

Several states are considering adopting "Vermont-style" concealed carry legislation. Most of the Carry Concealed Weapon (CCW) laws in the country require citizens to first get permits. But in a couple of states, like Vermont, citizens can carry a firearm without getting permission . . . without paying a fee . . . or without going through any kind of government- imposed waiting period. There are many reasons for a state to adopt a genuine right to carry law:

### **1. Carrying a firearm is a "right" not a "privilege"**

The Second Amendment guarantees that "the right of the people to keep and bear arms shall not be infringed." This means that law-abiding citizens should not need to beg the government for permission to carry a firearm. That would turn the "right" to bear arms into a mere "privilege." Likewise, one should not have to be photographed, fingerprinted, or registered before they can exercise their Second Amendment rights. Criminals certainly do not jump through these "hoops." The Second Amendment is no different than any of the other protections enumerated in the Bill of Rights. That is, honest citizens should not need a government issued permission slip; rather, they should be able to carry as a matter of right.

### **2. The issuing of permits can be abused by officials**

a. Refuse to issue

\* New York City: Officials in New York City routinely deny gun permits for ordinary citizens and store owners because -- as the courts have ruled -- they have no greater need for protection than anyone else in the city. In fact, the authorities have even refused to issue permits when the courts have ordered them to do so. (1)

\* Gary, Indiana: Then-Mayor Richard Hatcher let it be known in 1979 that he would not be approving any citizens' concealed carry applications. He then said if they wanted to challenge his authority, they were welcome to take him to court. It took citizens over 10 years (and thousands of dollars in legal fees) to get any relief. (2)

\* San Jose, CA: Joseph McNamara, a former police chief and anti-gun spokesman, bragged in his 1984 book, *Safe & Sane*, that "in San Jose, I have made it considerably tougher for residents to get handgun permits." (3)

b. Require fingerprints -- Virginia applicants for concealed carry permits were forced to submit to FBI fingerprint background checks without any authorization requiring such checks. (4)

c. Revoke for politically incorrect speech -- In Oregon, officials have been known to revoke concealed carry licenses because of one's political views. In one case, a permit holder had his license revoked because he was the editor of a pro-life newspaper. (5)

d. Print licensee holders' names in newspapers -- In several states, newspapers have frequently printed the names of concealed carry permit holders, which are almost always public information. (6)

**3. Officials can "raise the hurdles" in order to get a permit**

### **\* The power to license a right is the power to destroy a right**

- a. Arbitrary Delays -- While New Jersey law requires applications to be responded to within thirty days, delays of ninety days are routine; sometimes, applications are delayed for several years for no readily apparent reason. (7)
- b. Arbitrary Denials -- See the examples above from New York City, Indiana and California.
- c. Arbitrary Fee Increases -- In 1994, the Clinton administration pushed for a license fee increase of almost 1,000 percent on gun dealers. According to U.S. News & World Report, the administration was seeking the license fee increase "in hopes of driving many of America's 258,000 licensed gun dealers out of business." (8) This example clearly shows how easily government officials can abuse the issuing of carry permits. Instead of using lower fees to merely pay for the processing of permits, officials can raise the fees to keep people from exercising their rights.

### **4. Vermont has a genuine right to carry law (i.e., requires no permits) and yet boasts one of the lowest crime rates in the nation**

A. Vermont enjoys the 49th lowest crime rate in the nation, according to the FBI:

<b>Violent Crime (1997)</b>			
<b>rate per 100,000 people</b>			
<b>Rank</b>	<b>State</b>	<b>Rate</b>	
<b>1st</b>	<b>Florida</b>	<b>1023.6</b>	
<b>2nd</b>	<b>South Carolina</b>	<b>990.3</b>	
	<b>U.S. average</b>	<b>610.8</b>	
<b>49th</b>	<b>Vermont</b>	<b>119.7</b>	
<b>50th</b>	<b>North Dakota</b>	<b>87.2</b>	

B. The FBI statistics also show that Vermont boasts the 47th lowest murder rate among the 50 states:

<b>Murder (1997)</b>		
<b>rate per 100,000 people</b>		
<b>Rank</b>	<b>State</b>	<b>Rate</b>
<b>1st</b>	<b>Louisiana</b>	<b>15.7</b>
<b>2nd</b>	<b>Mississippi</b>	<b>13.1</b>
	<b>U.S. average</b>	<b>6.8</b>
<b>47th</b>	<b>Vermont</b>	<b>1.5</b>
<b>48th</b>	<b>New Hampshire</b>	<b>1.4</b>
<b>49th</b>	<b>South Dakota</b>	<b>1.4</b>
<b>50th</b>	<b>North Dakota</b>	<b>.9</b>

C. Anti-gunners like Sarah Brady want people to think that "access to firearms" is one of the greatest social ills facing this nation. If this is so, then why are guns not a problem in Vermont

where anyone can strap a .45 under their jacket and go about their business? Why hasn't Vermont turned into the popular notion of the Wild West? Few states ever come close to earning the title of the "state with the lowest crime rate." Vermont has.(9)

D. Not surprisingly, concealed carry laws have worked nationwide to drop crime rates.

1. A comprehensive national study in 1996 determined that violent crime fell after states made it legal to carry concealed firearms. (10)

2. The results of the study showed:

\* States which passed concealed carry laws reduced their murder rate by 8.5%, rapes by 5%, aggravated assaults by 7% and robbery by 3%; and

\* If those states not having concealed carry laws had adopted such laws in 1992, then approximately 1,570 murders, 4,177 rapes, 60,000 aggravated assaults and 12,000 robberies would have been avoided yearly. (11)

**5. Waiting periods of any kind (such as those resulting from the CCW licensing process) can threaten honest people's safety. (12)**

Note: Criminals usually don't bother to go through the waiting period since they don't apply for permits.

a. New York. In 1983, Igor Hutorsky was murdered by two burglars who broke into his Brooklyn furniture store. The tragedy is that some time before the murder his business partner had applied for permission to keep a handgun at the store. Even four months after the murder, the former partner had still not heard from the police about the status of his gun permit. (13)

b. Colorado. Talk show host (Alan Berg) was gunned down in 1984 after being denied a concealed carry permit. (14)

c. Wisconsin. In 1991, Bonnie Elmasri inquired about getting a gun to protect herself from a husband who had repeatedly threatened to kill her. She was told there was a 48 hour waiting period to buy a handgun. But unfortunately, Bonnie was never able to pick up a gun. She and her two sons were killed the next day by an abusive husband of whom the police were well aware. (15)

d. Los Angeles. USA Today reported that many of the people rushing to gun stores during the 1992 riots were "lifelong gun-control advocates, running to buy an item they thought they'd never need." Ironically, they were outraged to discover they had to wait 15 days to buy a gun for self-defense. (16)

e. Virginia. In 1993, Marine Cpl. Rayna Ross bought a gun (in a non-waiting period state) and used it two days later to kill an attacker who was armed with a bayonet. (17) Had a waiting period been in effect, Ms. Ross would have been defenseless against the man who was stalking her.

**6. CCW licenses register gun owners -- and licensing can lead to confiscation of firearms**

a. Step One: Registration -- In the mid-1960s officials in New York City began registering long guns. They promised they would never use such lists to take away firearms from honest citizens. But in 1991, the city banned (and soon began confiscating) many of those very guns. (18)

b. Step Two: Confiscation -- In 1992, a New York city paper reported that, "Police raided the home of a Staten Island man who refused to comply with the city's tough ban on assault weapons, and seized an arsenal of firearms. . . . Spot checks are planned [for other homes]."

(19)

c. Foreign Countries -- Gun registration has led to confiscation in several countries, including Greece, Ireland, Jamaica and Bermuda. (20) And in an exhaustive study on this subject, Jews for the Preservation of Firearms Ownership has researched and translated several gun control laws from foreign countries. Their publication, Lethal Laws: "Gun Control" is the Key to Genocide, documents how gun control (and confiscation) has preceded the slaughter and genocide of millions of people in Turkey, the Soviet Union, Germany, China, Cambodia and others. (21)

### **7 . Constitutionally, officials cannot license or register a fundamental right**

The Supreme Court held in *Lamont v. Postmaster General* (1965) that the First Amendment prevents the government from registering purchasers of magazines and newspapers -- even if such material is "communist political propaganda." (22) **8. Citizens show amazing accuracy and self-restraint with firearms**

Citizens shoot and kill at least twice as many criminals as police do every year (1,527 to 606). (23) And readers of *Newsweek* learned in 1993 that "only 2 percent of civilian shootings involved an innocent person mistakenly identified as a criminal. The 'error rate' for the police, however, was 11 percent, more than five times as high." (24)

## **Two Genuine Right-to-Carry Laws: Vermont and Alaska**

V.S.A. §4003 Carrying dangerous weapons

A person who carries a dangerous or deadly weapon, openly or concealed, with the intent or avowed purpose of injuring a fellow man, or who carries a dangerous or deadly weapon within any state institution or upon the grounds or lands owned or leased for the use of such institution, without the approval of the warden or superintendent of the institution, shall be imprisoned not more than two years or fined not more than \$200.00, or both.

### **Alaska**

AS 11.61.220. Misconduct Involving Weapons in the Fifth Degree.

(a) A person commits the crime of misconduct involving weapons in the fifth degree if the person

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(1) is 21 years of age or older and knowingly possesses a deadly weapon, other than an ordinary pocket knife or a defensive weapon,

(A) that is concealed on the person, and, when contacted by a peace officer, the person fails to

(i) immediately inform the peace officer of that possession; or

(ii) allow the peace officer to secure the deadly weapon, or fails to secure the weapon at the direction of the peace officer, during the duration of the contact;

(B) that is concealed on the person within the residence of another person unless the person has first obtained the express permission of an adult residing there to bring a concealed deadly weapon within the residence;

(2) knowingly possesses a loaded firearm on the person in any place where intoxicating liquor is sold for consumption on the premises;

(3) being an unemancipated minor under 16 years of age, possesses a firearm without the consent of a parent or guardian of the minor;

(4) knowingly possesses a firearm

(A) within the grounds of or on a parking lot immediately adjacent to a center, other than a private residence, licensed under AS 14.37, AS 47.33, or AS 47.35 or recognized by the federal government for the care of children;

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(B) within a

(i) courtroom or office of the Alaska Court System; or

(ii) courthouse that is occupied only by the Alaska Court System and other justice-related agencies; or

(C) within a domestic violence or sexual assault shelter that receives funding from the state;

(5) possesses or transports a switchblade or a gravity knife; or

(6) is less than 21 years of age and knowingly possesses a deadly weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed on the person.

(b) In a prosecution under (a)(6) of this section, it is an affirmative defense that the defendant, at the time of possession, was

(1) in the defendant's dwelling or on land owned or leased by the defendant appurtenant to the dwelling; or

(2) actually engaged in lawful hunting, fishing, trapping, or other lawful outdoor activity that necessarily involves the carrying of a weapon for personal protection.

(c) The provisions of (a)(2) and (4) of this section do not apply to a peace officer acting within the scope and authority of the officer's employment.

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(d) In a prosecution under (a)(2) of this section, it is

(1) an affirmative defense that

(A) the defendant, at the time of possession, was the holder of a valid permit to carry a concealed handgun under AS 18.65.700 - 18.65.790 or was considered a permittee under AS 18.65.748

(B) the loaded firearm was a concealed handgun as defined in AS 18.65.790; and

(C) the possession occurred at a place designated as a restaurant for the purposes of AS 04.16.049 and the defendant did not consume intoxicating liquor at the place;

(2) a defense that the defendant, at the time of possession, was on business premises

(A) owned by or leased by the defendant; or

(B) in the course of the defendant's employment for the owner or lessee of those premises.

(e) For purposes of this section, a deadly weapon on a person is concealed if it is covered or enclosed in any manner so that an observer cannot determine that it is a weapon without removing it from that which covers or encloses it or without opening, lifting, or removing that which covers or encloses it; a deadly weapon on a person is not concealed if it is an unloaded firearm encased in a closed container designed for transporting firearms.

(f) For purposes of (a)(2) and (e) of this section, a firearm is loaded if the

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(1) firing chamber, magazine, clip, or cylinder of the firearm contains a cartridge; and

(2) chamber, magazine, clip, or cylinder is installed in or on the firearm.

(g) Misconduct involving weapons in the fifth degree is a class B misdemeanor.

(h) The provisions of (a)(1) and (6) of this section do not apply to a

(1) peace officer of this state or a municipality of this state acting within the scope and authority of the officer's employment;

(2) peace officer employed by another state or a political subdivision of another state who, at the time of the possession, is

(A) certified as a peace officer by the other state; and

(B) acting within the scope and authority of the officer's employment; or

(3) police officer of this state or a police officer or chief administrative officer of a municipality of this state; in this paragraph, "police officer" and "chief administrative officer" have the meanings given in AS 18.65.290 .

(i) In a prosecution

(1) under (a)(4)(B) of this section, it is a defense that the defendant, at the time of possession, was authorized to possess the firearm under a rule of court;



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(2) under (a)(4)(C) of this section, it is a defense that the defendant, at the time of possession, was authorized in writing by the administrator of the shelter to possess the firearm.

(j) In (a)(1) of this section, "contacted by a peace officer" means stopped, detained, questioned, or addressed in person by the peace officer for an official purpose.

Sec. 18.65.748. Permit holders from other jurisdictions considered Alaska permit holders. A person holding a valid permit to carry a concealed handgun from another state or a political subdivision of another state is a permittee under 25 AS 18.65.700(b) for purposes of AS 18.65.755 - 18.65.765 if the person has not had an application for a concealed handgun permit rejected in this state because the person was unqualified under AS 18.65.705 or had a concealed handgun permit revoked or suspended by this state.

Sec. 18.65.770. Permits, applications, and other materials not public records. Applications, permits, and renewals are not public records under AS 40.25.110 - 5 40.25.125 and may only be used for law enforcement purposes.

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1. David Kopel, "Trust the People: The Case Against Gun Control," [Cato Institute] Policy Analysis 109 (July 11, 1988): 25-26.
  2. Supreme Court of Indiana, *Kellogg v. City of Gary*, 1990.
  3. Joseph McNamara, *Safe & Sane*, (1984): 74.
  4. Peter Finn, "FBI Stops Checking Va. Gun Applicants," *The Washington Post*, 12 July 1996.
  5. In a court hearing to have the license returned, the judge in the case admitted that the individual did not meet the criteria for a revocation (i.e., he had never engaged in acts of violence or made threats of violence) but agreed to uphold the revocation anyway. The justification the judge gave was that the abortion issue was "a volatile one" and people involved in it should not be allowed to carry guns. A friend of the "defendant" made a routine inquiry to the sheriff's department to see if any abortion doctors or activists had their licenses revoked. By Oregon law this is public information. He was immediately visited by four FBI agents who demanded to know the reason for the request. Statement by Kevin Starrett, Oregon Representative for Gun Owners of America, August 21, 1995.
  6. North Carolina, Pennsylvania and Virginia are just three examples where local newspapers have printed the names of concealed carry permit holders.

7. Kopel, "Trust the People," at 26.
8. U.S. News & World Report, (17 January 1994): 8.
9. Morgan Quitno Press, Crime State Rankings 1996, at iv.
10. John R. Lott, Jr. and David B. Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns," University of Chicago, (13 July 1996). See also Lott, Jr., "More Guns, Less Violent Crime," The Wall Street Journal (28 August 1996).
11. Ibid.
12. Any waiting period -- whether the wait to buy a gun, or the wait to get a carry permit -- can have disastrous consequences. While most of the examples listed here relate to gun purchase waiting periods, the principle is the same. Waiting periods put one's rights on hold; and when one is in immediate danger, the result can be death.
13. Senate, "Handgun Violence," at 107, citing *Novae Russkae Slovo*, Vol. LXXII, No. 26.291, (6 Nov. 1983).
14. Stephen Singular, *Talked to Death: The Murder of Alan Berg and the Rise of the Neo-Nazis*, (1987): 137-138. Since he was shot from behind, one could possibly argue that a gun might not have helped him. Of course, had Berg received a carry permit, one can never be sure if his being armed would have served as a deterrent to the killer, who had stalked him for some time. Regardless, the point is that he should have been able to defend himself.
15. Congressional Record, 8 May 1991, pp. H 2859, H 2862.
16. Jonathan T. Lovitt, "Survival for the armed," USA Today, 4 May 1992.
17. Wall Street Journal, 3 March 1994 at A10.
18. On August 16, 1991, New York City Mayor David Dinkins signed Local Law 78 which banned the possession and sale of certain rifles and shotguns.
19. John Marzulli, "Weapons ban defied: S.I. man, arsenal seized," Daily News, 5 September 1992.
20. David Kopel, "Trust the People: The Case Against Gun Control," [Cato Institute] Policy Analysis 109 (July 11, 1988):25.
21. Jay Simkin, Aaron Zelman and Alan M. Rice, *Lethal Laws: "Gun Control" is the Key to Genocide*, (Milwaukee: Jews for the Preservation of Firearms Ownership, 1994).
22. *Lamont v. Postmaster General*, 381 U.S. 301, 85 S. Ct. 1493, 14 L. Ed. 2d 398 (1965).
23. Kleck, *Point Blank: Guns and Violence in America*, (1991):111-116, 148.
24. George F. Will, "Are We 'a Nation of Cowards'?", *Newsweek* (15 November 1993):93.