



AMENDMENT SUMMARY

Gun Omnibus HF 517

Status of Bill: House Floor
Committee: Judiciary (13-7)
Lead Democrats: Rep. Wolfe
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Amendment Summary

H-1297 by Senate

- Clarifies the definition of a certified peace officer for the exemption from requiring permits for carrying weapons.
- Expands the allowance for a private investigator or security agents to carry weapons in schools to also include employees of these individuals that are in the performance of their duties.
- Allows a peace officer to go armed on school grounds.
- Clarifies that to qualify as valid training for a concealed carry permit that a hunter education program must include handgun safety training and a certificate of completion of that portion of the program.
- Requires the Department of Public Safety to establish a process for transferring a permit holder's non-professional permit when the person moves from one county to another.
- Clarifies that awards of court costs and attorney fees to either prevailing party in an appeal of decision by a sheriff or the Commissioner of the Department of Public Safety to deny a permit to carry weapons, including that if an applicant withdraws an appeal the person is required to pay the sheriff's cost.
- Requires anyone providing "direct supervision" of someone under the age of 21 possessing a handgun or pistol to not be under the influence of alcohol or an illegal drug. Anyone that provides direct supervision while under the influence commits child endangerment.
- Makes not only non-professional permits to carry confidential, but also professional permits to carry.
- Allows the release of permitting information to the Criminal Juvenile Justice Agency for the performance of any lawfully authorized duty.
- Removes the allowance for reasonable attorney fees and court costs to anyone prevailing against a political subdivision that institutes a policy restricting the lawful use of firearms.
- Allows peace officers to open carry in the Capitol.
- Allows for the governor to restrict the transfer of weapons during a state of emergency.
- Strikes the allowance of reasonable force even if an alternative court of action is available if the alternative entails a risk to life or safety of the person or another or requires one to retreat from one's own dwelling or place of business.
- Requires anyone that uses deadly force to notify law enforcement about the use of deadly force within a reasonable period of time. The person that uses deadly force cannot intentionally destroy, alter, conceal, or disguise physical evidence related to the use of deadly force. The person cannot intentionally intimidate witnesses into refusing to cooperate with any investigation into the use of deadly force or induce anyone to alter testimony.
- Prohibits someone from being able to post bond and released from jail for committing intimidation with a dangerous weapon or being a felon in possession of a firearm until the person has appeared before the court. Current law requires this for forcible felonies.
- Makes clarifying changes to language throughout the bill.

Brief Bill Summary as Passed by the House

- Allows for the possession of sawed off shotguns in the state.
- Reduces background checks required to purchase firearms.
- Allows for the use of deadly force to protect only property, such as allowing deadly force to stop a teenager from stealing tools from your shed or shooting someone that has been breaking into cars in your neighborhood.
- Makes all personal information on permits to carry, which are currently public records, confidential and inaccessible to domestic abuse victims, people being stalked, or news outlets.
- Allows concealed carry in the state Capitol.
- Allows anyone under the age of 21 to possess a pistol or revolver with supervision.
- Prevents officials from keeping weapons off the street in a time of public emergency, such as a riot.
- Expands who is allowed to carry a concealed weapon on K-12 school grounds.
- Creates a process to prevent cities and counties from regulating the possession of firearms and prohibits counties from regulating some firearm use within the county.

Bill Summary as Passed by the House

Division I – Offensive Weapons – Short barreled rifle or shotgun

Allows for the possession of a short barreled rifle or shotgun. A short-barreled rifle or shotgun is defined as any rifle with a barrel less than 16 inches in length or a shotgun with a barrel less than 18 inches in length. The change would also allow the possession of any rifle or shotgun with an overall length of less than 26 inches.

The bill makes it a crime knowingly possess a short-barreled rifle or shot in violation of federal law. This is punishable as a class “D” felony. A class “D” felony is punishable by up to 5 years in prison and a fine of up to \$7,500.

Division II – Carrying Weapons and Possession of Weapons

States that going armed with intent cannot be assumed from the mere carrying or concealment of a dangerous weapon. This assumption includes if a person was carrying a loaded weapon.

Allows a private security investigator private security officer that is licensed with the state and has a valid permit to carry weapons to carry weapons concealed or open on school grounds in their performance of duties as a private investigator or security officer.

Under current law, a permit to carry is considered invalid if the person to whom the permit is issued is intoxicated. Under current law, carrying a dangerous weapon without a valid permit would be an aggravated misdemeanor. The bill would change this so that a person that is intoxicated and carries a dangerous weapon commits a serious misdemeanor. This would not apply if the person is in his or her own home, land, or business. This provision would also not apply for any transitory possession of a dangerous weapon during an act of justified self-defense.

Allows a person charged with violating the requirement to have on their immediate possession the permit to carry weapons when the person is armed to produce a permit that was valid at the time of the alleged offense to the clerk of district court and have the charges dismissed by the court.

Division III – Permit to Carry Weapons and Firearm Safety Training

Removes the requirement for firearm training safety training for the renewal of any permit issued after December 31, 2010. Firearm safety training is not required if an applicant applies after expiration of the renewal times for a permit.

Requires firearm safety training to be completed within 24 months prior to the date of application for a permit.

Requires weapons permits to have a uniform appearance, size, and content as prescribed by the Department of Public Safety. The permit must contain the permittee's name and the effective date of the permit. The permit may not contain the permittee's social security number. A permit cannot be issued for a particular weapon and cannot include information on a particular weapon or ammunition.

Allows an applicant for a permit renewal to apply within 30 days after the expiration of a permit. If the applicant does not file within this 30 days the permit application is considered a new permit rather than a renewal. Under current law a renewal must be received within 30 days prior to the expiration of the permit with no grace period once a permit has expired.

The bill makes conforming and readability changes to carrying and possessing weapons in the Code.

Division IV – Permit to Acquire Firearms and Prohibited Transfers of Firearms

Makes permits to acquire valid for 5 years with a background check required when issuing these permits. Current law is that the permits are valid for one year with an annual background check.

Requires permits to acquire to have a uniform appearance, size, and content as prescribed by the Department of Public Safety. The permit must contain the permittee's name and the effective date of the permit. The permit may not contain the permittee's social security number. A permit cannot be issued for a particular weapon and cannot include information on a particular weapon or ammunition.

Allows an issuing officer to conduct an annual criminal history check of anyone issued a permit to acquire by obtaining criminal history data from the Department of Public Safety.

Makes conforming changes to Iowa Code to reflect changes in the term of permits made in the bill.

This language is similar to permitting updates voted on by the legislature in 2016. That bill, HF 2314, required the Department of Public Safety to issue the durable, uniform permits.

Division V – Possession of Pistols and Revolvers by Persons Under 14 Years of Age

Removes the age requirement for a person under the age of 21 years old to possess a pistol or revolver while under the direct supervision of a parent or guardian or while receiving instruction from an instructor. The parent, guardian, or spouse must maintain visual and verbal contact at all times with the minor. A parent or guardian is strictly liable for any injury for allowing a minor under the age of 14 to possess a pistol or revolver or the ammunition.

Division VI – Records Kept By Commissioner – Confidentiality

Requires all personally identifiable information on holders of non-professional permits to carry weapons and permits to acquire firearms to be kept confidential. This includes, but is not necessarily limited to, the name, social security number, date of birth, residential or business address, driver's license, or other identification number of the applicant or permit holder.

Any release of personally identifiable information requires a court order or consent of the person who holds the permit.

Law enforcement and employers that require employees to possess a professional permit to carry can still access information on who has a weapons permit. Information can still be released for statistical information, but no identity information can be included.

Division VII – State Preemption

Creates a process for anyone that is adversely affected by an ordinance, measure, enactment, rule, resolution, motion, or policy to file suit to prevent the enforcement of the policy. The court must award reasonable attorney's fees and costs to a prevailing plaintiff in such a suit.

Under current law, a political subdivision is only prohibited from issuing an ordinance regulating the ownership, possession, legal transfer, lawful transportation, registration, or licensing of firearms.

Division VIII – Capitol Buildings and Grounds

Allows the carrying, transportation, or possession of a pistol or revolver in the capitol building and on the grounds surrounding the capitol building, but prohibits a person from openly carrying a pistol or revolver in the capitol building or on the grounds surrounding the capitol building.

Division IX – Emergency Powers

Specifies that the Governor or any other state official cannot prohibit, regulate, or curtail the otherwise lawful possession, carrying, transportation, transfer, or use of firearms or ammunition when a state of public disorder or a state of disaster emergency has been declared. In addition, firearms and ammunition cannot be seized or confiscated in a public emergency. The Governor or any official cannot suspend or revoke a permit to carry weapons, unless allowed by Iowa Code Chapter 724 regulating permits to carry.

Generally, the division does allow for the temporary closure or limitation on the business of selling firearms if those limitations are applied to all businesses in an area.

The bill creates a process where anyone aggrieved by this new provision may seek actual damages, injunctive relief, or any other appropriate redress. The aggrieved person may also make application for the return of any seized or confiscated firearms. If a plaintiff prevails in this action the plaintiff must receive reasonable court costs and attorney fees.

Division X – Justifiable Use of Reasonable and Deadly Force

There is a presumption that deadly force is necessary if the person against whom the force is used is:

- Unlawfully entering any dwelling, place of business, or occupied vehicle of the person using force or stealth or remains in any of these places after unlawfully entering.
- Unlawfully removing or attempting to remove another person against the person's will from the dwelling, place of business, or occupied vehicle of the person using force.

These presumption that deadly force is justified do not apply if the person using deadly force:

- Is engaged in a criminal offense or escaping a criminal offense or the person being removed.
- Is the child or grandchild of the person whom force is used against or the person whom force used against .
- Is a peace officer entering a dwelling, place of employment, or occupied vehicle and the peace officer is performing his or her official duties
- Has the right to be in the dwelling, business, or vehicle.

A person that reasonably believes that a forcible felonies is being or will imminently be perpetrated is justified in using reasonable force, including deadly force, to terminate the perpetration of the felony. Forcible felonies include assault, murder, sexual abuse, kidnapping, robbery, arson, or burglary in the first degree.

The bill expands the current defense of oneself or another to include not just imminent use of unlawful force, but actual use of unlawful force against the person that claims the use of justifiable force.

Removes the requirement that someone must retreat before using reasonable force from anyplace that a person is lawfully present.

Deadly force specifically in the bill does not include a threat to cause serious death or injury by brandishing, displaying, or producing a deadly weapon as long as the actions are to create an expectation that a person may use the force to defend oneself.

Allows a person to be wrong in the estimation of the danger or force necessary as long as there is a reasonable basis for the belief and the person acts reasonably in response to that belief.

Provides for civil liability for anyone found to have used reasonable force in defense of the person or property.

Division XI – Fraudulent Purchase of Firearms or Ammunition

Makes knowingly soliciting, persuading, encouraging, or enticing a licensed firearms dealer or private seller to transfer a firearm or ammunition that the person knows would not be a legal sale of a firearm a class “D” felony. A person that provides materially false information to a licensed firearms dealer or private seller with the intent to deceive the dealer or seller about the legality of the transfer of firearms or ammunition commits a class “D” felony. Anyone that procures another to engage in these acts is guilty of the above crimes. A class “D” felony is punishable by up to five years of incarceration and a fine of up to \$7,500.

There is an exception to these prohibitions for law enforcement acting in the officer’s official capacity or someone acting at the direction of a law enforcement officer.

Division XII – Snowmobiles and All-Terrain Vehicles

Updates changes to carrying a firearm while on a snowmobile or ATV made last legislative session.

Allows a person to ride on a snowmobile or ATV with a loaded pistol or firearm anywhere as long as the person’s conduct is otherwise legal. Current law requires a valid permit to carry and use of a retention holster.

Division XIII – Target Shooting – Private Premises

Allows an owner or tenant of private property, or with the consent of the owner or tenant of private property, to discharge a firearm for purposes of target shooting on those private premises.