

## Conceal Carry Shift Briefing

On December 18, 2013, the Illinois State Police started accepting applications from approved instructors for Firearms Concealed Carry Licenses (FCCL).

Upon issuance of the license, a FCCL license holder may lawfully carry a loaded or unloaded handgun, fully concealed or partially concealed, on or about his or her person; and keep or carry a loaded or unloaded concealed firearm on or about his or her person within a vehicle. (430 ILCS 66/10(c))

It is anticipated FCCL applicants will begin receiving licenses in early March 2014. The limited exceptions for out of state residents licensed to carry in their own state are already in effect and are defined more completely below.

Although a "Terry Frisk" is not a full search of a person, it is a seizure which implicates a person's Fourth Amendment rights. Prior to the passage of the Firearms Concealed Carry Act (FCCA), anyone armed with a concealed weapon was considered to be dangerous. A weapon concealed and carried on a person in Illinois cannot automatically be considered contraband. During future interactions with persons carrying concealed weapons within Illinois, officers must be cognizant of the FCCA.

Officers are reminded of the importance of being able to articulate the factors that led them to believe a frisk was necessary to protect themselves and/or others from harm.

A handgun is defined to include any firearm designed to be held and fired by the use of a single hand.

"Concealed" means partially or mostly concealed from view of the public or on or about a person within a vehicle. While the FCCA does not permit open carry, use of the terms "mostly" and "partially concealed" suggest that something less than fully concealed or out of plain view is required.

The FCCA does not provide for reciprocity for out-of-state concealed carry license/permit holders; **however, non-residents may:**

- Apply for an Illinois FCCL if they are from a substantially similar state and can carry under Illinois law if granted an Illinois FCCL; **or**
- In the absence of an Illinois FCCL, transport a concealed firearm within their vehicle in Illinois. Under this provision, the concealed firearm must remain within the vehicle, and the non-resident must be eligible to carry a firearm in public under the laws of his or her state or territory of residence and may not be prohibited from owning or possessing a firearm under federal law. The non-

resident may carry the concealed firearm in the immediate area surrounding his or her vehicle only for the limited purpose of storing or retrieving it within the vehicle's trunk, provided he or she ensures the concealed firearm is unloaded prior to exiting the vehicle.

Any person carrying pursuant to the FCCA who is subject to an investigative stop, including but not limited to a traffic stop, and any occupants within a vehicle that has been stopped, who are carrying pursuant to the FCCA, shall, **upon the request of the officer**, disclose that he or she is in possession of a concealed firearm, present his/her license, and identify the location of the concealed firearm. If a weapon is lawfully possessed, it cannot be seized; however, there may be instances when it should be held or secured for the duration of the encounter with law enforcement. Officers are reminded of the importance of being able to articulate the factors that led the officer to believe securing the weapon was necessary and ensuring the firearm owner understands that the weapon has not been seized, but rather is being held for safety purposes.

Certain locations are prohibited areas where, per the Act, concealed carry is illegal. Prohibited areas listed in the Firearms Concealed Carry Act include, but are not limited to: (See 430 ILCS 66/65 for a complete listing)

- Schools
- Pre-schools or child care facilities
- Government buildings
- Courts
- Detention or correctional facilities
- Hospitals, nursing homes, or mental health facilities
- Buses, trains, or any other public transportation vehicle/facilities
- A business that serves alcohol where more the 50% of the gross receipts in the past 3 months is from alcohol sales
- Any public gathering or special event conducted on property open to the public that requires the issuance of a permit from the unit of local government. This does not apply to a licensee who must walk through a public gathering in order to access his or her residence, place of business, or vehicle
- Any public playground
- Public parks, athletic arenas, or athletic facilities
- Property maintained by the Cook County Forest Preserve
- Any event on a public or private community college, college or university property
- Gaming facilities (Riverboat or Horse Racing)
- Any stadium, arena, or the real property or parking area under the control of a stadium, arena, or any collegiate or professional sporting event.
- Libraries
- Airports
- Amusement parks
- Zoos or museums
- Nuclear plants
- Any areas where firearms are prohibited by federal law

While these places are statutorily prohibited, they must also be posted as a prohibited area using the 4 inch by 6 inch sign approved by the ISP for this purpose. Signs must be clearly and conspicuously posted at the entrance(s) of prohibited areas so as to give reasonable notice to FCCL holders that the property is a prohibited area. This approved sign can be found on the Illinois State Police website.

Further, all prohibited areas, except for the following, are subject to a parking lot exemption:

- property regulated by the federal Nuclear Regulatory Commission, and
- those areas prohibited under federal law

Specifically, licensees may carry into the parking area of all other prohibited locations so long as the firearm is concealed within the vehicle. A licensee may store the firearm in a case within a locked vehicle out of plain view in the prohibited parking area. Further, a licensee may carry in the immediate area surrounding his or her vehicle within a prohibited parking lot area only for the limited purpose of storing or retrieving the firearm from the vehicle's trunk, provided the licensee ensures the concealed firearm is unloaded prior to exiting the vehicle.

Listed below are possible violations of the Act officers may encounter:

- Carrying or concealing a firearm without a valid FCCL
  - o Unlawful use of a weapon (720 ILCS 24-1 through 24-9)
- Expired FCCL (430 ILCS 66/70(c))
- Carrying a handgun not concealed and while a Valid FCCL holder (430 ILCS 66/10(c)(1))
  - o First offense = Class B Misdemeanor
  - o Second and subsequent offense = Class A Misdemeanor
- FCCL not on person when required (430 ILCS 66/10(g))
  - o First offense = Class B Misdemeanor
  - o Second and subsequent offenses = Class A Misdemeanor
- Failure to disclose possession and/or location to law enforcement officer (includes passengers and non-residents). (430 ILCS 66/10(h))
  - o First offense = Class B Misdemeanor
  - o Second and subsequent offenses = Class A Misdemeanor
- Failure to notify ISP of address change (430 ILCS 66/55(a))
  - o Petty offense = \$150.00 fine
- Failure to notify ISP of lost, destroyed or stolen FCCL (430 ILCS 66/55(b))
  - o Petty offense = \$150.00
- Carrying a concealed handgun in a prohibited area (430 ILCS 66/70(e))
  - o First offense = Class B Misdemeanor
  - o Second and subsequent offenses = Class A Misdemeanor

- Carrying a concealed handgun while under the influence of alcohol, drugs or combination thereof (430 ILCS 66/70(d))
  - o First and second offense = Class A Misdemeanor
  - o Third offense = Class 4 Felony
- Possession of a revoked FCCL (430 ILCS 66/70(g))
  - o Class A Misdemeanor
- Teaching FCCL courses without a valid instructor certification (430 ILCS 66/80(b))
  - o Business offense = \$1000 minimum fine

For more information, officers are encouraged to review the Illinois Firearms Concealed Carry Act in its entirety.

Additional ISP mandatory in-service training on concealed carry will be forthcoming within the next 30 days. All sworn personnel are required to attend.