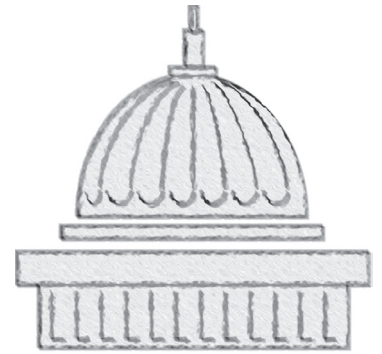


# F. NRA / ILA Firearms Laws for

## DELAWARE

(as of April 2008)



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### A SYNOPSIS OF STATE LAWS ON PURCHASE, POSSESSION AND CARRYING OF FIREARMS.

#### QUICK REFERENCE CHART

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

#### STATE CONSTITUTIONAL PROVISION

“A person has the right to keep and bear arms for the defense of self, family, home and state, and for hunting and recreational use.” Article 1, §20.

#### PURCHASE

It is lawful for a person residing in this State to purchase or otherwise obtain a rifle or shotgun in a State contiguous to this State and to receive or transport such rifle or shotgun into this State, subject however, to such other laws of the State or its political subdivision as may be applicable.

No permit is required to purchase a rifle, shotgun, or handgun. Purchasers of rifles and shotguns must be 18 years old. Handgun purchasers must be 21 years old.

Prior to purchasing a firearm from a licensed dealer, a criminal history record check and an involuntary commitment of an adult record check is required. Purchases of shotguns and antique firearms (or replicas of antiques) are exempted from the background check requirement, as are purchases by law enforcement personnel and holders of valid concealed carry permits.

Persons prohibited from possessing firearms are prohibited from purchasing firearms.

Any dealer who transfers firearms between private parties may charge a reasonable fee not to exceed \$20.00 to cover the cost of the background check.

It is unlawful to transfer to a person under 18 any firearm or ammunition without permission from a parent or guardian.

#### POSSESSION

There is no state licensing requirement for the possession of a rifle, shotgun, or handgun. The following persons are prohibited from purchasing or possessing any firearm:

- Convicted felons.
- Those convicted of a crime of violence involving bodily injury to another, including misdemeanors, but the prohibition shall not apply after five years from the date of conviction for misdemeanors.
- Those convicted of an offense involving a narcotic, dangerous drug, or controlled substance.
- Those who have ever been committed to a mental institution, sanitarium or hospital for mental disorder and do not possess a certificate of rehabilitation.
- Children under 16 years of age, unless under the direct supervision of an adult.
- A person adjudicated as delinquent for conduct which, if committed by an adult, would constitute a felony, unless and until that person has reached age 25.

It is a felony to knowingly give a firearm to a person prohibited from possessing a firearm. It is a felony to purchase a firearm on behalf of a person prohibited from possessing a firearm, or to purchase with the intent to transfer, give, or sell a firearm to a person prohibited from possessing it. It is unlawful for a parent to permit his or her child under 16 years of age to possess a firearm (whether operable or inoperable) or air or BB gun except under the direct supervision of an adult. It is a misdemeanor for anyone to possess any air gun or spring-fired gun firing or projecting anything larger than a BB shot.

#### CARRYING

It is unlawful for any person except a law enforcement officer to carry any loaded or unloaded firearm concealed

upon or about his person without a license to carry. Handguns may be carried in open view, or in an inaccessible area like the trunk of an automobile. Rifles and shotguns must be unloaded while being carried in or on any vehicle, farm machinery, motorboat while under power, or sailboat while under power.

Application for a license to carry must be filed with the Prothonotary of the Superior Court in the county of residence at least 15 days before the then next term of court. The initial license is valid for two years.

The applicant must supply a certificate signed by five "respectable" citizens of the election district in which the applicant resides, clearly stating that the applicant is a person of "full age (21), sobriety and good moral character, that he bears a good reputation for peace and good order in the community in which he resides, and that the carrying of a concealed deadly weapon by the applicant is necessary for the protection of the applicant or his property or both."

The certificate must be signed with the proper signatures and in the proper handwriting of each respectable citizen. The applicant must also file a notarized certificate to certify that the applicant has completed an approved firearms training course.

The Prothonotary of the county must publish a list of applicants in a newspaper at least 10 days before the next term of the Superior Court. The Court may or may not, in its discretion, approve any application.

The applicant must pay a \$34.50 application fee plus all taxes for the license as well as the cost of advertising the notice. Renewals are \$34.50.

A current holder of a license to carry, may, on or before the expiration date, without further application or additional requirements, renew license for a further period of 3 years by paying to the Prothonotary the license tax and fee, and upon filing with the Prothonotary an affidavit setting forth that the carrying of a concealed deadly weapon is necessary for the protection of himself or his property, or both, and that he possesses all the requirements for the issuance of a license. A person may make license renewals every 3 years thereafter, however, the Superior Court upon good cause presented to it may deny it for good cause shown.

## ANTIQUES AND REPLICAS

Any firearm manufactured before 1899 or any replica of such firearm that does not fire fixed ammunition or uses fixed ammunition no longer manufactured in the U.S. and which is no longer readily available in the ordinary channels of commerce is exempt from the background

check for purchasers, however, it is a firearm for all other purposes.

## MACHINE GUNS

Possession of a machine gun or any other firearm or weapon, which is adaptable for use as a machine gun, is a felony. Persons may possess machine guns for scientific or experimental research and development purposes provided such machine guns have been registered under the provisions of the National Firearms Act.

The provisions regarding machine guns do not apply to members of the military forces or to members of a police force in Delaware authorized to carry machine guns.

## MISCELLANEOUS PROVISIONS

Municipal governments shall enact no law restricting or licensing ownership, transfer, possession, or transportation of firearms or ammunition.

It is a felony to knowingly transport or possess any firearm manufactured after 1973 on which the serial number has been altered or obliterated.

It is unlawful to shoot across a road or within 15 yards of a road, or within 100 yards of an occupied building or barn or "other building used in connection therewith."

It is unlawful to recklessly or negligently leave a loaded firearm within the reach or easy access of a person under 18 and where such person obtains the firearm and uses it to inflict serious physical injury or death upon himself or any other person. However, it is an affirmative defense that: (1) the firearm was stored in a locked box or container or in a location which a reasonable person would have believed to be secure from access to a minor; (2) the minor obtained the firearm as the result of an unlawful entry by any person; or (3) the serious physical injuries or death to the minor or any other person resulted from a target or sport shooting accident or hunting accident.

SOURCES: Del. Code, Ann. 7-709, 7-726, 7-730, 11-222, 11-1441 et seq., 22-838, 24-901, et seq.

**CAUTION:** Firearm laws are subject to frequent change and court interpretation. This summary is not intended as legal advice or restatement of law. This summary does not include federal or local laws, ordinances or regulations. For any particular situation, a licensed local attorney must be consulted for an accurate interpretation. **YOU MUST ABIDE WITH ALL LAWS: STATE, FEDERAL AND LOCAL.**

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