

A Practical Guide to Indiana Firearms Law

The Keffer Hirschauer LLP Guide to Understanding Gun
Ownership and Licensure Law in Indiana

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SPECIAL NOTE

This eBook was compiled by the team at Keffer Hirschauer LLP with special help from certified legal intern Ana Carolina Corey.

DISCLAIMER

The information in this eBook is not intended as a substitute for professional legal advice or to solicit representation; nor does it form an attorney-client relationship. As the law regulating firearms in Indiana is strict, each matter or issue needs to be examined on an individual basis. This eBook is not all-encompassing. Rather, selected materials have been chosen to provide samples of issues and the law related to firearm ownership.

Furthermore, the use, possession, sales, and transfer of firearms implicates regulatory rules and laws, and both State and Federal criminal laws. If you have firearms-related questions, there is no substitute for the legal advice from a trained and experienced firearms attorney.

If you are wanting to pursue legal representation in relation to a firearm matter, please contact the law firm of Keffer Hirschauer LLP for a free and confidential consultation at (317) 857-0160.

The following is advertising material but not a solicitation within the meaning of the Indiana Rules of Professional Conduct on behalf of Keffer Hirschauer LLP, 230 East Ohio Street, Suite 400, Indianapolis, Indiana 46204.

Introduction

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.

Second Amendment to the United States Constitution

The people shall have a right to bear arms, for the defense of themselves and the State.

Indiana Constitution, Article 1, Section 32

The Second Amendment to the Constitution of the United States confers on every United States citizen the right to bear arms. The Constitution of the State of Indiana also grants the same right. But the right to arm oneself is not absolute. Federal and state laws, as will be discussed in a later chapter, impose limits by requiring licensure, approval, and, in some states, background checks.

Along with the complex network of federal and state laws that regulate the possession and use of firearms, gun crimes are under great scrutiny. There is an ever-present tension between the clamor for gun control and the right of law-abiding citizens to protect themselves and their families. The increased scrutiny has led to tougher enforcement and penalties for gun crimes.

In a landmark case in 2008, *District of Columbia v. Heller*, the United States Supreme Court protected the Second Amendment and an individual's right to keep and bear arms within their home. Dick Anthony Heller was a police officer in the District of Columbia. While on duty, he was authorized to carry a handgun. He applied for a license that would allow him to keep a handgun at home when off duty but was denied. At that time, the District of Columbia Code required lawfully registered firearms to be kept unloaded, disassembled, or bound by a trigger lock if they were located in places other than a place of business. Heller was allowed to carry and use his firearm for his job, in federal buildings, but not in his home. The United States Supreme Court found this code to be unconstitutional and in violation of the Second Amendment. Handguns were determined to be "arms" for the purpose of the Second Amendment, and the Court held that the term "militia" should be broadly interpreted to include all able-bodied individuals who were capable of being called to service. This case represented the first time, since 1939, that the United States Supreme Court had directly addressed the scope and application of the Second Amendment.

Joyce Lee Malcom, in *To Keep and Bear Arms*, writes “[t]he right of ordinary citizens to possess weapons is the most extraordinary, most controversial, and least understood of those liberties. . . . It lies at the very heart of the relationship between the individual and his fellows, and between the individual and his government.” For those defending themselves against Indiana gun charges or seeking to protect their Second Amendment rights, representation by an experienced Indiana gun crimes attorney is critical.

The purpose of this eBook is to provide basic information to guide you in the understanding of firearm law in Indiana. Navigating your rights and the various federal and state laws that impact your right to bear arms can be overwhelming. Due to the high scrutiny and technicality that comes with this area of law, you will notice many citations to either Federal Code or Indiana Code, to encourage you and allow you to look to the statutory language itself and see how it applies to your matter or issue. Each situation may bring with it various nuances depending on factors such as criminal history, location of possession, type of firearm, etc. The attorneys of Keffer Hirschauer LLP are able to aptly and skillfully handle firearms-related matters in Indiana and encourage you to always seek legal advice before you purchase, carry, use, or sell firearms.

Chapter 1: Firearm Possession

Under Indiana law, a firearm is any weapon designed for or able to expel a projectile through an explosion. Anything that can readily be converted to do the same is also a firearm. Ind. Code § 35-47-1-5. The following is a list of commonly used firearms as defined both by Indiana Law, and Federal Law (26 U.S.C. § 5845):

Handgun

Any firearm that is designed or adapted to be aimed and fired from one (1) hand, regardless of barrel length. This also includes any firearm with a barrel length of less than sixteen (16) inches, or an overall length of less than twenty-six (26) inches. Ind. Code § 35-47-1-6.

Shotgun

A weapon designed to be fired from the shoulder and made to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles, or a single projectile for each pull of the trigger. This includes a weapon made from a shotgun if such weapon as modified has an overall length of less than twenty-six (26) inches or a barrel or barrels of less than eighteen (18) inches in length (i.e., sawed-off shotguns). Ind. Code § 35-47-1-11; 26 U.S.C. § 5845(d).

Rifle

A weapon designed and intended to be fired from the shoulder and to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger. This includes a weapon made from a rifle if such weapon as modified has an overall length of less than twenty-six (26) inches in length. 26 U.S.C. § 5845(c).

Machine Gun

Any weapon which shoots automatically, is designed to shoot automatically, or can be readily restored to shoot automatically more than one shot, without manual reloading by a single function of the trigger. This includes the frame or receiver of any such weapon, and/or any combination of parts from which a machine gun can be assembled if such parts are in possession or under the control of a person. Ind. Code § 35-47-2-7; 26 U.S.C. § 5845(b).

Muzzleloader

Any firearm into which the projectile and usually the propellant charge is loaded from the muzzle of the gun. This includes both rifled and smooth bore types. 18 U.S.C. 921(a)(16)(c).

Antique Firearm

Any firearm not designed for using rim fire or conventional center fire ignition with fixed ammunition and manufacture in or before 1898. This also includes any firearm manufactured in or before 1898 for which ammunition is no longer manufactured or readily available. 26 U.S.C. § 5845(g).

Possession Requirements

To purchase a shotgun, rifles, and their ammunition in Indiana requires that an individual be at least eighteen (18) years of age. To purchase all other firearms, such as handguns and their ammunition, an individual must be twenty-one (21) years of age or older. Indiana does not require a permit for a person to purchase a firearm. Indiana also does not require that firearms be registered with the state. Indiana does, however, require that a person have a license in order to carry a handgun. This is sometimes referred to as an Indiana carry permit. The process to obtain a handgun license or carry permit starts with the completion of a handgun license application. The following table is a condensed look at Indiana guns laws, generally.

	Rifles and Shotguns	Handguns
Permit to Purchase	No	No
Registration of Firearms	No	No
Licensing of Owners	No	Yes

License Requirements

Indiana concealed carry laws allow individuals with the proper permits to carry a visible or concealed handgun in public. Open carry and concealed carry are both permitted in Indiana for residents who hold an Indiana License to Carry a Handgun (LCH) and for non-residents with any valid state license to carry.

To obtain an Indiana Handgun License to carry, whether visibly or concealed, certain requirements must be met.

- **Age:** An individual must be at least eighteen (18) years of age.
- **Application:** A complete application, as provided by the Indiana State Police website, must be submitted.

- **Background Check:** Applicant's must submit to a background check, which includes submitting fingerprints to be processed and included with an application.
- **Must Be a Proper Person:** Indiana Code § 35-47-1-7 contains various characteristics that define a "proper person" and would make an individual eligible to obtain a handgun license. Chapter 2 will identify what these characteristics are in more detail.

Additionally, when applying for a handgun license, or when purchasing a handgun, providing false information can result in a Level 5 Felony criminal charge. Indiana Code § 35-47-2-17 prohibits an individual from knowingly or intentionally:

- (1) Providing false information on a form to either purchase a firearm or apply for a license to carry a handgun; or
- (2) Provide false evidence of identity.

Any firearm that is obtained through false information will be subject to confiscation by the law enforcement office in the county where the individual lives.

[Carrying a Handgun Without a License](#)

If an individual is carrying a handgun in any vehicle, or carrying a handgun on their person, they must have a license to carry. However, there are exceptions to this rule. Where an individual must have a license to carry a handgun in any vehicle, an exception applies if the handgun in the vehicle is:

- (1) Unloaded;
- (2) Not readily accessible; and
- (3) Secured in a case.

A license to carry is also not required if a person is carrying the handgun on their own property. Additionally, if the person is carrying the handgun for the purpose of attending a firearms training event or firearms-related event, like a gun show or a hunting club, a license to carry is not needed. A license is not needed if a person is carrying a handgun at a shooting range, or while they are legally hunting. If receiving maintenance or repair of their handgun, an individual is also not required to have a license to carry. However, in situations where a license is not required, as listed in Indiana Code § 35-47-2-1, it is advised to have a license rather than face possible criminal consequences.

Sale or Transfer of Firearms

Non-firearm dealer transfers, or private firearms transfers, are sales between two, non-licensed individuals residing in the State of Indiana. Such transfers are not subject to a background check as required in Indiana. However, there are restrictions with regard to whom an individual can sell a firearm. It is prohibited to sell to an individual if there is reasonable cause to believe that the individual has been convicted of a felony, is a drug or alcohol abuser, is currently in a state of intoxication, or is mentally incompetent.

Additionally, it is prohibited to sell, give, or in any other manner transfer the ownership or possession of a handgun or machine gun to any person under the age of eighteen (18) years old. There is an exception if the individual selling, giving, or in any other manner transferring the handgun or machine gun is acting within a parent-minor child or guardian-minor protected person relationship.

For licensed dealers, such as gun store owners, there are federal regulations surrounding sales. As will be revisited in Chapter 4, the Indiana General Assembly has enacted preemption laws, limiting local governments' authority to regulate weapons and ammunition possession and use. The Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") identify the federal regulations to which licensed dealers are subject. One such regulation subjects licensed dealers to Firearms Compliance Inspections. The purpose of the inspections is to protect the public by preventing illegal firearm sales and trafficking. Additionally, inspections ensure firearms are properly catalogued so they can be successfully tracked back to the first retail purchase in the event of a crime. To perform these inspections, ATF investigators arrive unannounced at the licensed dealer's place of business, during business hours. The investigators will look at the dealer's physical inventory, acquisition and disposition records, ATF forms, and other items to ensure the dealer is in compliance with all state and federal laws. These and other regulations can be seen by visiting their website at atf.gov.

Chapter 2: Handgun Licensure

The general steps to apply for a handgun license in Indiana are straightforward:

- **Complete Application:** Complete and submit an application to the Indiana State Police online handgun license application portal.
- **Request Fingerprints:** Within 90 days of completion of the application, do the following:
 - Schedule a fingerprinting appointment at an approved location; and
 - Bring payment for fingerprint processing and application to a local police agency per the instructions found at the online handgun license application portal, if a payment is required.
- **Receive Response Letter:** Wait for a letter to learn if the application for an Indiana handgun license is approved.

In Indiana, the licensing process is delegated to the Superintendent of the Indiana State Police. This is independent of any application related to federal firearms licensure.

Proper Person

To obtain an Indiana handgun license, an individual must meet the statutory definition of being a “proper person” to carry a handgun. In Indiana, a “proper person” is defined at Indiana Code § 35-47-1-7 as a person who does not have any of the following:

- A conviction for resisting law enforcement under Indiana Code § 35-33.1-3-1 within 5 years before applying for a license or permit;
- A conviction at any time for a crime for which the person could have been sentenced for more than 1 year;
- A conviction for a crime of domestic battery as defined by the Indiana Code unless a court has restored the applicant’s right to possess a firearm;
- A court order prohibiting the individual from possessing a handgun, such as a protective order, pretrial release order, or an order of probation;
- A record of being an alcohol abuser (as defined in Ind. Code § 35-47-1-2) or drug abuser (as defined in Ind. Code § 25-47-1-4);
- Documented evidence that would lead to a reasonable belief that the person has a propensity for violent or emotionally unstable conduct;
- A false statement of material fact on the handgun license application;
- A conviction for any crime involving an inability to safely handle a handgun;
- A conviction for violation of the provisions of Indiana Code title 35 article 47 within five (5) years of the person's application such as carrying handgun without being licensed;

- An adjudication as a delinquent child for an act that would be a felony if committed by an adult, if the person applying for a license or permit is younger than 23;
- A record of involuntarily commitment, other than a temporary commitment for observation or evaluation, to a mental institution;
- A record as the subject of a 90-day commitment as the result of a proceeding brought under Indiana Code chapter 12-26-6 or a regular commitment under Indiana Code chapter 12-26-7;
- A record of a court finding that the individual is mentally incompetent, including being found not guilty by reason of insanity, guilty but mentally ill, or incompetent to stand trial; or
- A designation by a court as dangerous.

A person with a record of any one of these is not necessarily barred from obtaining an Indiana handgun license. However, such an applicant may need to take additional steps to obtain a handgun license. These additional steps could include an expungement, an Indiana gun license appeal, or a petition to restore firearms privileges.

Impact of Expungement

Expungement is the legal process of sealing the records of an individual's criminal history. If an individual has a conviction as outlined above that may bar them from obtaining an Indiana handgun license, there may be the possibility of petitioning for that conviction to be expunged. However, this possibility does not apply to convictions of domestic violence. See *Petition to Restore Firearm Rights*.

An expungement under Indiana Code restores the rights of an individual to purchase or possess a firearm under the 1968 Gun Control Act. A successful expungement restores the individual's civil rights, with no firearm restrictions. Specifically, an expungement fully restores the three core civil rights of a person:

- 1) Right to Vote;
- 2) Right to Hold Public Office; and
- 3) Qualification as a Proper Person.

This is seen also in federal law where federal firearm rights can be restored through one of three avenues:

- (1) Expungement or the setting aside of a conviction;
- (2) Restoration of Civil Rights; or
- (3) Pardon.

There are possible limitations for expungements when dealing with firearms depending on the nature and level of convictions. One such limitation exists when an individual has been convicted of two (2) or more felony offenses that involved the use of a deadly weapons, they are not eligible to petition for expungement of either a misdemeanor or felony.

Through an expungement, and restoring civil rights, a convicted felon in Indiana can regain their firearm rights. If you believe you have convictions that are preventing you from being qualified as a “proper person” for the purpose of obtaining an Indiana handgun license, contact the attorneys at Keffer Hirschauer LLP for a consultation.

[Petition to Restore Firearms Rights](#)

Though an expungement will restore an individual’s status as a proper person, it will not automatically restore the right to carry a handgun in all cases. Pursuant to Indiana Code § 35-47-4-7, an individual who has been convicted of a crime of domestic violence is still prohibited from possessing a firearm. However, they may petition the court for a restoration of their rights to possess a firearm.

Domestic violence can include a wide variety of offenses against a spouse, partner, or family member. Such offenses include domestic battery, stalking, invasion of privacy, kidnapping, criminal confinement, or even murder. Indiana Code § 35-42-2-1.3 defines domestic battery as a battery offense that is committed against one of three categories of persons:

- (1) An individual who is presently or was the offender’s spouse;
- (2) An individual who was living with the offender as if the two individuals were spouses; or
- (3) An individual with whom the offender shares a child.

Title 18, United States Code, Sections 921(a)(33) and 922(g)(9) outlines the misdemeanor crime of domestic violence as:

A person who has been convicted in any court of a misdemeanor crime of domestic violence which has an element for the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with

the victim as a spouse, parent, or guardian or by a person similarly situated to a spouse, parent, or guardian of the victim.

Individuals, and their attorneys, restoring gun rights file their petitions in the court where the conviction occurred, whether that was in Marion County or elsewhere in the State of Indiana. The petition must also be served on the prosecutor in the county of the felony or domestic battery conviction to give the prosecutor an opportunity to state an objection, if any. However, an individual may not petition for a restoration until five (5) years after the date of their conviction.

In evaluating a request, the court will review the petition and any objection or other statement provided by the prosecutor and consider factors such as:

- **Restraining Orders:** Whether the individual has been subject to a court order that prohibits you from possessing a firearm, such as a no-contact order, a protective order, or a workplace violence restraining order.
- **Substance Abuse Programs:** Whether the individual has successfully completed a substance abuse program if required by court order.
- **Class Requirements:** Whether the individual has successfully completed a parenting class if required by court order.
- **Status:** Whether the individual still presents a threat to the victim in your domestic violence case.
- **Miscellaneous:** Whether there is any other reason the individual should not possess a firearm such as a subsequent offense or if one of the above factors are not satisfied.

Even after considering these factors, the court may impose additional requirements before it would consider restoring gun rights.

If the court were to deny a petition for gun rights restoration for any reason, the individual must wait one (1) year before filing a subsequent request to restore gun rights. However, if, after considering all relevant factors and court-ordered conditions, the court finds no reason not to restore the individual's gun rights, the court may enter an order for restoring gun rights in Indiana. At this point, it is recommended to consult with an attorney before filing any such petition.

[Denial Reasons](#)

Although the Indiana firearms licensing process is straightforward for applying for a handgun, dealing with a denied handgun permit is not. Often, a denial may come based on a preventable technicality. Other times, the denial is simply because an individual is not deemed a "proper

person.” Indiana Code § 35-47-1-7, which will be revisited in Chapter 4, identifies situations where an individual might not be deemed a proper person.

To ensure a petition is accepted, as opposed to being denied, the assistance of counsel is vital. An attorney can apply for reinstatement of gun rights so that the individual can be considered a proper person to carry. They can also help determine whether a felony conviction, if reduced to a misdemeanor, would disqualify the applicant from being considered a proper person. Above all, the attorney would check for small errors in the application process and ensure that the application is correctly submitted. To do so, necessary documentation regarding an individual’s demographic information and criminal history is needed. If you have been denied an Indiana handgun license or you are interested in obtaining a handgun license, contact Keffer Hirschauer LLP for a confidential consultation.

Administrative Appeal

Working with an Indiana handgun license attorney may result in a permit being granted. However, Indiana handgun licenses can also be denied. Individuals have at most 60 days—sometimes only 30 days—to appeal the denial of their handgun license application. And while there’s an appeal process, it is different than the application process. Instead of using an online portal, denied applicant’s pursuing an appeal must send a written request for review or appeal through the United States mail to the Indiana State Police who oversee the administration of the review process.

Specific instructions on how to proceed with a gun license appeal are lacking. As a result, working with an experienced Indiana handgun license attorney to prepare for the appeals meeting and is especially helpful.

Although they are not spelled out on the handgun license portal, there are general steps to the appeal process:

- **Review Denial Letter:** Read the denial letter to identify the reason for the denial.
- **Submit Written Request:** Send a written appeal of the denial to the Indiana State Police Firearms License Unit.
- **Note Appeal Timeline:** Receive and review an additional letter from the Indiana State Police, which will list any applicable statutes and set a hearing schedule (with date, time, and location) for the appeals process.
- **Gather Supporting Documentation:** Identify and gather the documentation to offer at the scheduled meeting.
- **Prepare Appeal:** Identify and prepare evidence and argument for the appeal.

An individual may have legal representation at the appeals hearing. Given the open-ended appeal process, the assistance of experienced counsel can be advantageous. The attorneys at Keffer Hirschauer LLP regularly help clients prepare their Indiana handgun license appeals and represent clients at appeal hearings. Our clients also enjoy the benefit of our experience as practitioners, which bolsters the legal support we provide in the gun license appeal process. Help from experienced counsel is key to ensuring you are fully ready and well represented to present an argument on appeal.

Recognition of Other State's Licenses

Simply put, Indiana does recognize and honor all other states' handgun licenses. Indiana Code § 35-47-2-21(b) states:

Licenses to carry handguns, issued by other states or foreign countries, will be recognized according to the terms thereof but only while the holders are not residents of Indiana.

If residency is in Indiana, an Indiana license is required, and an out-of-state license will not be accepted. However, not all other states honor Indiana's license. If you are planning on traveling out of state with your handgun, it is crucial to investigate which states honor Indiana's handgun license.

Chapter 3: Red Flag Law

Indiana Code § 35-47-14 outlines the Indiana Red Flag Law, otherwise known as the “Jake Laird Law.” This law allows police to temporarily confiscate firearms from individuals who are threatening to harm themselves or others. This confiscation can be done with or without a search warrant or judge’s signature. After confiscation of the firearms, the court holds a hearing to determine whether or not the individual is deemed a dangerous person, as per statutory requirements. If found to be dangerous, the court can order the firearms that were seized to be retained.

Background

Jake Laird was an officer with the then Indianapolis Police Department. He was the officer on scene responding to a report of shots fired in an Indianapolis neighborhood. Kenneth Anderson was armed with an SKS rifles and two handguns. He began a shooting rampage by first shooting and killing his mother. He began shooting at officers. Officer Laird was injured before exiting his vehicle, but was later able to retreat. Anderson was able to evade the police and subsequently shot four additional officers. Anderson was eventually found by police. Officer Laird sustained the most serious injuries from the shooting, and passed away from those injuries.

Months before the shooting, Anderson had been taken to the hospital for an emergency detention and was put under immediate detention related to his mental health. As part of an investigation, officers searched Anderson’s home and removed a number of weapons. In total, they seized nine guns and more than 200 rounds of ammunition. Upon his release from the hospital, after being diagnosed with schizophrenia, Anderson demanded that his weapons be returned to him from the police department. At that time, the police department had no legal authority to keep the weapons and returned them to Anderson. In the weeks leading up to the shooting, Anderson’s friends and family noticed that Anderson had stopped taking medication for his schizophrenia and stating that he feared for his safety.

Search Warrant

To obtain a warrant to search for a firearm under the Red Flag Law, the officer can apply to the circuit or superior court of proper jurisdiction. A sworn statement will be prepared that states why the law enforcement officer believes that the individual is a dangerous person and is in possession of a firearm. The affidavit will also describe the officer’s interactions with the individual alleged to be dangerous, or any other individual that the officer obtains information from, that is believed to be credible and reliable. Additionally, the affidavit must specifically describe the location of the firearm to be seized.

If the court does issue a search warrant, the officer must file a return within forty-eight (48) hours after the warrant is served. The return must state the date and time at which the warrant was served, the name and address of the individual named in the warrant, and the quantity and description of any firearm seized.

Without a search warrant, if the weapons are seized during the normal course of law enforcement duties, an officer will submit a written statement to the court of proper jurisdiction describing the basis for the seizure. In the written statement, the officer will also describe if and why the individual is believed to be a dangerous person. The court will later review the statement submitted and determine whether the firearms should be retained or released.

Dangerous Person

A dangerous person, for the purpose of this law, is defined as an individual who presents an imminent risk of personal injury to themselves or to another individual. It also includes an individual who may present a risk of personal injury to themselves or to another individual in the future. The individual must either:

- Have a mental illness that may be controlled by medication, and has not demonstrated a pattern of voluntarily and consistently taking the individual's medication while not under supervision; or
- Be the subject of documented evidence that would give rise to a reasonable belief that the individual has a propensity for violent or emotionally unstable conduct.

The mere fact that an individual was released from a mental health facility, or that they have a mental illness and are currently prescribed medication for said mental illness, is not sufficient in itself to establish that they are a dangerous person.

Hearing

After the firearms are seized, and if probable cause is found, the court will hold a hearing within fourteen (14) days. Notice to the individual who owns the firearms, as well as to the prosecutor, must be given. At the hearing, the court will determine, by clear and convincing evidence, if the person is dangerous and whether the firearms should be retained or returned. If the court determines that the individual is a dangerous person, it will result in:

- **Retention:** The court will order the law enforcement agency to retain the firearms;
- **Suspension:** The court will order the suspension of the individual's license to carry a handgun;
- **Enjoinder:** The court will prohibit the individual from renting, receiving, transferring, owning, or possession firearms; and

- **Further Proceedings:** Possible further proceedings will be ordered by the court to determine whether the individual should be involuntarily detained or committed.

If the court determines that the individual is not dangerous, they will order the law enforcement agency to return the firearms as soon as practicable, but not later than five (5) days after the date of the order.

If the court ordered the firearms be retained, the individual may petition after at least 180 days from the date of the order to seek a finding that they are no longer dangerous. If the petition comes before one (1) year since the date of the order, the individual must prove by preponderance of the evidence that they are no longer dangerous. If the petition comes after one (1) year from the date of the order, the burden of proof is on the State to show by clear and convincing evidence that the individual is still deemed a dangerous person. If found to no longer be dangerous, the law enforcement agency will be ordered to return the firearms as soon as practicable, but not later than five (5) days after the date of the order. Additionally, the individual's suspension will be terminated and their license to carry a handgun will be restored.

If after five (5) years have passed where the law enforcement agency has kept possession of the firearms, the court may order the firearms to be destroyed or permanently disposed. Alternatively, after an order of retention by the court, the individual may petition for an order directing the law enforcement department in possession of the weapons to sell them. The proceeds would then go to the owner. The individual could also petition the court to transfer the firearm to a responsible third party. A responsible third party is one who:

- Does not cohabitate with the person found to be dangerous;
- Is a proper person under Indiana Code § 35-47-1-7 and is lawfully permitted to possess a firearm; and
- Is willing to enter into a written court agreement to accept the transfer of the firearm.

Criminal Penalties

If an individual is found by the court to be a dangerous person, there are additional penalties that may ensue. If the individual knowingly or intentionally rents, purchases, receives transfer of, owns, or possess a firearm after being deemed a dangerous person, they may be subject to a Class A Misdemeanor for Unlawful Possession of a Firearm by a Dangerous Person.

Alternatively, if a third party knowingly or intentionally rents, transfers, sells or offers for sale a firearm to an individual deemed to be a dangerous person, they may be subject to a Level 5 Felony for Unlawful Transfer of a Firearm to a Dangerous Person.

Chapter 4: Crimes

As introduced, there are two sets of laws that govern firearms: Federal and State. Examples of federal gun laws include:

- The Brady Handgun Violence Prevention Act
- The National Firearms Act
- The Firearms Owners' Protection Act

Indiana state laws also affects handgun licensure. In considering the crimes related to firearms, it is important to note the interplay between the Federal and State laws. Under Indiana Code § 35-47-11.1-1 et seq., the Indiana General Assembly has enacted preemption laws, limiting local governments' authority to regulate weapons and ammunition possession and use. With limited exceptions, local governments cannot regulate firearms or ammunition:

- Ownership
- Possession
- Carrying
- Registration
- Transfer
- Storage
- Transportation
- Sales or taxation

Although local governments may not broadly regulate weapons or ammunition, they may do so in limited circumstances, such as these:

- **Ordinances:** Enact ordinances on zoning or business uses that apply equally to firearms businesses as to other businesses.
- **Prohibited Areas:** Bar the carrying of handguns into courtrooms, county hospitals, and buildings owned by the local government that use metal detectors staffed by at least one law enforcement officer to inspect people and bags.

If you have been accused of violating a local ordinance or regulation regarding weapons or ammunition, an attorney from Keffer Hirschauer LLP can help you determine whether the ordinance is invalid under the state's preemption laws.

[Offense Levels and Punishment](#)

Firearms offenses in Indiana can be classified into two main categories, with only the first category requiring use of the firearm: (1) licensing, possession, and sale violations; and (2) prohibited firearm uses. Depending on the offense, an individual may be charged with either

a misdemeanor or a felony. In turn, the level of the offense determines the potential sentence if you're convicted. The sentence following conviction for a misdemeanor can include:

- Up to one year in jail
- Up to \$5,000 in fines
- Possible probation for up to one year for any time not spent in jail

In Indiana, felony sentences can be broken down into a possible range of time which can be ordered to serve in jail or prison, with an advisory sentence. The advisory sentence serves as a starting point for judges when considering the sentence to impose.

- **Level 6 Felony:** 6 months to 2.5 years, with an advisory sentence of 1 year.
- **Level 5 Felony:** 1 to 6 years, with an advisory sentence of 3 years.
- **Level 4 Felony:** 2 to 12 years, with an advisory sentence of 6 years.
- **Level 3 Felony:** 3 to 16 years with an advisory sentence of 9 years.
- **Level 2 Felony:** 10 to 30 years, with an advisory sentence of 17.5 years.
- **Level 1 Felony:** 20 to 40 years with an advisory sentence of 30 years.

Common offenses regarding the licensing, possession, and sale of firearms include these:

Carrying a Handgun Without a License. Under in Indiana Code § 35-47-2-1, it is illegal to carry a handgun in your car or on your person unless you have a license. Exceptions to the license requirement include:

- Use of a handgun on one's own property;
- Permitted use on another's property or at a shooting range;
- Transporting an unloaded handgun in a vehicle if it is not accessible and in a case; and
- Use of a handgun while hunting.

A conviction for Carrying a Handgun Without a License is a Class A Misdemeanor. However, the offense can be elevated to a Level 5 felony if:

- (1) The offense is committed on or within five hundred (500) feet of school property or on a school bus; or
- (2) The offender has a prior unlicensed carry conviction or a conviction of any felony in the past fifteen (15) years.

Unlawful Possession of a Firearm by a Domestic Batterer. Under Indiana Code § 35-47-4-6, a person who has been convicted of domestic battery in Indiana may not possess or carry a firearm. A conviction for unlawful possession of a firearm by a domestic batterer is a Class A Misdemeanor.

Unlawful Possession of a Firearm by a Serious Violent Felon. Under Indiana Code § 35-47-4-5, a person who is a serious violent felon may not possess a firearm. Serious violent status is based on a prior conviction for major felony offenses. Examples include murder, rape, robbery, child molest, and dealing in controlled substances. A conviction for unlawful possession by a serious violent felon is a Level 4 Felony.

Possession of a Firearm by a Dangerous Person. Under Indiana Code § 35-47-4-6.5, an individual commits a Class A Misdemeanor if they have been found to be dangerous by a circuit or superior court, and they knowingly or intentionally rent, purchase, receive transfer of, own, or possess a firearm.

Unlawful Transfer of a Firearm to a Dangerous Person. Under Indiana Code § 35-47-4-6.7, an individual who knowingly or intentionally rents, transfers, sells, or offers for sale a firearm to a person who is found to be dangerous by a circuit or superior court commits a Level 5 Felony.

Possession of a Firearm, Explosive, or Deadly Weapon in a Commercial or Chartered Aircraft. Indiana Code § 35-47-6-1 prohibits a person from knowingly or intentionally possessing a firearm, explosive, or other deadly weapon on board of a commercial or charter aircraft, resulting in a Level 5 Felony. If the individual possessed the firearm, explosive, or other deadly weapon with the intent to either cause harm to another person or disrupt the operation of the aircraft, they commit a Level 4 Felony.

Undisclosed Transport of Dangerous Device. Pursuant to Indiana Code § 35-47-6-1.1, an individual commits a Class A Misdemeanor if they check an item to be transported on a commercial passenger airline and knows the item contains a dangerous device and fails to disclose that the item contains a dangerous device.

Possession in Controlled Access Areas of an Airport. Under Indiana Code § 35-47-6-1.3, a person who knowingly or intentionally enters an area of an airport which is controlled by the inspection of persons and property while either possessing or having access to property that contains a firearm, explosive, or other deadly weapon, commits a Class A Misdemeanor.

Possession of Firearms on School Property. Indiana Code § 35-4-9-2 prohibits an individual from knowingly or intentionally possessing a firearm in or on school property or on a school bus. A violation can result in a Level 6 Felony.

Obliterating Identification Marks on a Handgun or Possession of Such Handguns. Indiana Code § 35-47-2-18 prohibits destroying the serial number on a firearm. It also prohibits the possession of a firearm with a defaced serial number. A conviction for obliterating identification marks on a handgun, or possession thereof, is a Level 5 Felony.

Criminal Transfer of a Firearm. Under Indiana Code § 35-47-2.5-16, it is illegal to provide a firearm to an individual who:

- Is ineligible to purchase or otherwise receive or possess a firearm for any reason other than the person's age; or
- Intends to use the firearm to commit a crime.

A conviction for such an offense is a Level 5 Felony but will be elevated to a Level 3 Felony if the individual uses the firearm to commit murder.

Unlawful Transfer of a Firearm. Indiana Code § 35-47-10-5 prohibits a child from knowingly, intentionally, or recklessly possessing a firearm for any purpose other than described in section § 35-47-10-1, such as engaging in a hunters safety course. A conviction is a Class A Misdemeanor but can be elevated to a Level 5 Felony if the child has a prior conviction under this section or has been adjudicated a delinquent for an act that would be an offense if committed by an adult. Additionally, if a child provides a firearm to another child whom the child knows is ineligible to purchase or otherwise receive from a dealer a firearm, or knows the other child intends to use the firearm to commit a crime, commits a Level 5 Felony. If the crime is murder, the offense is elevated to a Level 3 Felony.

Dangerous Control of a Firearm. Under Indiana Code § 35-47-10-6, an adult who provides a firearm to a child whom the adult knows is ineligible to purchase or otherwise receive from a dealer a firearm, or who intends to use the firearm to commit a crime, commits a Level 5 Felony. If the adult has a prior conviction of this offense, it is elevated to a Level 4 Felony. If the child uses the firearm to commit murder, the offense is further elevated to a Level 3 Felony.

Permitting a Child to Possess a Firearm. A child's parent or legal guardian commits a Level 5 felony when they permit a child to possess a firearm while they are aware of a substantial risk that the child will use the firearm to commit a felony, and they failed to make reasonable efforts to prevent the use of the firearm by the child to commit a felony. Alternatively, a child's parent or legal guardian commits a Level 5 felony when they permit a child to possess a firearm when the child has been convicted of a crime of violence or adjudicated as a juvenile for an

offense that would constitute a crime of violence. If the parent or legal guardian has a prior conviction of this offense, it is elevated to a Level 4 felony.

Illegal Possession of a Machine Gun. Under Indiana Code § 35-47-5-8, mere ownership of a machine gun is Level 5 Felony. If the machine gun is operated and loaded, Indiana Code § 35-47-5-9 elevates the offense to a Level 4 Felony.

The possession of a firearm in certain areas is prohibited. Below is a chart to briefly list areas where carrying a handgun, even with a valid license, is allowed and not allowed.

Prohibited Areas		Allowed Areas
In or on school property	School bus	State Parks
Private School, Head Start, Preschool Program	Controlled access areas on an airport	State and National Forests
Commercial or charter aircraft	During the annual State Fair	Roadside rest areas
Shipping port (controlled by Indiana Port Commission)	Any place prohibited by Federal Law	Vehicle
Courtrooms	Riverboat Casino	All other areas of the State

Common offenses regarding the prohibited use of firearms include these:

Criminal Recklessness. Under Indiana Code § 35-42-2-2, a person who recklessly, knowingly, or intentionally performs an act that creates a substantial risk of bodily injury to another person commits criminal recklessness, as a Class B Misdemeanor. However, if the individual commits the act by shooting a firearm into an inhabited dwelling, building, or place where people are likely to gather, the crime is elevated to a Level 5 Felony.

Pointing a Firearm. Under Indiana Code § 35-47-4-3, it is prohibited to knowingly or intentionally point a firearm at another person. If the firearm is loaded, it constitutes a Level 6 Felony. If not loaded, the offense would constitute a Class A Misdemeanor.

Requirement to Report Wounds. Indiana Code § 35-47-7-1 requires every case of a bullet wound, gunshot wound, powder burn, or any injury arising from or caused by the discharge of a firearm to be reported to law enforcement authorities. Failure to report can result in a Class A Misdemeanor.

Additionally, Indiana regulates the use of a firearm in the commission of other crimes. The use of a firearm often aggravates the criminal level and therefore the potential jail time. Examples of such crimes where the penalty level is increased when it involved the use of a firearm include murder, sexual assault, robbery and domestic assault. Additionally, under Indiana Code § 35-50-

2-11, the court can add five to 20 years to your sentence if the State proves you pointed a firearm at a law enforcement officer or that you have a prior conviction for any of the following offenses:

- A felony resulting in serious bodily injury or death
- Kidnapping
- Criminal confinement as a Level 2 or a Level 3 Felony

Given the seriousness of the consequences for a firearms offense in Indiana, consulting with an experienced Indiana gun crimes attorney at Keffer Hirschauer LLP is paramount.

Penalties

The consequences of conviction on Indiana gun charges can include incarceration, fines, and more. A conviction can even result in a lifelong ban on possessing or using a firearm. And for some, the conviction can take away your livelihood. Anyone convicted of an Indiana gun crime also suffers collateral consequences:

- **Reporting Requirements:** A conviction of a gun crime may require an individual to report a felony conviction on employment applications if asked.
- **Housing:** Convictions of gun crimes impact an individual's eligibility to live in subsidized housing.
- **Child Custody:** Gun crime convictions may impact an individual's custody of their children as well as modification of that custody.
- **Immigration Status:** A conviction, above all for a gun crime, may have a serious effect on immigration matters.
- **Firearm Ownership:** An individual's eligibility to own, possess, or carry a firearm can be impacted by a conviction of a gun crime.

18 U.S.C. § 922

Found in this federal code is the prohibition for individuals to import, manufacture or deal in firearms without the proper license. It also makes it unlawful for any person to ship, transport, or receive any ammunition in interstate or foreign commerce without the proper license.

Additionally, in § 922(g), this code makes it unlawful for a licensed importer, licensed manufacturer, or licensed dealer to sell or otherwise dispose of any firearm or ammunition to a prohibited person. The table below lists situations that would constitute an individual as a prohibited person. A prohibited person is defined as an individual who:

- Is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- Is a fugitive from justice;

- Is an unlawful user of or addicted to any controlled substance;
- Is an alien who is illegally or unlawfully in the United States, or has been admitted to the United States under a nonimmigrant visa;
- Was discharged from the Armed Forces under dishonorable conditions;
- Was a citizen of the United States, and subsequently renounced their citizenship;
- Is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or
- Has been convicted in any court of a misdemeanor crime of domestic violence.

[18 U.S.C. § 924](#)

This federal provision prohibits an individual from using or carrying a firearm during, in relation to, or in furtherance of a drug trafficking crime or federal crime of violence. If convicted, an individual would be sentenced to a term of imprisonment of not less than five (5) years. However, depending on the way in which the firearm was used, a longer term of imprisonment is possible. For example, if the firearm was brandished during, the term of imprisonment is not less than seven (7) years. If the firearm was discharged, the term of imprisonment is not less than ten (10) years. Additionally, the type of firearm also has an impact on the sentence. If the firearm was a short-barreled rifle or short-barreled shotgun, the term of imprisonment is not less than ten (10) years. If it was a machine gun or if it was equipped with a silencer or muffler, the term of imprisonment is not less than thirty (30) years.

[18 U.S.C. § 842](#)

This federal provision prohibits the importing, manufacturing, or dealing in explosive materials without a license. Additionally, an individual is prohibited from knowingly withholding information or making a false statement in order to obtain explosive materials. It is unlawful to sell explosives to a prohibited person, and to a person under the age of twenty-one (21).

The possession and use of firearms are regulated by a complex network of federal and state laws. An experienced attorney from Keffer Hirschauer LLP can provide insights, answers, and a rigorous defense to anyone Indiana and federal firearms charges. If you are being investigated or have been arrested on gun charges, you need a lawyer who understands the criminal process and the high stakes involved with gun charges.

Chapter 5: Additional Gun Laws

Law Governing Firearm Shooting Ranges

A shooting range is defined by Indiana Code § 14-22-31.5-3 as “an area designed and operated for the use of archery, rifles, shotguns, pistols, muskets or similar firearms that are fired at silhouettes, skeet, trap, paper, stillboard, or other similar targets.” Where an individual generally needs a license to carry a handgun, such a license is not required if the individual is carrying the handgun at a shooting range.

For those who own, operate, or use shooting ranges, Indiana law relieves them from any civil or criminal liability related to noise or noise pollution. The noise must result from the normal operation or use of the shooting range. To exercise this release from liability, range owners must have ensured that the shooting range complied with all laws or ordinances that were applicable at the time of construction or initial operation. Shooting ranges are regulated by a local unit of government, meaning the county, city, town, or township in which the range is located. These units of government can regulate the location, use, operation, safety, and construction of the shooting range.

Armor-Piercing Ammunition

Indiana code defines armor-piercing ammunition as a projectile or projectile core that is designed and intended by the manufacture for use in a handgun and is constructed entirely from one or a combination of tungsten alloy, steel, iron, brass, bronze, or beryllium copper.

Armor-piercing ammunition includes a full jacketed projectile larger than .22 caliber designed and intended by the manufacture for use in a handgun and whose jacket has a weight of more than twenty-five percent (25%) of the total weight of the projectile. However, the term does not include projectiles used in handguns, rifles, or shotguns often intended for use in hunting, recreation shooting, or competitive shooting.

The use of such ammunition is prohibited in Indiana. Additionally, the general possession, manufacturing, sale, or delivery of such ammunition constitutes a Level 5 felony.

Body Armor

Body armor is defined as bullet resistant metal or material worn by a person to provide protection from weapons or bodily injury. It is perfectly legal to purchase body armor, such as bullet proof vests, for most individuals. Additionally, the use of body armor is allowed when conducting lawful activity, such as legally hunting. However, if a person uses body armor while committing a felony, they are subject to a Level 6 felony charge of Unlawful Use of Body Armor.

Conclusion

The right to possess a gun is deeply embedded in American history and identity. Because the penalties and other consequences of gun crime convictions are strict, it is vital to contact an attorney as early as possible. If you are being questioned by police, know and assert your right to consult with an attorney before answering any questions. Additionally, when a past mistake restricts that your right to possess a gun, you need capable help from knowledgeable gun rights lawyers to seek restoration of your right to own, possess, or carry a firearm. When your gun rights were impaired by a conviction or other circumstance, gun rights restoration requires delicate and strict compliance with statutory conditions and actions. The steps to restore gun rights in Indiana are best undertaken with the help of an attorney who knows exactly what is required to regain your firearm rights and has the legal experience to get that done.

For most, the ability to handle the legal and technical aspects of firearm law in Indiana on their own is too much. The hope is that you are left with a better understanding of the Federal and State regulations surrounding firearms. However, this resource will fall short in fully preparing you for the legal nuances that you are sure to face. That is why it is recommended that you seek legal counsel to assist you throughout the process.

The attorneys at Keffer Hirschauer LLP have experience in prosecutors' offices around the state, giving them intimate knowledge of how the State approaches the laws and regulations for handguns and how the prosecution approaches these cases. They can help you in navigate gun charges and other firearm-related matters, such as defending firearms charges from the beginning of an investigation through trial, and appeal. Contact Keffer Hirschauer LLP to schedule a confidential consultation with one of our experienced firearms attorneys.



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