

House File 385 - Introduced

HOUSE FILE 385

BY WINDSCHITL

A BILL FOR

1 An Act concerning the carrying and possession of weapons and
2 the acquiring of pistols and revolvers, providing penalties,
3 and including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CARRYING AND POSSESSING WEAPONS

1
2
3 Section 1. Section 232.52, subsection 2, paragraph a,
4 subparagraph (4), subparagraph division (a), subparagraph
5 subdivision (viii), Code 2019, is amended to read as follows:

6 (viii) Section 724.4 if the child used the knife in the
7 commission of a crime on school grounds.

8 Sec. 2. Section 724.2A, Code 2019, is amended to read as
9 follows:

10 **724.2A Peace officer — defined — reserved peace officer**
11 **included.**

12 As used in sections 724.4, 724.6, and 724.11, “*peace officer*”
13 includes a reserve peace officer as defined in section 80D.1A.

14 Sec. 3. Section 724.4, Code 2019, is amended by striking the
15 section and inserting in lieu thereof the following:

16 **724.4 Use of knife in the commission of a crime.**

17 A person who goes armed with a knife on or about the person,
18 if the person uses the knife in the commission of a crime,
19 commits an aggravated misdemeanor.

20 Sec. 4. Section 724.4B, subsection 2, Code 2019, is amended
21 to read as follows:

22 2. Subsection 1 does not apply to the following:

23 ~~a. A person listed under section 724.4, subsection 4,~~
24 ~~paragraphs “b” through “f” or “j”.~~

25 ~~b. a.~~ A person who has been specifically authorized by
26 the school to go armed with, carry, or transport a firearm on
27 the school grounds, including for purposes of conducting an
28 instructional program regarding firearms.

29 ~~e. b.~~ A licensee under chapter 80A or an employee of
30 such a licensee, while the licensee or employee is engaged in
31 the performance of duties, and if the licensee or employee
32 possesses a valid professional or nonprofessional permit to
33 carry weapons issued pursuant to this chapter.

34 c. A member of the armed forces of the United States or
35 of the national guard or person in the service of the United

1 States, when the weapons are carried in connection with the
2 person's duties as such.

3 d. A correctional officer, when the officer's duties
4 require, serving under the authority of the Iowa department of
5 corrections.

6 e. A person who for any lawful purpose carries an unloaded
7 pistol, revolver, or other firearm inside a closed and fastened
8 container or securely wrapped package which is too large to be
9 concealed on the person.

10 f. A person who for any lawful purpose carries or transports
11 an unloaded pistol, revolver, or other firearm in a vehicle
12 inside a closed and fastened container or securely wrapped
13 package which is too large to be concealed on the person
14 or inside a cargo or luggage compartment where the pistol,
15 revolver, or other firearm will not be readily accessible to
16 any person riding in the vehicle or common carrier.

17 g. A law enforcement officer from another state when the
18 officer's duties require the officer to carry the weapon and
19 the officer is in this state for any of the following reasons:

20 (1) The extradition or other lawful removal of a prisoner
21 from this state.

22 (2) Pursuit of a suspect in compliance with chapter 806.

23 (3) Activities in the capacity of a law enforcement officer
24 with the knowledge and consent of the chief of police of the
25 city or the sheriff of the county in which the activities occur
26 or of the commissioner of public safety.

27 h. A person who has in the person's possession a valid
28 permit to carry weapons issued pursuant to section 724.7 who
29 remains on the portion of the grounds of the school that
30 comprise its driveways, parking lots, and sidewalks while
31 going armed with, carrying, or transporting a concealed pistol
32 or revolver. A school shall be immune from any claim, cause
33 of action, or lawsuit by a person seeking damages that are
34 alleged, directly or indirectly, as a result of any concealed
35 pistol or revolver brought onto the grounds of a school by a

1 person pursuant to this paragraph.

2 Sec. 5. Section 724.5, Code 2019, is amended by striking the
3 section and inserting in lieu thereof the following:

4 **724.5 Availability of permit not to be construed as**
5 **prohibition on unlicensed carrying of weapons.**

6 The availability of a professional or nonprofessional permit
7 to carry weapons under this chapter shall not be construed
8 to impose a general prohibition on the unlicensed carrying,
9 whether openly or concealed, of a deadly weapon, including a
10 loaded firearm.

11 DIVISION II

12 ACQUIRING PISTOLS AND REVOLVERS AND PROHIBITED TRANSFERS

13 Sec. 6. Section 724.15, Code 2019, is amended to read as
14 follows:

15 **724.15 ~~Permit to acquire~~ Acquiring pistols or revolvers —**
16 **permits.**

17 1. It is the intent of this section to satisfy the federal
18 requirements of 18 U.S.C. §922(t)(3) in order to acquire
19 pistols or revolvers from a federally licensed firearms dealer.
20 In order to acquire a pistol or revolver from a federally
21 licensed firearms dealer, a person is required to have a valid
22 permit to carry weapons or a valid permit to acquire pistols
23 or revolvers issued in accordance with this chapter or the
24 person must complete a satisfactory national instant criminal
25 background check pursuant to 18 U.S.C. §922(t).

26 ~~1. 2. a. Any person who desires to acquire ownership of~~
27 ~~any pistol or revolver shall first obtain a permit. A permit~~
28 ~~to acquire ownership of any pistol or revolver shall be issued~~
29 ~~upon request to any resident of this state unless the person is~~
30 ~~subject to any of the following:~~

31 ~~a. (1) Is less than twenty-one years of age.~~

32 ~~b. (2) Is subject to the provisions of [section 724.26](#).~~

33 ~~c. (3) Is prohibited by federal law from shipping,~~
34 ~~transporting, possessing, or receiving a firearm.~~

35 ~~2. Any person who acquires ownership of a pistol or~~

1 ~~revolver shall not be required to obtain a permit if any of the~~
2 ~~following apply:~~

3 ~~a. The person transferring the pistol or revolver and the~~
4 ~~person acquiring the pistol or revolver are licensed firearms~~
5 ~~dealers under federal law.~~

6 ~~b. The pistol or revolver acquired is an antique firearm, a~~
7 ~~collector's item, a device which is not designed or redesigned~~
8 ~~for use as a weapon, a device which is designed solely for use~~
9 ~~as a signaling, pyrotechnic, line-throwing, safety, or similar~~
10 ~~device, or a firearm which is unserviceable by reason of being~~
11 ~~unable to discharge a shot by means of an explosive and is~~
12 ~~incapable of being readily restored to a firing condition.~~

13 ~~c. The person acquiring the pistol or revolver is authorized~~
14 ~~to do so on behalf of a law enforcement agency.~~

15 ~~d. The person has obtained a valid permit to carry weapons,~~
16 ~~as provided in [section 724.11](#).~~

17 ~~e. The person transferring the pistol or revolver and the~~
18 ~~person acquiring the pistol or revolver are related to one~~
19 ~~another within the second degree of consanguinity or affinity~~
20 ~~unless the person transferring the pistol or revolver knows~~
21 ~~that the person acquiring the pistol or revolver would be~~
22 ~~disqualified from obtaining a permit.~~

23 ~~3. b. The permit to acquire pistols or revolvers shall~~
24 ~~authorize the permit holder to acquire one or more pistols or~~
25 ~~revolvers during the period that the permit remains valid. If~~
26 ~~the issuing officer determines that the applicant has become~~
27 ~~disqualified under the provisions of [subsection 1](#) paragraph~~
28 ~~"a", the issuing officer may immediately revoke the permit~~
29 ~~and shall provide a written statement of the reasons for~~
30 ~~revocation, and the applicant shall have the right to appeal~~
31 ~~the revocation as provided in [section 724.21A](#).~~

32 ~~4. c. An issuing officer who finds that a person issued~~
33 ~~a permit to acquire pistols or revolvers under [this chapter](#)~~
34 ~~has been arrested for a disqualifying offense or who is~~
35 ~~the subject of proceedings that could lead to the person's~~

1 ineligibility for such permit may immediately suspend such
2 permit. An issuing officer proceeding under [this subsection](#)
3 shall immediately notify the permit holder of the suspension
4 by personal service or certified mail on a form prescribed
5 and published by the commissioner of public safety and the
6 suspension shall become effective upon the permit holder's
7 receipt of such notice. If the suspension is based on an
8 arrest or a proceeding that does not result in a disqualifying
9 conviction or finding against the permit holder, the issuing
10 officer shall immediately reinstate the permit upon receipt
11 of proof of the matter's final disposition. If the arrest
12 leads to a disqualifying conviction or the proceedings to a
13 disqualifying finding, the issuing officer shall revoke the
14 permit. The issuing officer may also revoke the permit of a
15 person whom the issuing officer later finds was not qualified
16 for such a permit at the time of issuance or who the officer
17 finds provided materially false information on the permit
18 application. A person aggrieved by a suspension or revocation
19 under [this subsection](#) may seek review of the decision pursuant
20 to [section 724.21A](#).

21 Sec. 7. Section 724.16, Code 2019, is amended to read as
22 follows:

23 ~~724.16 Permit to acquire required — transfer prohibited~~
24 Pistols and revolvers — acquiring and transferring prohibitions.

25 ~~1. Except as otherwise provided in section 724.15,~~
26 ~~subsection 2, a~~ A person who acquires ownership of a pistol or
27 revolver without a valid permit to acquire pistols or revolvers
28 or a person who transfers ownership of a pistol or revolver
29 to a person who does not have in the person's possession a
30 valid permit to acquire pistols or revolvers from a federally
31 licensed firearms dealer in violation of section 724.15,
32 subsection 1, is guilty of an aggravated misdemeanor.

33 ~~2. A person who transfers~~ Prior to transferring ownership
34 of a pistol or revolver to a person that the transferor knows
35 is prohibited by [section 724.15](#) from acquiring ownership of

1 ~~a pistol or revolver~~, the transferor shall verify that the
2 transferee has passed a background check with the national
3 instant criminal background check system maintained by the
4 federal bureau of investigation or any successor agency. A
5 person who transfers ownership of a pistol or revolver in
6 violation of this subsection commits a class "D" felony. This
7 subsection shall not apply to any of the following:

8 a. The person transferring the pistol or revolver and the
9 person acquiring the pistol or revolver are related to one
10 another within the second degree of consanguinity or affinity.

11 b. The person transferring the pistol or revolver and the
12 person acquiring the pistol or revolver are licensed firearms
13 dealers under federal law.

14 c. The pistol or revolver acquired is an antique firearm, a
15 collector's item, a device which is not designed or redesigned
16 for use as a weapon, a device which is designed solely for use
17 as a signaling pyrotechnic, line-throwing, safety, or similar
18 device, or a firearm which is unserviceable by reason of being
19 unable to discharge a shot by means of an explosive and is
20 incapable of being readily restored to a firing condition.

21 d. The person acquiring the pistol or revolver is authorized
22 to do so on behalf of a law enforcement agency.

23 e. The person acquiring the pistol or revolver has obtained
24 a valid permit to carry weapons, pursuant to section 724.11
25 or a valid permit to acquire pistols or revolvers pursuant to
26 section 724.15, subsection 2, paragraph "a".

27 Sec. 8. Section 724.21, Code 2019, is amended to read as
28 follows:

29 **724.21 Giving false information when acquiring pistol or**
30 **revolver.**

31 A person who gives a false name or presents false
32 identification, or otherwise knowingly gives false material
33 information to one from whom the person seeks to acquire a
34 pistol or revolver, commits a class "D" "C" felony.

35 Sec. 9. Section 724.27, subsection 1, unnumbered paragraph

1 1, Code 2019, is amended to read as follows:

2 The provisions of [section 724.8](#), section 724.15, subsection
3 [± 2](#), paragraph "a", and [section 724.26](#) shall not apply to
4 a person who is eligible to have the person's civil rights
5 regarding firearms restored under [section 914.7](#) if any of the
6 following occur:

7 DIVISION III

8 EFFECTIVE DATE

9 Sec. 10. EFFECTIVE UPON ENACTMENT. This Act, being deemed
10 of immediate importance, takes effect upon enactment.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill relates to the carrying and possession of weapons
15 and the acquiring of pistols and revolvers.

16 DIVISION I — CARRYING AND POSSESSING WEAPONS. The bill
17 strikes Code section 724.4 relating to the crime of carrying
18 dangerous weapons, an aggravated misdemeanor, without a valid
19 permit or in other enumerated circumstances. Instead, the
20 bill amends the crime of going armed with a knife in the
21 commission of a crime, an aggravated misdemeanor. The bill
22 amends Code section 232.52(2), by allowing a juvenile court to
23 enter a dispositional order suspending or revoking a child's
24 driver's license or operating privilege where the child commits
25 a delinquent act in violation of Code section 724.4 and the
26 commission of the delinquent act is on school grounds. The
27 bill also makes conforming changes to Code section 724.4B,
28 relating to the carrying of weapons on school grounds, by
29 specifically identifying certain categories of persons who
30 are authorized to carry weapons on school grounds that were
31 previously identified by reference to Code section 724.4(4),
32 paragraphs "b" through "f" or "j," however, the bill modifies
33 paragraphs "e" and "f" by referring to an unloaded pistol,
34 revolver, or other firearm.

35 The bill adds a new category of persons who are authorized

1 to carry certain weapons on school grounds. The bill provides
2 that a person does not commit the criminal offense of carrying
3 firearms on school grounds in violation of Code section
4 724.4B if the person goes armed with, carries, or transports a
5 concealed pistol or revolver and possesses a valid permit to
6 carry weapons while remaining on the portion of the grounds
7 that comprise the driveways, parking lots, and sidewalks of a
8 school. The bill also provides that a school is immune from
9 any claim, cause of action, or lawsuit seeking damages alleged
10 as a result of a concealed pistol or revolver brought onto the
11 grounds of the school by a person possessing a valid permit to
12 carry weapons who remains on the portion of the grounds that
13 comprise the driveways, parking lots, and sidewalks of the
14 school.

15 The bill strikes Code section 724.5 relating to a person's
16 duty to carry a valid permit to carry certain weapons for
17 which a permit has been issued to the person and replaces that
18 Code section with a provision stating that the availability
19 of a professional or nonprofessional permit to carry weapons
20 shall not be construed to impose a general prohibition on the
21 unlicensed carrying of a deadly weapon including a loaded
22 firearm.

23 DIVISION II — ACQUIRING PISTOLS AND REVOLVERS AND
24 PROHIBITED TRANSFERS. Code section 724.15 currently provides
25 that any person who intends to purchase a pistol or revolver
26 is required to first obtain a permit to acquire pistols or
27 revolvers unless the person is otherwise exempt from obtaining
28 such a permit. The bill strikes this requirement and provides
29 that a person may still apply and obtain a permit to acquire
30 ownership of pistols or revolvers. The bill also provides
31 that to acquire a pistol or revolver from a federally licensed
32 firearms dealer, a person is required to have a valid permit to
33 carry weapons or a valid permit to acquire pistols or revolvers
34 issued in accordance with Code chapter 724, or the person must
35 complete a satisfactory national instant criminal background

1 check pursuant to 18 U.S.C. §922(t)(3).

2 The bill provides that a person who acquires ownership of a
3 pistol or revolver from a federally licensed firearms dealer
4 in violation of Code section 724.15 is guilty of an aggravated
5 misdemeanor. The bill amends Code section 724.16(2) by
6 providing that if, prior to any person transferring ownership
7 of a pistol or revolver to another person, the transferor fails
8 to verify that the transferee has passed a background check
9 with the national instant criminal background check system, the
10 transferor commits a class "D" felony. The background check
11 required pursuant to Code section 724.16 does not apply if the
12 transferor and transferee are related to one another within the
13 second degree of consanguinity or affinity; the transferor and
14 transferee are licensed firearms dealers under federal law; the
15 pistol or revolver is an antique firearm, collector's item, not
16 designed for use as a weapon, or unserviceable; the transferee
17 acquiring the pistol or revolver is authorized on behalf of a
18 law enforcement agency; or the transferee has obtained a valid
19 permit to carry weapons or a valid permit to acquire pistols
20 or revolvers.

21 The bill amends Code section 724.21 by increasing the
22 penalty for a person who gives a false name or presents false
23 identification or who otherwise knowingly gives false material
24 information to one from whom the person seeks to acquire a
25 pistol or revolver from a class "D" felony to a class "C"
26 felony.

27 The bill provides a conforming change to Code section 724.27
28 (offenders' rights restored).

29 As referenced in the bill, an aggravated misdemeanor is
30 punishable by confinement for no more than two years and a fine
31 of at least \$625 but not more than \$6,250, a class "D" felony
32 is punishable by confinement for no more than five years and a
33 fine of at least \$750 but not more than \$7,500, and a class "C"
34 felony is punishable by confinement for no more than 10 years
35 and a fine of at least \$1,000 but not more than \$10,000.

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1 The bill takes effect upon enactment.