

## Important Firearms Licensing Information

On July 23, 1998, Chapter 180 of the Acts of 1998 (effective October 21, 1998) was enacted. The statute made significant changes to the existing firearms laws in Massachusetts. According to the Governor, "The Act strengthens the goal of the state's firearms control legislation to limit access to deadly weapons by irresponsible people and to prevent the temptation and the ability to use firearms to inflict harm, whether negligently or intentionally, on oneself or another." The Rochester Police Department strongly recommends everyone who either (a) has a license to carry a firearm or (b) is applying for a license to carry a firearm read Chapter 180 of the Acts of 1998 carefully. For quick reference, the important changes to the firearms licensing laws have been outlined below:

### Important Renewal Date Information

#### LICENSE TO CARRY FIREARMS

All Licenses To Carry Firearms will expire on the expiration date currently listed on the license. There is a 90-day grace period on expired LTCs.

#### FIREARMS IDENTIFICATION CARDS

If your current FID card does not have a fingerprint or photo of you on it, then it is expired. New changes to the firearms laws require all FID cardholders to renew their cards. There is a 90-day grace period on expired FID cards. Expired cardholders caught carrying a weapon can be subject to a fine up to \$5000 and/or arrest.

### New & Renewal Licensing Information

(1) Application - Complete the Application For New/Renewal of a Firearms Identification Card or License to Carry Firearms. Provide all the information that is requested on the form. Failure to provide information or providing false information will result in the denial of the application and the police department seeking a criminal complaint in the district court if the information is false.

(2) Suitable Person - In order to be eligible to receive a new or to renew a LTC, an applicant must be deemed by the Chief of Police to be a suitable person. The Chief considers factors such as the applicant's reputation in the community, his/her involvement in criminal activities that did not lead to an arrest or conviction, association with known criminals, etc. In addition, the following statutory restrictions affect an applicant's suitability:

- a. Applicant was convicted or adjudicated as a youthful offender anywhere for:
  1. Commission of a felony or misdemeanor with a sentence greater than two years
  2. Commission of a violent crime
  3. Violation of any firearms law punishable by imprisonment
  4. Violation of any narcotics law
- b. Applicant is committed to an institution for mental illness
- c. Applicant is being treated or confined for drug addiction or habitual drunkenness
- d. Applicant is under age 21
- e. Applicant is an alien of the United States
- f. Applicant is subject to any Chapter 209A protective order in Massachusetts or similar domestic violence stay-away order in another state

- g. Applicant is subject to an outstanding arrest warrant
- h. Applicant was convicted of a misdemeanor offense punishable by imprisonment for more than two years

With respect to an FID permit only, a person who has been convicted of such offense may apply for an FID if five years has past since such conviction and/or probation period, whichever occurred last.

- i. Applicant was convicted of a violent crime
- j. Applicant was convicted of a felony

Pursuant to Chapter 140 section 129B of the Massachusetts General Laws, the Chief of Police may not deny an applicant's request for a FID Card unless he/she is subject to one of the statutory disqualifications listed above. An applicant for a FID Card is not required to state a purpose to obtain the card.

#### DISQUALIFYING CRIMES

##### Crimes Against the Person

- Assault
- Assault & Battery
- Assault & Battery on Public Employee
- Assault & Battery on Ambulance Personnel
- Permitting Injury to a Child
- Gross Negligence by Common Carrier
- Assault & Battery/Property Damage to Intimidate
- Causing Injury in a Physical Exercise Program
- Resisting Arrest

##### Crimes Against Property

- Failure to Report Hotel Fire
- Larceny from Common Carrier/Business
- Larceny Under \$250 from Elder/Disabled Person
- Shoplifting over \$250
- Falsely Obtaining Commercial Computer Service
- Receipt of Deposit by Insolvent Bank
- Receiving Stolen Property Under \$250
- False Statement to Motor Vehicle Insurer
- Obstruction of Medical Facility - Subsequent Offense
- Wanton Destruction Property over \$250
- Destruction Church/School Property
- Destruction Jail Property

##### Motor Vehicle Offenses

- Operating After Suspension for DWI/Motor Vehicle Homicide
- DWI Alcohol
- Motor Vehicle Homicide while DWI or while Operating to Endanger
- DWI with Serious Bodily Injury
- DWI on a Vessel

- DWI on a Vessel with Serious Bodily Injury

- Homicide by Vessel while DWI or while Operating to Endanger

(3) Residency All applicants for a LTC or a FID must provide proof of residency or ownership of a business in the Town of Rochester.

(4) Proper Purpose to Carry a Firearm - In the application you are asked to state your reason for requesting the issuance of a LTC. The new law establishes a Class "A" and a Class "B" license to distinguish between those persons entitled to possess, carry and/or purchase Large/ Non-Large Capacity firearms or other guns. The Chief of Police may issue a license in either class depending on the reason submitted by the applicant and subject to the following rules:

PERSONAL PROTECTION - Except for those persons who are exempt and applicants who have been grand-fathered, pursuant to Chapter 180 of the Acts of 1998, e.g., applicants who lawfully possessed Large Capacity Firearms before the effective date of the Act, a Class "A" LTC will only be issued to the following class of persons subject to restrictions deemed appropriate by the Chief:

Law Enforcement Officers

No Restriction

Employment (People Employed in the Security/Investigative Field) - This class of people includes security guards, private detectives and/or other investigators. To be eligible to receive a Class "A" or "B" LTC under this category, the applicant must:

Request his/her employer to submit a letter stating that possession of a firearm is necessary for employment

Have the employer indicate in the letter the type of firearm carried by employees performing similar duties as the applicant

Have the employer indicate in the letter that it will notify the Chief of Police upon termination of the applicant

Notify the Chief of Police upon termination of employment from the position upon which the license was issued

Employment (Business, Professional, People Who Handle Large Sums of Money or Other Valuables) - To be eligible to receive a Class "A" or "B" LTC under this category, the applicant must:

Provide documentary proof that he/she is responsible for large sums of money for payrolls or bank deposits or for the transportation of very valuable merchandise in their business

Show good reason to fear injury to his/her person. To satisfy this requirement, the applicant will be required to state the type of merchandise or amounts of monies handled; any incidents of robberies or attempted robberies; any instances of the applicant being followed or cased; or provide any additional information the Chief of Police deems necessary to properly assess the applicant's need for a Class "A" or Class "B" LTC. This class of license will be restricted to those periods of time during which the licensee is responsible for the protection of the large sums of money or valuable merchandise and to travel to and from such employment. Failure to comply with this provision shall be cause for revocation of the license.

Other - This category of applicant is reserved for those individuals who can demonstrate a compelling need for a Class "A" or "B" LTC other than the above categories. Typically, a

person who can provide evidence that his/her life is endangered would be considered.

**TARGET & HUNTING** - Applicants for a license to Target Shoot and/or Hunt may only apply for a Class "B" LTC. A license for this purpose will restrict the licensee to such target shooting and hunting and to traveling to and from the licensee's home and the range or hunting area.

#### Renewal Applicants with LTC Formerly Classified as Any Lawful Purpose or Protection

Renewal applications will be examined closely to determine which Class of license is the most appropriate for the applicant. The statute provides that a person who possessed a Large Capacity firearm on October 21, 1998, shall be issued a Class "A" LTC. The Chief of Police may assign restrictions to the license depending on the circumstance of each applicant. If you are renewing a license to carry for protection and the license was previously issued by this department, you will be issued a Class A license for protection without any restrictions. If the renewal applicant is renewing a LTC issued by another licensing authority, dated after January 1, 1994, for "Any Lawful Purpose" or purpose inconsistent with target and hunting, and the renewal application is the first renewal, the application will be considered a new application with the applicant subject to all conditions as a new applicant.

#### Renewal Applicants with LTC Formerly Classified as Target & Hunting

A renewal applicant who holds an LTC for Target & Hunting will be issued a new LTC with the following restrictions:

If the applicant owns and possesses Large Capacity firearms on or before October 21, 1998, he/she will be issued a Class "A" LTC. The LTC will be restricted to Target & Hunting and traveling to and from home to the target or hunting area.

If the applicant does not possess Large Capacity firearms, he/she will be issued a Class "B" LTC. The LTC will be restricted to Target & Hunting and traveling to and from home to the target or hunting area.

#### Renewal of Expired LTC

If an applicant submits an application to renew a LTC that has expired by more than ninety (90) days, the rules and conditions governing the issuance of a new LTC will be used to evaluate the application.

**IMPORTANT:** Pursuant to Massachusetts General Laws, Chapter 140 section 131M, any person in possession of a firearm, rifle or shotgun whose license is invalid for the sole reason that it has expired, but who shall not be disqualified from renewal upon application shall be subject to a civil fine of not less than \$500 nor more than \$5,000. There is a 90-day grace period for expired licenses!

(5) Certificate of Completion of a Safety Course - Each new applicant for a LTC or FID Card (except an applicant for an FID to carry mace or other chemical propellant ONLY) must successfully complete a safety course certified by the Department of State Police or in the case of an FID a course of instruction in the safe handling of firearms administered by the Division of Fisheries and Wildlife. The instructor must be certified by the Department of State Police to teach the approved course. Additionally, applicants for a LTC may be required to complete a proficiency course, depending on the applicant's prior experience in the handling

of firearms.

(6) Abuse Prevention Restraining Order - As mentioned above, any applicant who is currently subject to an order of suspension or surrender issued pursuant to section 3B or 3C of chapter 209A or a similar order issued by another jurisdiction, or a permanent or temporary protection order issued pursuant to chapter 209A or a similar order issued by another jurisdiction, may not apply for a LTC or FID. Any applicant convicted of a misdemeanor involving domestic violence is prohibited from possessing a firearm and will be denied a LTC.

(7) Prior History of Spousal/Family Abuse - Applicants who have a prior history of spousal or family abuse will be closely examined. Any evidence that is discovered indicative that the applicant represents a threat to the safety of his/her spouse or family shall be cause for denial of license. The absence of an Abuse Prevention Order, standing alone, will not preclude an inquiry into an applicant's prior history of abuse.

#### Applicant Right to Appeal Chief's Denial to Issue or Renew a LTC or FID

You will be notified within 60 days if your application has been approved or denied. Massachusetts General Laws Chapter 140 section 131H provides that any applicant or holder aggrieved by a denial, revocation or suspension of an FID or LTC has 90 days from the date he/she received notice of such denial, revocation or suspension, or 90 days from the expiration of the time limit during which the licensing authority is required to respond to the applicant to file a petition in the local district court for judicial review. A person may not petition for judicial review if a hearing has previously been held pursuant to Massachusetts General Laws Chapter 209A, the Abuse Prevention Statute.

#### Still have questions about the Massachusetts Firearms Laws?

If you still have questions regarding the laws governing firearms possession, handling, transportation and licensing, you can contact Officer Donald Kemmett directly at 508-763-5112, extension 156. In addition, you can read the sections of Massachusetts General Laws Chapter 140 (sections 121-131) and Chapter 269 (sections 10-12) and Chapter 180 of the Acts of 1998 that apply to firearms online by visiting the Massachusetts General Laws web site.

#### About the Firearm Licensing Review Board

The FLRB has the authority to review only misdemeanor convictions. Further, there may be more than one conviction, but all convictions must arise from a single incident. The FLRB may not review convictions for:

a felony; or

an assault or battery on a family or household member, or person with whom there is/was a substantive dating relationship, as defined by G.L. c. 209A, § 1; or

a crime involving use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; or

a crime regulating the use, possession or sale of controlled substances.

In addition, an individual may not apply for review until after the passage of five (5) years since conviction or release from supervision, whichever is last occurring. The FLRB will review criminal histories as part of the petition review process.

People looking for a review have the burden of proof, by clear and convincing evidence, that they are eligible and suitable to possess an FID or LTC. The petitioner will have the opportunity to appear and/or submit documentary evidence. The FLRB will not provide legal advice to petitioners.

If the FLRB determines that the petitioner is a suitable candidate for an LTC relative to the misdemeanor conviction(s), the application process and final decision of whether or not to issue a license remains with the local police chief.