



HB 659 / SB 565 Constitutional Carry of a Firearm

Constitutional Carry (Rep. Aaron Bernstine / Sen. Cris Dush) - Overview

Synopsis:

Constitutional Carry removes restrictions for law abiding citizens to possess and carry loaded firearms concealed or openly within the state. This measure also addresses Pennsylvania's restrictive and complicated firearm transportation laws (Title 18, Section 6106). This legislation would retain the LTCF (License To Carry Firearms) as a voluntary process so that citizens could take advantage of reciprocity agreements with other states that provide for citizens to carry concealed firearms.

This was the state of the law in the nation when the Constitution was ratified on 4 March, 1789. Constitutional carry existed in all states for the first four decades of the Republic. Then states and the courts started chipping away at the 2nd Amendment.

20 states have enacted Constitutional Carry:

- | | | | |
|--------------------|-----------------------|--------------------------|-------------------------|
| 1. Vermont* | 6. Kansas (2015) | 11. West Virginia (2016) | 16. Oklahoma (2019) |
| 2. Alaska (2003) | 7. Mississippi (2015) | 12. New Hampshire (2017) | 17. Montana (1991/2021) |
| 3. Arizona (2010) | 8. Maine (2015) | 13. North Dakota (2017) | 18. Iowa (2021) |
| 4. Wyoming (2011) | 9. Missouri (2017) | 14. Kentucky (2019) | 19. Utah (2021) |
| 5. Arkansas (2013) | 10. Idaho (2016) | 15. South Dakota (2019) | 20. Tennessee (2021) |

**(Vermont's Constitutional Carry has been in effect for over 3 decades)*

Vermont, Alaska, Montana and Arizona have had Constitutional Carry the longest. Despite the 'doom and gloom' blather from anti-gun groups, there has been no increase in firearm accidents and violent crime has trended lower after the enactment of these lawsⁱ.

Four of the top 5 safest states in America (Vermont, Maine, Utah and Wyoming) are all ones that provide for Constitutional Carry or firearms without a license or permit. As of 2020, of the top 10 safest states in America SIX are Constitutional Carry statesⁱⁱ.

Constitutional Carry will create a two-tiered system for the lawful carrying of firearms:

- **Option 1** provides citizens the ability to obtain a (LTCF) License To Carry Firearm permit that is valid throughout Pennsylvania and would provide for carrying firearms in other states. Currently 32 states either recognize Pennsylvania LTCF's or there is a reciprocity agreement in effect.
- **Option 2** recognizes that Commonwealth citizens have a fundamental constitutional right to keep and bear arms (Article 1, Section 21) and that no LTCF is required for law abiding citizens to carry a firearm throughout Pennsylvania.

It is a well-known fact that criminals ignore all gun laws now and cannot and do not apply for LTCF permits. The statement (below) by former Philadelphia District Attorney Williams reinforces that reality:

- District Attorney R. Seth Williams said that "85% of the homicides in Philadelphia are caused by handguns, with 99% of those being committed by individuals not licensed to carry and after having obtained the handgun illegally."

Currently in PA, the open carrying of firearms does not require a License to Carry a Firearm (LTCF) for law abiding citizens. This principle acknowledges that Pennsylvanians have a fundamental Constitutional

Firearm Owners Against Crime (FOAC) is non-partisan, non-connected Political Action Committee organized to empower all gun owners, outdoors enthusiasts and supporters of the 2nd Amendment to the Bill of Rights of the U.S. Constitution and Article 1 Section 21 of the PA Constitution with the tools and information necessary to protect this freedom from transgression.

Right to Keep and Bear Arms (Article 1, Section 21 of the PA Constitution). However, once a gun owner, without a LTCF, gets into their vehicle then Pennsylvania's 'restrictive' Firearm Transportation law limits and institutes dangerous burdens to the exercise of the 2nd Amendment. **These burdens include potential prison sentences** for unintentionally violating Title 18, Section 6106.

Since citizens already pass a criminal background check to purchase a firearm and criminals are already prohibited from possession and carrying of a firearm, it is patently absurd to impose a government issued permission slip on citizens. It is constitutionally questionable to add layers of bureaucratic regulations on those who are least likely to commit a crime just because the citizen prefers to carry his weapon concealed.

When one examines the pathetic enforcement of firearms laws, against criminals, for 'carrying firearms without a license', mandating a license to carry firearms 'only' for law abiding citizens quickly falls apart.

The enactment of this legislation into law will benefit citizens exercising their 'right to bear arms' in a number of areas:

- **Transporting firearms** - Currently in Pennsylvania it is a crime to transport a firearm (section 6102 definition/Section 6106) without a license except in four very narrow exceptions in the law unless the individual transporting a firearm has a LTCF license. Stopping to refuel one's vehicle or at a restaurant or even going to a restroom without having a LTCF license puts the unknowing, law abiding citizen in jeopardy of prosecution for a misdemeanor 1 crime.
- **Limit abuses of law-abiding citizens** – recent examples of incidents throughout Pennsylvania (ex. Mark Fiorino/Philadelphia) demonstrates that the licensing process and carrying of firearms by law abiding citizens is rife with problems and institutionalized prejudice.
- **Reform the issuance of LTCF licenses** – a number of urban centers in Pennsylvania have instituted policies and procedures that directly and/or indirectly conflicts with state law (section 6109).
- **This legislation addresses the many problems** encountered in 2020 and 2021 with many authorities stopping the issuance of LTCF licenses due to Covid 19 as well as the repeated problems with the PICS system downtime interfering with LTCF issuance.
- **Removes the exemption for cities of the 1st class** and restates the constitutional premise of equal protections.
- **A CPRC Report**, 'Concealed Carry Permit Holders Across the United States' shows that states which enacted Constitutional Carry had a 33% drop in murder/32% drop in violent crime.

Some of the other states considering constitutional carry are: Colorado, Indiana, Louisiana, Minnesota, Nevada, South Carolina, Texas, Georgia, Ohio, Oregon, Utah, Virginia.

Enacting this measure into law, as the records show from other states examples, will make Pennsylvanians safer, restore citizens' rights, remove bureaucratic impediments and unburden issuing authorities current LTCF process. We respectfully request that you support and co-sponsor HB 659/SB 565, which will reinforce the rights of law-abiding citizens and provide important protections against prosecutorial overreach.

ⁱ CPRC: <https://crimeresearch.org/2017/01/year-will-likely-16-17-states-allow-people-carry-concealed-handguns-without-permit-constitutional-carry/>

ⁱⁱ Wallet Hub: <https://wallethub.com/edu/safest-states-to-live-in/4566>