

CHAPTER 4 WEAPONS

[Appeared as rules 2.300 to 2.305 prior to 6/27/79]
 [Rules 4.1, 4.2, 4.4 and 4.7 as appeared prior to 6/27/79 rescinded, 4.3 renumbered as
 11.1 to 11.7, 4.5 renumbered as 12.1 to 12.11, 4.6 renumbered as 13.1 to 13.16]
 [Prior to 4/20/88, see Public Safety Department, 680—Ch 4]

DIVISION I WEAPONS PERMITS

661—4.1(724) Definitions. The following definitions apply to rules 661—4.1(724) to 661—4.50:
 “*Applicant*” means a person who is applying for a permit to acquire pistols or revolvers or to carry weapons.

“*Certified peace officer*” means a person who has been certified by the Iowa law enforcement academy or the commissioner as having successfully completed a course of instruction for a peace officer that has included a firearms training program.

“*Commissioner*” means the commissioner of the Iowa department of public safety or, as applicable, the commissioner’s designee.

“*Completed fingerprint card*” means a standard fingerprint card with two sets (every finger and thumb) of fully rolled fingerprint impressions and all information required to check the Federal Bureau of Investigation (FBI) and Iowa division of criminal investigation (DCI) records for a felony conviction.

“*Identification card*” means any of the following:

1. Nonoperator’s identification card issued by the Iowa department of transportation.
2. Motor vehicle license issued by the Iowa department of transportation.
3. Nonresident motor vehicle license, which is a motor vehicle license issued by a state other than Iowa, presented by an applicant for a nonresident permit to carry weapons.
4. Private investigator or private security officer identification card issued by the Iowa department of public safety.

“*Instructor*” means a person holding a current certificate as a qualified pistol or revolver safety course instructor issued by an organization approved by the commissioner or one of the following:

1. Iowa Law Enforcement Academy.
2. Federal Bureau of Investigation.
3. Iowa Department of Natural Resources.
4. Iowa Department of Public Safety.
5. National Rifle Association.
6. Izaak Walton League.
7. Iowa Law Enforcement Academy Council.
8. U.S. Military or Iowa National Guard.
9. U.S. Department of the Treasury.
10. Iowa Department of Corrections.

“*IOWA system*” means the Iowa on-line warrants and articles criminal justice information system operated by the Iowa department of public safety for use by law enforcement and criminal justice agencies in the exchange of criminal history and other criminal justice information.

“*NICS*” means the National Instant Criminal Background Check System established by the Federal Bureau of Investigation for the purpose of determining whether the transfer of a firearm to any person would be in violation of federal or state law. A NICS check shall include inquiries to the Iowa computerized criminal history database and the Iowa on-line warrants and articles (IOWA) system persons file.

“*Qualify on a firing range*” means to fire live ammunition from a pistol or revolver and, while firing under supervision on a firing range, to achieve a score of at least 60 percent after firing ten consecutive rounds at 50 feet on a B-3 bullseye target or ten consecutive rounds at 25 yards on a B-13 bullseye target; to successfully complete the FBI Practical Pistol Course, the FBI Tactical Revolver Course or a National Rifle Association Police Handgun Course or; to successfully complete any other similar course approved by the commissioner.

“*Reasonable justification for a nonprofessional permit to carry a weapon*” means a written statement that contains clear and convincing evidence that the applicant needs to go armed.

“*Reasonable justification for a professional permit to carry a weapon*” means a written statement that contains clear and convincing evidence that the applicant is likely to be required to use deadly force to protect the applicant’s life or the life of another.

“*State employee*” means those whose need to go armed arises out of employment by the state of Iowa and includes railroad special agents as described in Iowa Code chapter 80.

This rule is intended to implement Iowa Code sections 724.6, 724.7, and 724.9 to 724.11.

661—4.2(17A,724) Forms.

4.2(1) *Required forms.* These rules require the use of the following forms that are available from the commissioner or a sheriff.

4.2(2) *Form WP0.* For enrollment in a training program and for certification of the successful completion of the training program.

4.2(3) *Form WP1.* Professional permit to carry weapons.

4.2(4) *Form WP2.* Nonprofessional permit to carry weapons.

4.2(5) *Form WP3.* Application for annual permit to acquire pistols or revolvers.

4.2(6) *Form WP4.* Annual permit to acquire pistols or revolvers.

4.2(7) *Form WP5.* Application for permit to carry weapons.

4.2(8) *Form WP6.* Notification to a person holding a permit to carry weapons or an annual permit to acquire pistols or revolvers that the permit has been revoked or canceled.

4.2(9) *Form WP7.* Certified peace officer permit to carry weapons.

4.2(10) *Form WP8.* Certified peace officer or correctional officer permit to carry weapons.

4.2(11) *Form WP9.* Correctional officer permit to carry weapons.

4.2(12) *Form WP10.* Reserve peace officer permit to carry weapons.

4.2(13) *Form WP11.* Certified peace officer authorization to obtain weapon permit identification card from the Iowa department of transportation.

4.2(14) *Form WP12.* Iowa state patrol identification card and permit to carry weapons.

4.2(15) *Form WP13.* Capitol police identification card and permit to carry weapons.

4.2(16) *Form WP14.* Division of criminal investigation identification card and permit to carry weapons.

4.2(17) *Form WP15.* Division of narcotics enforcement identification card and permit to carry weapons.

4.2(18) *Form WP16.* State fire marshal identification card and permit to carry weapons.

This rule is intended to implement Iowa Code sections 724.6, 724.7, 724.9, 724.10, 724.15, 724.17 and 724.19.

661—4.3(17A,724) Training programs.

4.3(1) The Iowa Code requires all applicants to successfully complete a training program designed to qualify persons in the safe use of firearms and the Iowa Code requires that the commissioner approve all training programs.

4.3(2) The commissioner has developed two programs, one for professional and one for nonprofessional applicants. Both programs include a minimum four-hour course of instruction using a written curriculum, an instructor and an examination. The program for professional applicants includes an additional requirement that the applicant qualify on a firing range.

4.3(3) An applicant will be considered to have successfully completed a training program after the applicant has attended the course, conducted by an instructor, for a minimum of four hours, attained a score of at least 70 percent on the written examination and, when required, qualified on a firing range.

4.3(4) Anyone wishing to sponsor or offer a training program may use the programs developed by the commissioner. Another program may be approved by the commissioner if it is substantially similar to or exceeds the requirements of these programs. A copy of these programs may be obtained from the commissioner or any county sheriff.

4.3(5) To obtain the commissioner's approval of a program, including those programs developed by the commissioner, a private organization or other agency must first submit the program to, and receive approval of, the county sheriff in the county in which the program will be offered.

4.3(6) The sheriff may obtain approval by the commissioner of a program to be conducted by the sheriff, private organization or agency by submitting a copy of the program (or a statement that the program developed by the commissioner will be used) to the commissioner. The commissioner may require additional information before approval is granted. Approval of a program will be issued to the submitting sheriff in the form of a letter.

4.3(7) The commissioner may direct an inspection of any program while being conducted to ensure continued compliance with minimum standards.

This rule is intended to implement Iowa Code section 724.9.

661—4.4(17A,724) Applicant procedures.

4.4(1) Residents of Iowa who wish to obtain a permit to carry weapons shall apply to the sheriff of the county of their residence. The applicant shall:

- a.* Submit a fully and accurately completed application;
- b.* Submit a certificate of completion, except a certified peace officer, of a training program;
- c.* If so requested by the sheriff, submit two completed fingerprint cards;
- d.* Comply with the requirements of the Code;
- e.* Pay a fee as established by the Code; and
- f.* Display an identification card as defined in rule 661—4.1(724).

4.4(2) The sheriff may use discretion in determining whether or not to issue the permit. Prior to issuing the permit, the sheriff shall determine that the applicant is not a convicted felon, or otherwise prohibited from possessing or acquiring a firearm under either Iowa or federal law, by running a NICS check through the IOWA system. The sheriff may restrict or limit the authority of professional and nonprofessional permits.

4.4(3) Residents who wish to renew the permit to carry weapons shall comply with the renewal procedures established by the sheriff, which may include a training program, an examination or qualification on a firing range and shall pay a fee established by the Iowa Code.

4.4(4) Nonresidents of Iowa who wish to obtain a permit to carry weapons shall apply to the commissioner. The applicant shall:

- a.* Submit a fully and accurately completed application;
- b.* Submit a certificate of completion of a training program that includes qualifying on a firing range;
- c.* Submit two completed fingerprint cards;
- d.* Comply with the requirements of the Code;
- e.* Pay a fee as established by the Code;
- f.* Display an identification card as defined in rule 661—4.1(724).

4.4(5) Prior to issuing the permit, the commissioner shall determine that the applicant is not a convicted felon, or otherwise prohibited from possessing or acquiring a firearm under either Iowa or federal law, by running a NICS check through the IOWA system. If the commissioner determines that a permit will be issued to a nonresident, the commissioner may restrict or limit the authority granted by the permit.

4.4(6) Nonresidents who wish to renew a permit to carry weapons shall reapply for the permit in the same manner and by the same procedures as provided in subrule 4.4(4). The renewal fee is established by the Code.

4.4(7) State employees who are required by their employment to go armed shall apply to the commissioner for a permit. The applicant shall:

- a. Submit a fully and accurately completed application;
- b. Submit a certification of completion of a training program, except a certified peace officer, that includes qualifying on a firing range;
- c. Unless a certified peace officer, submit two completed fingerprint cards;
- d. Comply with the requirements of the Code;
- e. Pay a fee as established by the Code; and
- f. Display an identification card as defined in rule 661—4.1(724).

4.4(8) If the commissioner determines that a permit will be issued to a state employee, the commissioner may restrict or limit the authority granted by the permit.

4.4(9) State employees who wish to renew the permit to carry weapons shall reapply for the permit in the same manner and by the same procedure as provided in 4.4(7).

This rule is intended to implement Iowa Code sections 724.6, 724.7 and 724.11.

661—4.5(17A,724) Firearm purchase or transfer.

4.5(1) The application for an annual permit to acquire pistols or revolvers shall be made to the sheriff of the county of the applicant's residence. The applicant shall:

- a. Submit a fully completed application form;
- b. If requested by the sheriff, submit two completed fingerprint cards; and
- c. Display an identification card as defined in rule 661—4.1(17A,724).

4.5(2) Prior to issuing the permit to acquire pistols or revolvers, the sheriff shall determine that the applicant is not a convicted felon, or otherwise prohibited from possessing or acquiring a firearm under either Iowa or federal law, by running a NICS check through the IOWA system.

4.5(3) The annual permit to acquire pistols or revolvers shall be issued to the person applying for the permit immediately upon submission to the sheriff of the completed application and determination by the sheriff that the applicant is not a convicted felon.

This rule is intended to implement Iowa Code sections 724.15, 724.17 and 724.19.

661—4.6(17A,724) Reports and remittance to the state.

4.6(1) Each sheriff shall remit to the commissioner, by the seventh working day of the month which follows the month in which a permit to carry a weapon was issued, those fees and portions of fees as required by the Iowa Code.

4.6(2) These fees shall be remitted by the sheriff by a check made payable to: Iowa Department of Public Safety.

4.6(3) A copy of each permit to carry shall be sent to the commissioner.

4.6(4) Rescinded IAB 5/11/94, effective 6/15/94.

4.6(5) A copy of a revocation/cancellation of a permit to carry/annual permit to acquire pistols or revolvers shall be sent to the commissioner by the sheriff within seven working days from the date the permit holder received notification of the permit revocation or cancellation.

661—4.7(17A,724) Offensive weapons as collector's items—methods of classification. An offensive weapon shall be classified by the commissioner as a collector's item based on either of the following methods:

4.7(1) When the firearm is designated as a curio or relic by the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms and recognized by the commissioner as a collector's item.

4.7(2) When written application to the commissioner is made, and the commissioner has determined, after review and study, that the offensive weapon is a collector's item.

661—4.8(17A,724) Federal list of firearms. All firearms, which appear on the following list published by the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms are recognized by the commissioner as collector's items:

4.8(1) The Firearms Curios and Relics List, 1990 edition, Sections II, III, IIIA, and IV, as published by the United States Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, in publication "ATF P 5300.11(12/89)."

4.8(2) Reserved.

661—4.9(17A,724) Current list maintained. The commissioner shall maintain a list which contains all offensive weapons currently recognized as collector's items. The list shall be based upon two sources:

4.9(1) The current list of updates promulgated by the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms as identified in subrule 4.8(1).

4.9(2) Any additional firearms not appearing on the federal list, but which the commissioner has recognized to be collector's items.

4.9(3) The lists are available without cost by writing or contacting the Iowa Department of Public Safety, Field Services Bureau, Wallace State Office Building, Des Moines, Iowa 50319-0045, or calling (515)281-7610, or by electronic mail via the Internet at wpinfo@dps.state.ia.us.

661—4.10(17A,724) Application to the commissioner. Any firearm which does not appear on the federal list recognized by the commissioner may be classified as collector's items by making application to the Commissioner of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319. Such application shall be in letter form and shall include (but not be limited to) the following:

4.10(1) Complete physical description of the firearm, including its age and caliber.

4.10(2) All reasons why the applicant believes the firearm in question merits classification as a collector's item.

4.10(3) Supporting data (if any) concerning the history of the firearm, including any available production figures, and the current market value of the firearm.

661—4.11(17A,724) Basis for certification. If a person applies to the commissioner to obtain a collector's item certification, the firearm must meet at least one of the following requirements:

4.11(1) The firearm must have been manufactured at least 50 years prior to the current date, but not including replicas thereof.

4.11(2) The firearm must be certified by the curator of a municipal, state or federal museum which exhibits firearms to be curios or relics of museum interest.

4.11(3) The firearm must derive a substantial part of its monetary value from the fact that it is novel, rare or bizarre, or from the fact of its association with some historical figure, period or event.

661—4.12(17A,724) Use of the Firearms Classification Panel. The commissioner may submit application seeking collector's item classification to the Firearms Classification Panel, located within the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms.

4.12(1) If the commissioner submits application to the Firearms Classification Panel, no firearm shall be designated as a collector's item until the commissioner has received a recommendation from the panel.

4.12(2) The commissioner, however, is not bound to any recommendation from the Firearms Classification Panel.

These rules are intended to implement Iowa Code sections 724.1, 724.6, 724.7, 724.11, 724.13 and 724.15.

661—4.13 to 4.50 Reserved.

DIVISION II
DISPOSITION OF SEIZED AND FORFEITED WEAPONS AND AMMUNITION

661—4.51(809A) Definitions. The following definitions apply to rules 661—4.51(809A) to 661—4.99:

"Ammunition reference file" is the physical collection of ammunition collected and maintained by the division of criminal investigation criminalistics laboratory for testing and evaluation purposes.

"Firearms inventory" is a listing of firearms received, collected, maintained, and disposed of by the division of criminal investigation criminalistics laboratory and of transactions regarding firearms completed by the laboratory. Firearms in the temporary custody of the laboratory for evidentiary examination are not included in the inventory.

"Firearms reference file" is the physical collection of firearms collected and maintained by the division of criminal investigation criminalistics laboratory for comparison and identification purposes.

"Law enforcement purpose" means use by a peace officer in the execution of the officer's duties or use in training of peace officers or training offered by law enforcement agencies to peace officers or other persons.

661—4.52(809A) Ammunition and firearms. The division of criminal investigation criminalistics laboratory shall examine and evaluate all firearms and ammunition submitted to the laboratory pursuant to Iowa Code section 809A.17. All firearms submitted to the laboratory shall be evaluated and disposed of as provided in Iowa Code sections 809.21 and 809A.17 and these rules. Any ammunition submitted to the laboratory shall be entered into the laboratory's ammunition reference file and may be utilized by the laboratory for testing and evaluation purposes.

661—4.53(809A) Firearms inventory. There is established a continuous firearms inventory in the division of criminal investigation criminalistics laboratory. All firearms transactions covered by any of the provisions noted herein, other than receipts and returns of weapons for evidentiary examination, shall be recorded as and made a part of the continuous firearms inventory. The inventory shall be updated at least monthly with regard to receipt of firearms and annually with regard to distribution and destruction of firearms. Each individual entry in the inventory shall be maintained for a period of no less than 20 years. Entries in the inventory older than 20 years which do not refer to firearms maintained in the division of criminal investigation criminalistics laboratory firearms reference file may be purged at the discretion of the commissioner of public safety. Inventory entries which refer to firearms retained in the firearms reference file shall be maintained permanently.

661—4.54(809A) Deposit of firearms in the division of criminal investigation criminalistics laboratory reference file. There is established a division of criminal investigation criminalistics laboratory firearms reference file. Firearms submitted to the laboratory, other than firearms submitted solely for evidentiary examination, shall be evaluated as to their possible worth for testing and evaluation purposes. Any firearms deemed useful for such purposes shall be deposited in the firearms reference file.

661—4.55(809A) Disposition of firearms (interstate). Any firearms in the possession of the division of criminal investigation criminalistics laboratory pursuant to Iowa Code section 809A.17 which are not entered into the firearms reference file pursuant to the provisions of rule 661—4.54(809A) shall be evaluated for possible distribution to other crime laboratories.

Any firearms deemed appropriate for distribution to other crime laboratories by the commissioner of public safety may be offered to them. The transfer of these firearms shall be made within one year of evaluation.

661—4.56(809A) Transfer of rifles and shotguns to department of natural resources. Any rifles or shotguns in the possession of the division of criminal investigation criminalistics laboratory pursuant to Iowa Code section 809A.17 which are not entered in the firearms reference file pursuant to rule 661—4.54(809A) or distributed to other crime laboratories pursuant to rule 661—4.55(809A) may be transferred to the Iowa department of natural resources for disposition according to the rules of that department.

661—4.57(809A) Disposition of firearms (intrastate). Any firearms not entered in the firearms reference file pursuant to rule 661—4.54(809A) and still in the possession of the division of criminal investigation criminalistics laboratory pursuant to Iowa Code section 809A.17, subsequent to the procedures set out in rules 661—4.55(809A) and 661—4.56(809A), shall be evaluated for usefulness to Iowa law enforcement agencies. Any firearms which are deemed suitable for law enforcement purposes may be distributed to Iowa law enforcement agencies which have made a request for such firearms. This distribution shall be made in accordance with the reasonable needs of the requesting agency as determined by the commissioner of public safety. Firearms received by a law enforcement agency pursuant to this rule are for the internal use of the receiving agency and may not be resold or otherwise distributed outside of the receiving agency, other than to be returned to the division of criminal investigation criminalistics laboratory.

661—4.58(809A) Final disposition and destruction. All firearms in the possession of the division of criminal investigation criminalistics laboratory pursuant to Iowa Code section 809A.17 which are not disposed of by the procedures provided in rules 661—4.52(809A) to 661—4.57(809A) shall be destroyed. Destruction shall be accomplished by grinding and chopping at a scrap metal facility or melt-down at a suitable foundry operation. All destruction shall be supervised and conducted by the staff of the division of criminal investigation criminalistics laboratory with the authorization of the commissioner of public safety. Documentation of the destruction shall be made in the firearms inventory.

661—4.59(809A) Claims. Any disputed claim of ownership or right of possession of a firearm or of ammunition subject to these rules shall be adjudicated in accordance with the procedures regarding contested cases set forth in 661—Chapter 10.

661—4.60 to 4.99 Reserved.

These rules are intended to implement Iowa Code chapter 724 and section 809A.17.

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