

# Legal Update

MN DNR Division of Enforcement

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## **MINNESOTA'S NEW CONCEAL CARRY LAW**

**MINNESOTA'S NEW "CITIZEN'S PERSONAL PROTECTION ACT OF 2003,"** more commonly referred to as the conceal carry law, was signed into law by the Governor on April 28, 2003, and was generally effective 30 days after that enactment. A copy of this new law (with the deletions to current law stripped out) is enclosed with this document for your information and reference.

**THIS NEW LAW AUTHORIZES** the issuance of state permits to carry pistols to residents and nonresidents by county sheriffs, or police chiefs acting under contract through the sheriff. It specifies the eligibility, training requirements, application/fee, and background investigation requirements for the applicants. Qualification requirements for certified firearms instructors are also specified in the bill. The commissioner of public safety is to implement an automated database of persons authorized to carry pistols under this law and a process for recognition of permits from other states. Certain establishments may ban guns in their establishments by following the posting requirements in the law, and employers are authorized to establish policies to restrict the carry or possession of firearms by employees or students. Carrying while under the influence of alcohol or controlled substances is prohibited, and there are IC procedures similar to DWI and HWI included in the law. Current permits to

carry are grandfathered in, and are valid until their date of expiration.

There have been a number of questions raised by Conservation Officers as well as our public clientele regarding the impacts of this new legislation, primarily in the context of hunting and other outdoor activities. This update is intended to address those questions and other questions that we believe will develop as we work through the many facets of this legislation. Other law enforcement agencies, besides DNR, are also working their way through this new law, and deserve our patience as we all learn.

The focus of this legal update is on the legal aspects of the new law. Obviously, the prospect of having many more people armed raises practical safety issues as well. We are presently working to get a sense of how the law enforcement community will be responding to this situation. Stay tuned for more details.

In addition to the following Q & A's, an extract of the new concealed/carry law is enclosed with this update for your information and reference. You may share this extract with other agencies if needed.

Please be sure to route any additional questions not covered in this update, through the chain of command for research and response. **Thank you!**

## **Conceal Carry - Q & A's for Conservation Officers:**

### **If a person has taken DNR's firearms safety program in the last year, is that training sufficient for the permit application?**

No, our safety training programs were intentionally not included in the bill. Our programs do not include instruction specific to the safe use of pistols, shooting qualification exercises with a pistol, self-defense, or restrictions on the use of deadly force, as required in the bill's training requirements.

### **Are DNR-certified FAS instructors qualified to teach the required 'safe use of a pistol' training courses under this new law?**

No. Our FAS instructor certification program does not qualify an individual to teach a 'safe use of a pistol' course specified under this new law. Some of our instructors may, however, be certified through another qualifying program (such as NRA's Personal Protection Course) to teach qualifying courses, and they would be acting on their own and outside our programs.

### **Does the pistol need to be carried in a concealed manner?**

No. There is no direction in that regard in the new law. Pistols could be carried either concealed or on the outside of clothing.

### **Does the new law / permit include long guns (shotguns and rifles)?**

No. The provisions of this new law are specific to 'pistols'. Pistol, for purposes of this law, is generally a handgun (see the definition of pistol in MS 624.712, subd. 2), and does not include long guns such as rifles/shotguns, or some other weapons such as BB guns, scuba guns, etc.

### **Can pistols be carried while operating an ATV or snowmobile?**

Yes. Under this new law (as well as the old law), permit holders may possess pistols while operating these types of off road vehicles. The permit does not, however, apply to long guns (see the previous question).

### **If a person has a permit to carry from another state, is that permit good in Minnesota?**

It depends on which state has issued their permit. Michigan, Wyoming, and Louisiana are the only states' permits that are recognized in Minnesota at this time. The new law directs the commissioner of public safety to annually establish and publish a list on the internet of other states whose permit laws are NOT substantially similar to Minnesota's law. If the state is NOT listed as 'different' on this mandated listing, the person may exercise their permit in Minnesota, subject to Minnesota law. This is the one provision of the legislation that was not effective for 180 days from the date of enactment, and this listing was just posted in the last day or so on DPS/BCA's concealed/carry webpage.

### **Can Conservation Officers enforce the implied consent provisions for permittees?**

Yes. There is no limiting definition of peace officer in this legislation (like there is in the DWI laws). Conservation Officers would be included in the general statutory definition of peace officers and would be able to enforce this provision. The reference to the DWI evidence statute is simply that, a reference on what evidence is permitted and when it is admissible, and does not restrict Conservation Officers' ability to enforce this provision. We believe that new standard IC/PO certificate forms and procedures will need to be cooperatively developed and distributed by the Department of Public Safety. We will forward copies when that process and the forms are finalized.

### **Can DNR prohibit the public carrying firearms under this permit in our buildings or other facilities?**

No. Earlier this year, our HR office advised that there is no current DNR policy prohibiting firearms, and there is no statewide policy on this topic. Even prior to this new legislation, there was no general prohibition in statute that would prohibit carrying of guns into government owned/leased buildings outside courthouses or the capitol complex area. This new legislation does not provide additional tools in law to change that general policy. There are a handful of entities that have filed court actions, generally seeking to test this new law. DNR is not among them.

### **What about DNR employees?**

Under the bill, public and private employers may establish policies that restrict the carrying or possession of firearms by their employees while acting in the course and scope of employment. Operational Order 94 specifically states that NRO's shall not carry or use firearms. Employees that are not NRO's would generally not be prohibited from possessing firearms in DNR offices or facilities, until a new policy is implemented.

### **What about MR 6100.0800, subpart 1 that prohibits the possession of an uncased/loaded firearm in a state park or forest recreation area?**

It is likely that this new law will supercede this rule. There will, however, need to be more discussion with the affected divisions and the attorney general's office in this regard.

### **How does this new concealed/carry law affect firearms possession and transportation provisions in the game and fish laws?**

The game and fish laws specifically recognize permits to carry as creating exceptions to the firearms provisions in MS 97B.041 (possession of firearms in deer zones) and MS 97B.045 (general transportation of firearms in motor vehicles). This has been the case for 20 years or more, and continues under the new law. Persons with a carry permit under the new law may lawfully possess pistols under the exception listed in these two provisions of law.

### **What about the shining laws?**

There is no similar exception included in the shining laws (MS 97B.081). The act of shining wild animals while possessing a firearm (even by permit) would be a violation of the shining laws. It may be helpful to think of this question in this context – it is unlawful to shine deer while in possession of a firearm, even with a permit to carry. This particular aspect may, however, require some discussion/coaching with individual prosecutors. Please let us know if you run into problems in this context.

### **What about possession of a pistol while hunting deer by archery?**

Again, game and fish law prohibits the possession of a firearm while hunting deer by archery (MS 97B.211, subd. 1). This is similar to the shining provision, discussed above.

### **Where can people get more information on permit applications and training?**

Local sheriffs' offices and the Department of Public Safety's website, [www.dps.state.mn.us](http://www.dps.state.mn.us), will have information on the permit application process, permit application forms, places where the required training can be obtained, and a comprehensive series of Q&A's related to this new law.