

CHAPTER 624

CRIMES, OTHER PROVISIONS

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624.20 FIREWORKS.

Subdivision 1. (a) As used in sections 624.20 to 624.25, the term “fireworks” means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other than those specified in paragraph (c), or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks.

(b) The term “fireworks” shall not include toy pistols, toy guns, in which paper caps containing 25/100 grains or less of explosive compound are used and toy pistol caps which contain less than 20/100 grains of explosive mixture.

(c) The term also does not include wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture. The use of items listed in this paragraph is not permitted on public property. This paragraph does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this paragraph must be verified by photographic identification.

(d) A local unit of government may impose an annual license fee for the retail sale of items authorized under paragraph (c). The annual license fee of each retail seller that is in the business of selling only the items authorized under paragraph (c) may not exceed \$350, and the annual license of each other retail seller may not exceed \$100. A local unit of government may not:

(1) impose any fee or charge, other than the fee authorized by this paragraph, on the retail sale of items authorized under paragraph (c);

(2) prohibit or restrict the display of items for permanent or temporary retail sale authorized under paragraph (c) that comply with National Fire Protection Association Standard 1124 (2003 edition); or

(3) impose on a retail seller any financial guarantee requirements, including bonding or insurance provisions, containing restrictions or conditions not imposed on the same basis on all other business licensees.

[For text of subd 2, see M.S.2002]

History: 2003 c 128 art 15 s 6

624.22 FIREWORKS DISPLAYS; PERMIT; OPERATOR CERTIFICATION.

Subdivision 1. **General requirements; permit; investigation; fee.** (a) Sections 624.20 to 624.25 do not prohibit the supervised display of fireworks by a statutory or home rule charter city, fair association, amusement park, or other organization, except that:

(1) a fireworks display may be conducted only when supervised by an operator certified by the state fire marshal; and

(2) a fireworks display must either be given by a municipality or fair association within its own limits, or by any other organization, whether public or private, only after a permit for the display has first been secured.

(b) An application for a permit for an outdoor fireworks display must be made in writing to the municipal clerk at least 15 days in advance of the date of the display and must list the name of an operator who is certified by the state fire marshal and will supervise the display. The application must be promptly referred to the chief of the fire department, who shall make an investigation to determine whether the operator of the display is competent and is certified by the state fire marshal, and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The fire chief shall report the results of this investigation to the clerk. If the fire chief reports that the operator is certified, that in the chief's opinion the operator is competent, and that the fireworks display as planned will conform to the safety guidelines of the state fire marshal provided for in paragraph (f), the clerk shall issue a permit for the display when the applicant pays a permit fee.

(c) When the supervised outdoor fireworks display for which a permit is sought is to be held outside the limits of an incorporated municipality, the application must be made to the county auditor, and the auditor shall perform duties imposed by sections 624.20 to 624.25 upon the clerk of the municipality. When an application is made to the auditor, the county sheriff shall perform the duties imposed on the fire chief of the municipality by sections 624.20 to 624.25.

(d) An application for an indoor fireworks display permit must be made in writing to the state fire marshal by the operator of the facility in which the display is to occur at least 15 days in advance of the date of any performance, show, or event which will include the discharge of fireworks inside a building or structure. The application must list the name of an operator who is certified by the state fire marshal and will supervise the display. The state fire marshal shall make an investigation to determine whether the operator of the display is competent and is properly certified and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. If the state fire marshal determines that the operator is certified and competent, that the indoor fireworks display as planned will conform to the safety guidelines provided for in paragraph (f), and that adequate notice will be given to inform patrons of the indoor fireworks display, the state fire marshal shall issue a permit for the display when the applicant pays an indoor fireworks fee of \$150 and reimburses the fire marshal for costs of inspection. Receipts from the indoor fireworks fee and inspection reimbursements must be deposited in the general fund as a nondedicated receipt. The state fire marshal may issue a single permit for multiple indoor fireworks displays when all of the displays are to take place at the same venue as part of a series of performances by the same performer or group of performers. A copy of the application must be promptly conveyed to the chief of the local fire department, who shall make appropriate preparations to ensure public safety in the vicinity of the display. The operator of a facility where an indoor fireworks display occurs must provide notice in a prominent place as approved by the state fire marshal to inform patrons attending a performance when indoor fireworks will be part of that performance. The state fire marshal may grant a local fire chief the authority to issue permits for indoor fireworks displays. Before issuing a permit, a local fire chief must make the determinations required in this paragraph.

(e) After a permit has been granted under either paragraph (b) or (d), sales, possession, use and distribution of fireworks for a display are lawful for that purpose only. A permit is not transferable.

(f) The state fire marshal shall adopt and disseminate to political subdivisions rules establishing guidelines on fireworks display safety that are consistent with sections 624.20 to 624.25 and the most recent editions of the Minnesota Uniform Fire Code and

the National Fire Protection Association Standards, to insure that fireworks displays are given safely. In the guidelines, the state fire marshal shall allow political subdivisions to exempt the use of relatively safe fireworks for theatrical special effects, ceremonial occasions, and other limited purposes, as determined by the state fire marshal.

[For text of subs 2 to 9, see M.S.2002]

History: *1Sp2003 c 2 art 4, s 28*

624.712 DEFINITIONS.

[For text of subs 1 to 4, see M.S.2002]

Subd. 5. **Crime of violence.** "Crime of violence" means: felony convictions of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.486 (commission of crime while wearing or possessing a bullet-resistant vest); 609.52 (involving theft of a firearm, theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or authorized agent of the owner, theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, and theft involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1, 2, or 3 (burglary in the first through third degrees); 609.66, subdivision 1e (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (harassment and stalking); 609.855, subdivision 5 (shooting at a public transit vehicle or facility); and chapter 152 (drugs, controlled substances); and an attempt to commit any of these offenses.

[For text of subs 6 to 10, see M.S.2002]

Subd. 11. **Commissioner.** "Commissioner" means the commissioner of public safety unless otherwise indicated.

History: *2003 c 28 art 2 s 3; art 3 s 7*

624.713 CERTAIN PERSONS NOT TO HAVE PISTOLS OR SEMIAUTOMATIC MILITARY-STYLE ASSAULT WEAPONS; PENALTY.

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess a pistol or semiautomatic military-style assault weapon or, except for clause (a), any other firearm:

(a) a person under the age of 18 years except that a person under 18 may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety

with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(b) except as otherwise provided in clause (i), a person who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(c) a person who is or has ever been confined in Minnesota or elsewhere as a person who is mentally ill, mentally retarded, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that the person is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or gross misdemeanor violation of chapter 152, or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as chemically dependent as defined in section 253B.02, unless the person has completed treatment. Property rights may not be abated but access may be restricted by the courts;

(f) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(g) a person, including a person under the jurisdiction of the juvenile court, who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed;

(h) except as otherwise provided in clause (i), a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224, subdivision 3, against a family or household member or section 609.2242, subdivision 3, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another state;

(i) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm for the period determined by the sentencing court;

(j) a person who:

(1) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;

(3) is an unlawful user of any controlled substance as defined in chapter 152;

(4) has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, mentally retarded, or mentally ill and dangerous to the public, as defined in section 253B.02;

(5) is an alien who is illegally or unlawfully in the United States;

(6) has been discharged from the Armed Forces of the United States under dishonorable conditions; or

(7) has renounced the person's citizenship having been a citizen of the United States; or

(k) a person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of these sections: section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes of this paragraph, the specified gross misdemeanor convictions include crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state.

A person who issues a certificate pursuant to this subdivision in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

The prohibition in this subdivision relating to the possession of firearms other than pistols and semiautomatic military-style assault weapons does not apply retroactively to persons who are prohibited from possessing a pistol or semiautomatic military-style assault weapon under this subdivision before August 1, 1994.

The lifetime prohibition on possessing, receiving, shipping, or transporting firearms for persons convicted or adjudicated delinquent of a crime of violence in clause (b), applies only to offenders who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993.

[For text of subd 1a, see M.S.2002]

Subd. 2. Penalties. (a) A person named in subdivision 1, clause (a), who possesses a pistol or semiautomatic military-style assault weapon is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) A person named in subdivision 1, clause (b), who possesses any type of firearm is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both. This paragraph does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under section 609.165, subdivision 1d.

(c) A person named in any other clause of subdivision 1 who possesses any type of firearm is guilty of a gross misdemeanor.

Subd. 3. Notice. (a) When a person is convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, a crime of violence as defined in section 624.712, subdivision 5, the court shall inform the defendant that the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon for the remainder of the person's lifetime, and that it is a felony offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol or semiautomatic military-style assault weapon possession prohibition or the felony penalty to that defendant.

(b) When a person, including a person under the jurisdiction of the juvenile court, is charged with committing a crime of violence and is placed in a pretrial diversion program by the court before disposition, the court shall inform the defendant that: (1) the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon until the person has completed the diversion program and the charge of committing a crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this prohibition; and (3) if the defendant violates this condition of participation in the diversion program, the charge of committing a crime of violence may be prosecuted. The failure of the court to provide this information to a defendant

does not affect the applicability of the pistol or semiautomatic military-style assault weapon possession prohibition or the gross misdemeanor penalty to that defendant.

History: 2003 c 28 art 3 s 8-10

624.7131 TRANSFEREE PERMIT; PENALTY.

[For text of subs 1 to 5, see M.S.2002]

Subd. 6. **Permits valid statewide.** Transferee permits issued pursuant to this section are valid statewide and shall expire after one year. A transferee permit may be renewed in the same manner and subject to the same provisions by which the original permit was obtained, except that all renewed permits must comply with the standards adopted by the commissioner under section 624.7151. Permits issued pursuant to this section are not transferable. A person who transfers a permit in violation of this subdivision is guilty of a misdemeanor.

[For text of subs 7 to 12, see M.S.2002]

History: 2003 c 28 art 2 s 34

624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES.

Subdivision 1. [Repealed, 2003 c 28 art 2 s 35]

Subd. 1a. **Permit required; penalty.** A person, other than a peace officer, as defined in section 626.84, subdivision 1, who carries, holds, or possesses a pistol in a motor vehicle, snowmobile, or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place, as defined in section 624.7181, subdivision 1, paragraph (c), without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time is guilty of a felony.

Subd. 1b. **Display of permit; penalty.** (a) The holder of a permit to carry must have the permit card and a driver's license, state identification card, or other government-issued photo identification in immediate possession at all times when carrying a pistol and must display the permit card and identification document upon lawful demand by a peace officer, as defined in section 626.84, subdivision 1. A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to carry the pistol at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

Subd. 2. **Where application made; authority to issue permit; criteria; scope.** (a) Applications by Minnesota residents for permits to carry shall be made to the county sheriff where the applicant resides. Nonresidents, as defined in section 171.01, subdivision 42, may apply to any sheriff.

(b) Unless a sheriff denies a permit under the exception set forth in subdivision 6, paragraph (a), clause (3), a sheriff must issue a permit to an applicant if the person:

- (1) has training in the safe use of a pistol;
- (2) is at least 21 years old and a citizen or a permanent resident of the United States;
- (3) completes an application for a permit;
- (4) is not prohibited from possessing a firearm under the following sections:
 - (i) 518B.01, subdivision 14;
 - (ii) 609.224, subdivision 3;
 - (iii) 609.2242, subdivision 3;

- (iv) 609.749, subdivision 8;
- (v) 624.713;
- (vi) 624.719;
- (vii) 629.715, subdivision 2; or
- (viii) 629.72, subdivision 2; and

(5) is not listed in the criminal gang investigative data system under section 299C.091.

(c) A permit to carry a pistol issued or recognized under this section is a state permit and is effective throughout the state.

(d) A sheriff may contract with a police chief to process permit applications under this section. If a sheriff contracts with a police chief, the sheriff remains the issuing authority and the police chief acts as the sheriff's agent. If a sheriff contracts with a police chief, all of the provisions of this section will apply.

Subd. 2a. Training in the safe use of a pistol. (a) An applicant must present evidence that the applicant received training in the safe use of a pistol within one year of the date of an original or renewal application. Training may be demonstrated by:

- (1) employment as a peace officer in the state of Minnesota within the past year; or
- (2) completion of a firearms safety or training course providing basic training in the safe use of a pistol and conducted by a certified instructor.

(b) Basic training must include:

- (1) instruction in the fundamentals of pistol use;
- (2) successful completion of an actual shooting qualification exercise; and
- (3) instruction in the fundamental legal aspects of pistol possession, carry, and use, including self-defense and the restrictions on the use of deadly force.

(c) A person qualifies as a certified instructor if the person is certified as a firearms instructor within the past five years by:

- (1) the Bureau of Criminal Apprehension, Training and Development Section;
- (2) the Minnesota Association of Law Enforcement Firearms Instructors;
- (3) the National Rifle Association;
- (4) the American Association of Certified Firearms Instructors;
- (5) the Peace Officer Standards and Training Board of this state or a similar agency of another state that certifies firearms instructors; or
- (6) the Department of Public Safety of this state or a similar agency of another state that certifies firearms instructors.

(d) A sheriff must accept the training described in this subdivision as meeting the requirement in subdivision 2, paragraph (b), for training in the safe use of a pistol. A sheriff may also accept other satisfactory evidence of training in the safe use of a pistol.

Subd. 3. Form and contents of application. (a) Applications for permits to carry must be an official, standardized application form, adopted under section 624.7151, and must set forth in writing only the following information:

- (1) the applicant's name, residence, telephone number, if any, and driver's license number or state identification card number;
- (2) the applicant's sex, date of birth, height, weight, and color of eyes and hair, and distinguishing physical characteristics, if any;
- (3) all states of residence of the applicant in the last ten years, though not including specific addresses;
- (4) a statement that the applicant authorizes the release to the sheriff of commitment information about the applicant maintained by the commissioner of human services or any similar agency or department of another state where the applicant has resided, to the extent that the information relates to the applicant's eligibility to possess a firearm; and

(5) a statement by the applicant that, to the best of the applicant's knowledge and belief, the applicant is not prohibited by law from possessing a firearm.

(b) The statement under paragraph (a), clause (4), must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

(c) An applicant must submit to the sheriff an application packet consisting only of the following items:

(1) a completed application form, signed and dated by the applicant;

(2) an accurate photocopy of a certificate, affidavit, or other document that is submitted as the applicant's evidence of training in the safe use of a pistol; and

(3) an accurate photocopy of the applicant's current driver's license, state identification card, or the photo page of the applicant's passport.

(d) In addition to the other application materials, a person who is otherwise ineligible for a permit due to a criminal conviction but who has obtained a pardon or expungement setting aside the conviction, sealing the conviction, or otherwise restoring applicable rights, must submit a copy of the relevant order.

(e) Applications must be submitted in person.

(f) The sheriff may charge a new application processing fee in an amount not to exceed the actual and reasonable direct cost of processing the application or \$100, whichever is less. Of this amount, \$10 must be submitted to the commissioner and deposited into the general fund.

(g) This subdivision prescribes the complete and exclusive set of items an applicant is required to submit in order to apply for a new or renewal permit to carry. The applicant must not be asked or required to submit, voluntarily or involuntarily, any information, fees, or documentation beyond that specifically required by this subdivision. This paragraph does not apply to alternate training evidence accepted by the sheriff under subdivision 2a, paragraph (d).

(h) Forms for new and renewal applications must be available at all sheriffs' offices and the commissioner must make the forms available on the Internet.

(i) Application forms must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder is or becomes prohibited by law from possessing a firearm. The notice must list the applicable state criminal offenses and civil categories that prohibit a person from possessing a firearm.

(j) Upon receipt of an application packet and any required fee, the sheriff must provide a signed receipt indicating the date of submission.

Subd. 4. Investigation. (a) The sheriff must check, by means of electronic data transfer, criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System and, to the extent necessary, the National Instant Check System. The sheriff shall also make a reasonable effort to check other available and relevant federal, state, or local record-keeping systems. The sheriff must obtain commitment information from the commissioner of human services as provided in section 245.041 or, if the information is reasonably available, as provided by a similar statute from another state.

(b) When an application for a permit is filed under this section, the sheriff must notify the chief of police, if any, of the municipality where the applicant resides. The police chief may provide the sheriff with any information relevant to the issuance of the permit.

(c) The sheriff must conduct a background check by means of electronic data transfer on a permit holder through the Minnesota Crime Information System and, to the extent necessary, the National Instant Check System at least yearly to ensure continuing eligibility. The sheriff may conduct additional background checks by means of electronic data transfer on a permit holder at any time during the period that a permit is in effect.

Subd. 5. [Repealed, 2003 c 28 art 2 s 35]

Subd. 6. **Granting and denial of permits.** (a) The sheriff must, within 30 days after the date of receipt of the application packet described in subdivision 3:

(1) issue the permit to carry;

(2) deny the application for a permit to carry solely on the grounds that the applicant failed to qualify under the criteria described in subdivision 2, paragraph (b); or

(3) deny the application on the grounds that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit.

(b) Failure of the sheriff to notify the applicant of the denial of the application within 30 days after the date of receipt of the application packet constitutes issuance of the permit to carry and the sheriff must promptly fulfill the requirements under paragraph (c). To deny the application, the sheriff must provide the applicant with written notification and the specific factual basis justifying the denial under paragraph (a), clause (2) or (3), including the source of the factual basis. The sheriff must inform the applicant of the applicant's right to submit, within 20 business days, any additional documentation relating to the propriety of the denial. Upon receiving any additional documentation, the sheriff must reconsider the denial and inform the applicant within 15 business days of the result of the reconsideration. Any denial after reconsideration must be in the same form and substance as the original denial and must specifically address any continued deficiencies in light of the additional documentation submitted by the applicant. The applicant must be informed of the right to seek de novo review of the denial as provided in subdivision 12.

(c) Upon issuing a permit to carry, the sheriff must provide a laminated permit card to the applicant by first class mail unless personal delivery has been made. Within five business days, the sheriff must submit the information specified in subdivision 7, paragraph (a), to the commissioner for inclusion solely in the database required under subdivision 15, paragraph (a). The sheriff must transmit the information in a manner and format prescribed by the commissioner.

(d) Within five business days of learning that a permit to carry has been suspended or revoked, the sheriff must submit information to the commissioner regarding the suspension or revocation for inclusion solely in the databases required or permitted under subdivision 15.

(e) Notwithstanding paragraphs (a) and (b), the sheriff may suspend the application process if a charge is pending against the applicant that, if resulting in conviction, will prohibit the applicant from possessing a firearm.

Subd. 7. **Permit card contents; expiration; renewal.** (a) Permits to carry must be on an official, standardized permit card adopted by the commissioner, containing only the name, residence, and driver's license number or state identification card number of the permit holder, if any.

(b) The permit card must also identify the issuing sheriff and state the expiration date of the permit. The permit card must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder becomes prohibited by law from possessing a firearm.

(c) A permit to carry a pistol issued under this section expires five years after the date of issue. It may be renewed in the same manner and under the same criteria which the original permit was obtained, subject to the following procedures:

(1) no earlier than 90 days prior to the expiration date on the permit, the permit holder may renew the permit by submitting to the appropriate sheriff the application packet described in subdivision 3 and a renewal processing fee not to exceed the actual and reasonable direct cost of processing the application or \$75, whichever is less. Of this amount, \$5 must be submitted to the commissioner and deposited into the general fund. The sheriff must process the renewal application in accordance with subdivisions 4 and 6; and

(2) a permit holder who submits a renewal application packet after the expiration date of the permit, but within 30 days after expiration, may renew the permit as provided in clause (1) by paying an additional late fee of \$10.

(d) The renewal permit is effective beginning on the expiration date of the prior permit to carry.

Subd. 7a. Change of address; loss or destruction of permit. (a) Within 30 days after changing permanent address, or within 30 days of having lost or destroyed the permit card, the permit holder must notify the issuing sheriff of the change, loss, or destruction. Failure to provide notification as required by this subdivision is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) After notice is given under paragraph (a), a permit holder may obtain a replacement permit card by paying \$10 to the sheriff. The request for a replacement permit card must be made on an official, standardized application adopted for this purpose under section 624.7151, and, except in the case of an address change, must include a notarized statement that the permit card has been lost or destroyed.

Subd. 8. Permit to carry voided. (a) The permit to carry is void and must be revoked at the time that the holder becomes prohibited by law from possessing a firearm, in which event the holder must return the permit card to the issuing sheriff within five business days after the holder knows or should know that the holder is a prohibited person. If a permit is revoked under this subdivision, the sheriff must give notice to the permit holder in writing in the same manner as a denial. Failure of the holder to return the permit within the five days is a gross misdemeanor unless the court finds that the circumstances or the physical or mental condition of the permit holder prevented the holder from complying with the return requirement.

(b) When a permit holder is convicted of an offense that prohibits the permit holder from possessing a firearm, the court must revoke the permit and, if it is available, take possession of it and send it to the issuing sheriff.

(c) The sheriff of the county where the application was submitted, or of the county of the permit holder's current residence, may file a petition with the district court therein, for an order revoking a permit to carry on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall be issued only if the sheriff meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses, including attorney fees.

(d) A permit revocation must be promptly reported to the issuing sheriff.

Subd. 8a. Prosecutor's duty. Whenever a person is charged with an offense that would, upon conviction, prohibit the person from possessing a firearm, the prosecuting attorney must ascertain whether the person is a permit holder under this section. If the person is a permit holder, the prosecutor must notify the issuing sheriff that the person has been charged with a prohibiting offense. The prosecutor must also notify the sheriff of the final disposition of the case.

[For text of subd 9, see M.S.2002]

Subd. 10. False representations. A person who gives or causes to be given any false material information in applying for a permit to carry, knowing or having reason to know the information is false, is guilty of a gross misdemeanor.

[For text of subd 11, see M.S.2002]

Subd. 11a. Emergency issuance of permits. A sheriff may immediately issue an emergency permit to a person if the sheriff determines that the person is in an emergency situation that may constitute an immediate risk to the safety of the person or someone residing in the person's household. A person seeking an emergency permit must complete an application form and must sign an affidavit describing the emergency situation. An emergency permit applicant does not need to provide evidence of training. An emergency permit is valid for 30 days, may not be renewed, and may be

revoked without a hearing. No fee may be charged for an emergency permit. An emergency permit holder may seek a regular permit under subdivision 3 and is subject to the other applicable provisions of this section.

Subd. 12. Hearing upon denial or revocation. (a) Any person aggrieved by denial or revocation of a permit to carry may appeal by petition to the district court having jurisdiction over the county or municipality where the application was submitted. The petition must list the sheriff as the respondent. The district court must hold a hearing at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review. The court may not grant or deny any relief before the completion of the hearing. The record of the hearing must be sealed. The matter must be heard de novo without a jury.

(b) The court must issue written findings of fact and conclusions of law regarding the issues submitted by the parties. The court must issue its writ of mandamus directing that the permit be issued and order other appropriate relief unless the sheriff establishes by clear and convincing evidence:

(1) that the applicant is disqualified under the criteria described in subdivision 2, paragraph (b); or

(2) that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit. Incidents of alleged criminal misconduct that are not investigated and documented, and incidents for which the applicant was charged and acquitted, may not be considered.

(c) If an applicant is denied a permit on the grounds that the applicant is listed in the criminal gang investigative data system under section 299C.091, the person may challenge the denial, after disclosure under court supervision of the reason for that listing, based on grounds that the person:

(1) was erroneously identified as a person in the data system;

(2) was improperly included in the data system according to the criteria outlined in section 299C.091, subdivision 2, paragraph (b); or

(3) has demonstrably withdrawn from the activities and associations that led to inclusion in the data system.

(d) If the court grants a petition brought under paragraph (a), the court must award the applicant or permit holder reasonable costs and expenses including attorney fees.

Subd. 12a. Suspension as condition of release. The district court may order suspension of the application process for a permit or suspend the permit of a permit holder as a condition of release pursuant to the same criteria as the surrender of firearms under section 629.715. A permit suspension must be promptly reported to the issuing sheriff. If the permit holder has an out-of-state permit recognized under subdivision 16, the court must promptly report the suspension to the commissioner for inclusion solely in the database under subdivision 15, paragraph (a).

[For text of subd 13, see M.S.2002]

Subd. 14. Records. (a) A sheriff must not maintain records or data collected, made, or held under this section concerning any applicant or permit holder that are not necessary under this section to support a permit that is outstanding or eligible for renewal under subdivision 7, paragraph (b). Notwithstanding section 138.163, sheriffs must completely purge all files and databases by March 1 of each year to delete all information collected under this section concerning all persons who are no longer current permit holders or currently eligible to renew their permit.

(b) Paragraph (a) does not apply to records or data concerning an applicant or permit holder who has had a permit denied or revoked under the criteria established in subdivision 2, paragraph (b), clause (1), or subdivision 6, paragraph (a), clause (3), for a period of six years from the date of the denial or revocation.

Subd. 15. Commissioner; contracts; database. (a) The commissioner must maintain an automated database of persons authorized to carry pistols under this section

that is available 24 hours a day, seven days a week, only to law enforcement agencies, including prosecutors carrying out their duties under subdivision 8a, to verify the validity of a permit.

(b) The commissioner may maintain a separate automated database of denied applications for permits to carry and of revoked permits that is available only to sheriffs performing their duties under this section containing the date of, the statutory basis for, and the initiating agency for any permit application denied or permit revoked for a period of six years from the date of the denial or revocation.

(c) The commissioner may contract with one or more vendors to implement the commissioner's duties under this section.

Subd. 16. Recognition of permits from other states. (a) The commissioner must annually establish and publish a list of other states that have laws governing the issuance of permits to carry weapons that are not substantially similar to this section. The list must be available on the Internet. A person holding a carry permit from a state not on the list may use the license or permit in this state subject to the rights, privileges, and requirements of this section.

(b) Notwithstanding paragraph (a), no license or permit from another state is valid in this state if the holder is or becomes prohibited by law from possessing a firearm.

(c) Any sheriff or police chief may file a petition under subdivision 12 seeking an order suspending or revoking an out-of-state permit holder's authority to carry a pistol in this state on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall only be issued if the petitioner meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses including attorney fees. The petition may be filed in any county in the state where a person holding a license or permit from another state can be found.

(d) The commissioner must, when necessary, execute reciprocity agreements regarding carry permits with jurisdictions whose carry permits are recognized under paragraph (a).

Subd. 17. Posting; trespass. (a) A person carrying a firearm on or about his or her person or clothes under a permit or otherwise who remains at a private establishment knowing that the operator of the establishment or its agent has made a reasonable request that firearms not be brought into the establishment may be ordered to leave the premises. A person who fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this subdivision is not subject to forfeiture.

(b) As used in this subdivision, the terms in this paragraph have the meanings given.

(1) "Reasonable request" means a request made under the following circumstances:

(i) the requester has prominently posted a conspicuous sign at every entrance to the establishment containing the following language: "(INDICATE IDENTITY OF OPERATOR) BANS GUNS IN THESE PREMISES."; and

(ii) the requester or its agent personally informs the person of the posted request and demands compliance.

(2) "Prominently" means readily visible and within four feet laterally of the entrance with the bottom of the sign at a height of four to six feet above the floor.

(3) "Conspicuous" means lettering in black arial typeface at least 1-1/2 inches in height against a bright contrasting background that is at least 187 square inches in area.

(4) "Private establishment" means a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose.

(c) The owner or operator of a private establishment may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

(d) This subdivision does not apply to private residences. The lawful possessor of a private residence may prohibit firearms, and provide notice thereof, in any lawful manner.

(e) A landlord may not restrict the lawful carry or possession of firearms by tenants or their guests.

(f) Notwithstanding any inconsistent provisions in section 609.605, this subdivision sets forth the exclusive criteria to notify a permit holder when otherwise lawful firearm possession is not allowed in a private establishment and sets forth the exclusive penalty for such activity.

(g) This subdivision does not apply to an on-duty peace officer or security guard acting in the course and scope of employment.

Subd. 18. **Employers; public colleges and universities.** (a) An employer, whether public or private, may establish policies that restrict the carry or possession of firearms by its employees while acting in the course and scope of employment. Employment related civil sanctions may be invoked for a violation.

(b) A public postsecondary institution regulated under chapter 136F or 137 may establish policies that restrict the carry or possession of firearms by its students while on the institution's property. Academic sanctions may be invoked for a violation.

(c) Notwithstanding paragraphs (a) and (b), an employer or a postsecondary institution may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

Subd. 19. **Immunity.** Neither a sheriff, police chief, any employee of a sheriff or police chief involved in the permit issuing process, nor any certified instructor is liable for damages resulting or arising from acts with a firearm committed by a permit holder, unless the person had actual knowledge at the time the permit was issued or the instruction was given that the applicant was prohibited by law from possessing a firearm.

Subd. 20. **Monitoring.** (a) By March 1, 2004, and each year thereafter, the commissioner must report to the legislature on:

(1) the number of permits applied for, issued, suspended, revoked, and denied, further categorized by the age, sex, and zip code of the applicant or permit holder, since the previous submission, and in total;

(2) the number of permits currently valid;

(3) the specific reasons for each suspension, revocation, and denial and the number of reversed, canceled, or corrected actions;

(4) without expressly identifying an applicant, the number of denials or revocations based on the grounds under subdivision 6, paragraph (a), clause (3), the factual basis for each denial or revocation, and the result of an appeal, if any, including the court's findings of fact, conclusions of law, and order;

(5) the number of convictions and types of crimes committed since the previous submission, and in total, by individuals with permits including data as to whether a firearm lawfully carried solely by virtue of a permit was actually used in furtherance of the crime;

(6) to the extent known or determinable, data on the lawful and justifiable use of firearms by permit holders; and

(7) the status of the segregated funds reported to the commissioner under subdivision 21.

(b) Sheriffs and police chiefs must supply the Department of Public Safety with the basic data the department requires to complete the report under paragraph (a). Sheriffs and police chiefs may submit data classified as private to the Department of Public Safety under this paragraph.

(c) Copies of the report under paragraph (a) must be made available to the public at the actual cost of duplication.

(d) Nothing contained in any provision of this section or any other law requires or authorizes the registration, documentation, collection, or providing of serial numbers or other data on firearms or on firearms' owners.

Subd. 21. **Use of fees.** Fees collected by sheriffs under this section and not forwarded to the commissioner must be used only to pay the direct costs of administering this section. Fee money may be used to pay the costs of appeals of prevailing applicants or permit holders under subdivision 8, paragraph (c); subdivision 12, paragraph (e); and subdivision 16, paragraph (c). Fee money may also be used to pay the reasonable costs of the county attorney to represent the sheriff in proceedings under this section. The revenues must be maintained in a segregated fund. Fund balances must be carried over from year to year and do not revert to any other fund. As part of the information supplied under subdivision 20, paragraph (b), by January 31 of each year, a sheriff must report to the commissioner on the sheriff's segregated fund for the preceding calendar year, including information regarding:

- (1) nature and amount of revenues;
- (2) nature and amount of expenditures; and
- (3) nature and amount of balances.

Subd. 22. **Short title; construction; severability.** This section may be cited as the Minnesota Citizens' Personal Protection Act of 2003. The legislature of the state of Minnesota recognizes and declares that the second amendment of the United States Constitution guarantees the fundamental, individual right to keep and bear arms. The provisions of this section are declared to be necessary to accomplish compelling state interests in regulation of those rights. The terms of this section must be construed according to the compelling state interest test. The invalidation of any provision of this section shall not invalidate any other provision.

Subd. 23. **Exclusivity.** This section sets forth the complete and exclusive criteria and procedures for the issuance of permits to carry and establishes their nature and scope. No sheriff, police chief, governmental unit, government official, government employee, or other person or body acting under color of law or governmental authority may change, modify, or supplement these criteria or procedures, or limit the exercise of a permit to carry.

History: 2003 c 28 art 2 s 4-28,34

624.7142 CARRYING WHILE UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.

Subdivision 1. **Acts prohibited.** A person may not carry a pistol on or about the person's clothes or person in a public place:

- (1) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;
- (2) when the person is under the influence of a combination of any two or more of the elements named in clauses (1) and (4);
- (3) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to impair the person's clearness of intellect or physical control;
- (4) when the person is under the influence of alcohol;
- (5) when the person's alcohol concentration is 0.10 or more; or
- (6) when the person's alcohol concentration is less than 0.10, but more than 0.04.

Subd. 2. **Arrest.** A peace officer may arrest a person for a violation under subdivision 1 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Subd. 3. **Preliminary screening test.** When an officer authorized under subdivision 2 to make arrests has reason to believe that the person may be violating or has violated subdivision 1, the officer may require the person to provide a breath sample for a preliminary screening test using a device approved by the commissioner for this

purpose. The results of the preliminary screening test must be used for the purpose of deciding whether an arrest should be made under this section and whether to require the chemical tests authorized in section 624.7143, but may not be used in any court action except: (1) to prove that the test was properly required of a person under section 624.7143, or (2) in a civil action arising out of the use of the pistol. Following the preliminary screening test, additional tests may be required of the person as provided under section 624.7143. A person who refuses a breath sample is subject to the provisions of section 624.7143 unless, in compliance with that section, the person submits to a blood, breath, or urine test to determine the presence of alcohol or a controlled substance.

Subd. 4. Evidence. In a prosecution for a violation of subdivision 1, the admission of evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine is governed by section 169A.45.

Subd. 5. Suspension. A person who is charged with a violation under this section may have their authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise suspended by the court as a condition of release.

Subd. 6. Penalties. (a) A person who violates a prohibition under subdivision 1, clauses (1) to (5), is guilty of a misdemeanor. A second or subsequent violation is a gross misdemeanor.

(b) A person who violates subdivision 1, clause (6), is guilty of a misdemeanor.

(c) In addition to the penalty imposed under paragraph (a), if a person violates subdivision 1, clauses (1) to (5), the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise is revoked and the person may not reapply for a period of one year from the date of conviction.

(d) In addition to the penalty imposed under paragraph (b), if a person violates subdivision 1, clause (6), the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise is suspended for 180 days from the date of conviction.

(e) Notwithstanding section 609.531, a firearm carried in violation of subdivision 1, clause (6), is not subject to forfeiture.

Subd. 7. Reporting. Suspensions and revocations under this section must be reported in the same manner as in section 624.714, subdivision 12a.

History: 2003 c 28 art 2 s 29,34

624.7143 CHEMICAL TESTING.

Subdivision 1. Mandatory chemical testing. A person who carries a pistol in a public place on or about the person's clothes or person is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 624.7142. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was carrying a pistol in violation of section 624.7142, and one of the following conditions exists:

- (1) the person has been lawfully placed under arrest for violating section 624.7142;
- (2) the person has been involved while carrying a firearm in a firearms-related accident resulting in property damage, personal injury, or death;
- (3) the person has refused to take the preliminary screening test provided for in section 624.7142; or
- (4) the screening test was administered and indicated an alcohol concentration of 0.04 or more.

Subd. 2. Penalties; refusal; revocation. (a) If a person refuses to take a test required under subdivision 1, none must be given but the officer shall report the refusal

to the sheriff and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the incident occurred that gave rise to the test demand and refusal. On certification by the officer that probable cause existed to believe the person had been carrying a pistol on or about the person's clothes or person in a public place while under the influence of alcohol or a controlled substance, and that the person refused to submit to testing, a court may impose a civil penalty of \$500 and may revoke the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise for a period of one year from the date of the refusal. The person shall be accorded notice and an opportunity to be heard prior to imposition of the civil penalty or the revocation.

(b) Revocations under this subdivision must be reported in the same manner as in section 624.714, subdivision 12a.

Subd. 3. Rights and obligations. At the time a test is requested, the person must be informed that:

(1) Minnesota law requires a person to take a test to determine if the person is under the influence of alcohol or a controlled substance;

(2) if the person refuses to take the test, the person is subject to a civil penalty of \$500 and is prohibited for a period of one year from carrying a pistol in a public place on or about the person's clothes or person, as provided under subdivision 2; and

(3) that the person has the right to consult with an attorney, but that this right is limited to the extent it cannot unreasonably delay administration of the test or the person will be deemed to have refused the test.

Subd. 4. Requirement of blood or urine test. Notwithstanding subdivision 1, if there is probable cause to believe there is impairment by a controlled substance that is not subject to testing by a breath test, a blood or urine test may be required even after a breath test has been administered.

Subd. 5. Chemical tests. Chemical tests administered under this section are governed by section 169A.51 in all aspects that are not inconsistent with this section.

History: 2003 c 28 art 2 s 30

624.7151 STANDARDIZED FORMS.

By December 1, 1992, the commissioner shall adopt statewide standards governing the form and contents, as required by sections 624.7131 to 624.714, of every application for a pistol transferee permit, pistol transferee permit, report of transfer of a pistol, application for a permit to carry a pistol, and permit to carry a pistol that is granted or renewed on or after January 1, 1993.

Every application for a pistol transferee permit, pistol transferee permit, report of transfer of a pistol, application for a permit to carry a pistol, and permit to carry a pistol that is received, granted, or renewed by a police chief or county sheriff on or after January 1, 1993, must meet the statewide standards adopted by the commissioner. Notwithstanding the previous sentence, neither failure of the Department of Public Safety to adopt standards nor failure of the police chief or county sheriff to meet them shall delay the timely processing of applications nor invalidate permits issued on other forms meeting the requirements of sections 624.7131 to 624.714.

History: 2003 c 28 art 2 s 34

624.7161 FIREARMS DEALERS; CERTAIN SECURITY MEASURES REQUIRED.

[For text of subs 1 and 2, see M.S.2002]

Subd. 3. Security standards. The commissioner shall adopt standards specifying minimum security requirements for small and large firearms dealers. By January 1, 1993, all firearms dealers shall comply with the standards. The standards may provide for:

(1) alarm systems for small and large firearms dealers;

(2) site hardening and other necessary and effective security measures required for large firearms dealers;

(3) a system of inspections, during normal business hours, by local law enforcement officials for compliance with the standards; and

(4) other reasonable requirements necessary and effective to reduce the risk of burglaries at firearms dealers' business establishments.

History: 2003 c 28 art 2 s 34