitting the objection
15 and any detailed narrative upon which the objection is based.
16 The Department may, however, exclude or redact information that
17 may be confidential or which may impair or compromise an
18 ongoing investigation. Notification to the applicant shall be
19 by mail and the applicant's online application page. The
20 notification of the referral shall inform the applicant of his
21 or her right to submit a written statement to the Board on his
22 or her behalf. The applicant's statement may include any
23 documents that the applicant believes will clarify or
24 substantiate the applicant's statement. This statement may be
25 submitted by mail, email, or the applicant's online application
26 page. The applicant shall have 45 days from the date the

1 notification of the referral to the Board is sent to submit a
2 statement. However, the applicant need not respond within 45
3 days if the applicant notifies the Board that an additional 45
4 days are needed to respond. An applicant shall have a maximum
5 of 90 days in which to respond. If an applicant fails to
6 respond within the 90-day period, the applicant shall be deemed
7 to have waived his or her right to respond.

8 (e) In considering an objection of a law enforcement agency
9 or the Department, the Board shall review the materials
10 received with the objection from the law enforcement agency or
11 the Department. By a vote of at least 4 commissioners, the
12 Board may request additional information from the law
13 enforcement agency, Department, or the applicant, or the
14 testimony of the law enforcement agency, Department, or the
15 applicant. The Board may require that the applicant submit
16 electronic fingerprints to the Department for an updated
17 background check where the Board determines it lacks sufficient
18 information to determine eligibility. The Board may only
19 consider information submitted by the Department, a law
20 enforcement agency, or the applicant. The Board shall review
21 each objection and determine by a majority of commissioners
22 whether an applicant is eligible for a license.

23 (f) The Board shall issue a decision within 30 days of
24 receipt of the objection from the Department. However, the
25 Board need not issue a decision within 30 days if:

26 (1) the Board requests information from the applicant,

1 including but not limited to electronic fingerprints to be
2 submitted to the Department, in accordance with subsection
3 (e) of this Section, in which case the Board shall make a
4 decision within 30 days of receipt of the required
5 information from the applicant;

6 (2) the applicant agrees, in writing, to allow the
7 Board additional time to consider an objection; or

8 (3) the Board notifies the applicant and the Department
9 that the Board needs an additional 30 days to issue a
10 decision.

11 (f-5) The Board's request for an additional 30 days to
12 issue a decision shall be limited to one 30-day period.

13 (g) If the Board determines by a preponderance of the
14 evidence that the applicant poses a danger to himself or
15 herself or others, or is a threat to public safety, then the
16 Board shall affirm the objection of the law enforcement agency
17 or the Department and shall notify the Department that the
18 applicant is ineligible for a license. If the Board does not
19 determine by a preponderance of the evidence that the applicant
20 poses a danger to himself or herself or others, or is a threat
21 to public safety, then the Board shall notify the Department
22 that the applicant is eligible for a license.

23 (h) Meetings of the Board shall not be subject to the Open
24 Meetings Act and records of the Board shall not be subject to
25 the Freedom of Information Act.

26 (i) The Board shall report monthly to the Governor and the

1 General Assembly on the number of objections received and
2 provide details of the circumstances in which the Board has
3 determined to deny licensure based on law enforcement or
4 Department objections under Section 15 of this Act. The report
5 shall not contain any identifying information about the
6 applicants.

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

8 (430 ILCS 66/55)

9 Sec. 55. Change of address or name; lost, destroyed, or
10 stolen licenses.

11 (a) A licensee shall notify the Department within 30 days
12 of moving or changing residence or any change of name. The
13 licensee shall submit the requisite fee and the Department may
14 require a notarized statement that the licensee has changed his
15 or her residence or his or her name, including the prior and
16 current address or name and the date the applicant moved or
17 changed his or her name.

18 (b) A licensee shall notify the Department within 10 days
19 of discovering that a license has been lost, destroyed, or
20 stolen. A lost, destroyed, or stolen license is invalid. To
21 request a replacement license, the licensee shall submit:

22 (1) a notarized statement that the licensee no longer
23 possesses the license, and that it was lost, destroyed, or
24 stolen;

25 (2) if applicable, a copy of a police report stating

1 that the license was stolen; and

2 (3) the requisite fee.

3 (b-5) The Department shall provide confirmation that a
4 request has been submitted for a replacement of a lost,
5 destroyed, or stolen license which shall serve in a place of
6 the license until a replacement is issued.

7 (c) A violation of this Section is a petty offense with a
8 fine of \$150 which shall be deposited into the Mental Health
9 Reporting Fund.

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

11 (430 ILCS 66/87)

12 Sec. 87. Administrative and judicial review.

13 (a) Whenever an application for a concealed carry license
14 is denied, whenever the Department fails to act on an
15 application within 90 days of its receipt, or whenever a
16 license is revoked or suspended as provided in this Act, the
17 aggrieved party may appeal to the Director for a hearing upon
18 the denial, revocation, suspension, or failure to act on the
19 application, unless the denial was made by the Concealed Carry
20 Licensing Review Board, in which case the aggrieved party may
21 petition the circuit court in writing in the county of his or
22 her residence for a hearing upon the denial. The Director shall
23 have 45 days after the submission of an applicant's request for
24 a hearing to hold the hearing and 15 days after the hearing to
25 make a final administrative decision.

1 (b) All final administrative decisions of the Department or
2 the Concealed Carry Licensing Review Board under this Act shall
3 be subject to judicial review under the provisions of the
4 Administrative Review Law, unless the denial by the Board was
5 based on the mental condition or possible intellectual
6 disability of the applicant, in which case an appeal of the
7 denial shall be subject to de novo judicial review by the
8 circuit court. In this case, a party may offer evidence that is
9 otherwise proper and admissible without regard to whether that
10 evidence is a part of the administrative record. The term
11 "administrative decision" is defined as in Section 3-101 of the
12 Code of Civil Procedure.

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