

Arizona

First territory-wide law: 1863

Concealed weapons only

“An Act prohibiting the carrying of Weapons, concealed or otherwise.” Laws of the Territory of New Mexico, 1859.

“SECTION 1. That, from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, of any class of pistols whatever, bowie knife (cuchillo de cinto), Arkansas toothpick, Spanish dagger, slung-shot, or any other deadly weapon, of whatever class or description they may be, no matter by what name they may be known or called, under the penalties and punishment which shall hereinafter be described.”

Automatically adopted from the statutes of New Mexico. See that state for further information. Repealed April 20, 1865.¹

First Arizona territory-wide law: 1887

City/town concealed carry only

1887 Penal Code

Sec. 662. Any person in this territory having or carrying concealed any dirk, dirk-knife, bowie-knife, slung-shot, brass-knuckles, or pistol, or other weapon within any city, village or town in this territory, shalt be fined in any sum not more than three hundred dollars, or be imprisoned in the county jail not more than six months, or be punished by both such fine and imprisonment.

Revised Statues of Arizona. 1887. Prescott. Prescott Courier. p. 726 [Hathi Trust](#)

Constitution

1912

¹ *The Howell Code*, 1865, p. xiii [Hathi Trust](#)

The right of the individual citizen to bear arms in defense of himself or the state shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men.

Historical background

In 1846 the United States occupied the Mexican province of New Mexico, comprising mostly the area of modern-day states of both Arizona and New Mexico. New Mexico was made a formal territory on September 9, 1850. Southern Arizona was added to the territory from Mexico through the Gadsden Purchase in 1854, bringing much of the area that would figure in early Arizona history to the United States.

Residents of Mesilla and Tucson voted to secede to the Confederacy in 1861, but the territory was reclaimed by Union troops by 1862. The Confederacy claimed the southern portion of New Mexico Territory below 34° as their Arizona Territory. The US Congress chose to separate the territory along a north-south boundary in contrast with the rebel's claim.

Arizona Territory was created February 23, 1863 with the eastern border being concurrent with the present boundary with New Mexico. Western lands across the Colorado River (currently Clark County, and portions of Lincoln and Nye County, Nevada) were also included (becoming Pah-Ute county in 1865) but lost to Nevada by an act of Congress in 1871. Most activity in early Arizona took place in the far south in the vicinity of Tucson and the border highland regions.

Southern Arizona saw an influx of settlers, cowboys, and miners pour in after the end of the Mexican-American war. Much of this territory was controlled by Apache, Papago, and Pima Indians. Hostilities between the Americans and the Indians continued through the 1880s, with the earlier years being the most combative times. Indian raid and deprivations and atrocities by both sides were frequent during the Apache Wars. Violence from hostile natives was a fact of life for many early Arizonans especially those that lived outside of towns.

Cross-border raids by Indians and smuggling to and from Mexico also occurred on the southern border. Much of the area of western legend—Bisbee, Tombstone, etc.—was filled with Southerners who brought their honor culture and often psychological scars from the Civil War. Lawlessness was common in the area and the truth is not far from legend, though the crimes were less dramatic and more infrequent. The term “cowboy” was often used a pejorative in the area for the lawless class that often engaged in smuggling, robbery, and horse and cattle rustling.

Crime Situation

Crime on the Arizona frontier was typical of what one would expect yet the actual danger to the average person inside a town was fairly limited. Because the crime situation was so typically western, a general understanding of frontier criminality is sufficient. Incidents of robbery and Indian attack was higher outside of town. The high-profile range wars and feuds also factor little into the overall over-all picture for the average Arizonan at the time. Violence in town was of a sporadic nature and generally non-random. The overall fear of crime seemed to be low.

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Laws against dueling were present in the Howell Code of 1871² except that the problem with gunplay was few homicides were the result of a proper challenge. Rather, disputes escalated to violence and shooting with rarely a formal challenge. Indeed, in a table of famous gunfights the “ten paces” duel is absent.

In the Tunnel Saloon shootout of 1888, dubbed "Arizona's so-called 'Classic Gunfight'" by *True West Magazine*, was a long-running personal animus that became violent. Joe Phy burst into a saloon where Pinal County Sheriff Pete Gabriel, the object of Phy's rage, was having a drink. Without warning, Phy opened fire. Gabriel survived and Phy did not.³

Random pistol shooting was long a general complaint in newspapers because of the noise and danger. Unsafe discharge of firearms was first banned by the Legislature in 1867, long before concealed weapon laws were promulgated across the territory. One historian explained the “why” behind reckless shooting:

“Some of the desperadoes of early days had really childish characteristics. They liked to shoot much for the same reason that a child likes firecrackers. Very often they were full of a childish vanity, which they considered assertion of a sense of personal honor, supporting their reputation for bravery and truthfulness. There rarely was malice in the actions of a band of cowboys riding through a settlement, at full speed, in a joyous pastime of “shooting up the town.” It was only one way for relieving over-exuberant spirits.”⁴

One newspaper in Prescott complained:

“Scarce a night passes that we do not hear shooting, in some direction. Sometimes citizens get drunk fire their pistols off; then soldiers get boozy do the same thing. We really hope men come to see the folly of carrying on in this. It is ridiculous as well as dangerous, course, in a country like this, men are bound go armed, when traveling or working in the country, but we have never yet seen the necessity for packing six-shooters and bowie knives in a peaceable town like this.”⁵

In 1876, the Yuma newspaper reminded its readers that discharging gun in city limits was illegal.⁶ A Phoenix editor in 1882 complained that there was too much pistol shooting on the street and that it would be curbed by enforcing the concealed weapon law (a local ordinance).⁷ Another editor hoped an 1883 concealed weapons bill would pass to stop the practice.

The sooner Bolan's bill against carrying concealed weapons goes into effect the better. Tuesday and Wednesday nights shots were fired in the heart of the town.

² *The Compiled Laws of the Territory of Arizona including the Howell Code and the session laws...* (Weed, Parsons and Co. Albany), 1871, pp. 77-76

<https://arizona.app.box.com/v/CLL-Compiled-Laws-1864-1871>

³ Marshall Trimble, "Joe Phy vs Pete Gabriel," *True West Magazine*, January 16, 2016.

<https://truewestmagazine.com/joe-phy-vs-pete-gabriel/>

⁴ James H. McClintock, *Arizona: Prehistoric—Aboriginal, Pioneer—Modern* Volume II (S.J. Clarke Publishing), 1916, p. 465

⁵ *The Weekly Arizona Miner* (Prescott), October 16, 1869, p. 3

⁶ "Stop That Shooting," *The Arizona Sentinel*, Yuma, December 02, 1876, p. 3

⁷ *Weekly Phoenix Herald*, October 13, 1882, Phoenix, p. 3

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The trouble is that innocent passers-by might get hurt. If the shooting roughs themselves would go up on Santa Cruz hill and get their bellies full of it, no great harm would be done.⁸

61% of killings in Gila County were with done with handguns between 1800-1920. “Quarrels proved to be the most common antecedent for killings. They usually began with disputes in saloons and ended up on the street with shootouts between two armed men.”⁹

As concealed carry laws came into enforcement, they often substituted for laws that would be charged differently today. A Mr. Drapeau, a merchant from Castle Creek, got drunk in Phoenix, shot into the street, and lined up prostitutes at gunpoint to rant about the future to them. He was overpowered by his brother and two officers.

“Recorder Schwartz has determined that persons who fool with fire arms [sic] in Phoenix must pay the highest price provided for in the city ordinances. Marshal Blankenship will also discourage as far as possible the practice of carrying concealed weapons and Justice Huson will try to convince old-timers that a gun is not a part of necessary wearing apparel in Phoenix.”¹⁰

Drapeau was fined \$65 for the concealed weapon charge, his \$15 pistol was confiscated, and the city recorder fined him \$50 for the unsafe discharge and resisting arrest. This incident, though towards the extreme, is fairly typical of the incidents of gunplay in the streets that annoyed authorities and citizens. A concealed weapon charge was often not so much about the weapon as it was the related circumstances.

No one incident or a general rash of violence led to a call for a ban on carrying weapons. Laws seem to have been adopted more or less over time as an evolution of the penal code rather than as a reaction to specific incitements. This gradual evolution went through several changes and variations before reaching maturity.

Statutory History

Per Arizona’s Organic Act, New Mexico laws present in 1863 carried over to Arizona Territory:

“...all legislative enactments of the Territory of New Mexico not inconsistent with the provisions of this act, are hereby extended to and continued in force in the said Territory of Arizona until repealed or amended by future legislation...”¹¹

Arizonans had long complained that they were neglected by New Mexican authorities on a lawless frontier. The governor, John Goodwin, did not arrive until January 22, 1864, where “he

⁸ *Arizona Silver Belt* (Globe), January 29, 1883, p. 3

⁹ Clare V. McKanna, Jr., “Alcohol, Handguns, and Homicide in the American West: A Tale of Three Counties, 1880-1920,” *The Western Historical Quarterly* 26, no. 4 (1995), pp. 465, 468

¹⁰ *Arizona Republican* (Phoenix), August 14, 1892, p. 1

¹¹ §2, “The Organic Act of Arizona,” 37th Congress, Session III, Ch. 56, February 24, 1863.

<http://www.loc.gov/law/help/statutes-at-large/37th-congress/session-3/c37s3ch56.pdf>

found no government, no laws except those passed by the legislature in Santa Fe, [...] and scarcely any civilization.”¹² The Legislature did not meet until September 26, 1864 and promptly took up drafting a new code.

The Arizona Territorial Bill of Rights was a little more specific than the federal Second Amendment. Article 5: “The right of the people to keep and bear arms for their own defense and that of the government shall not be infringed.”¹³ This distinction is similar to other state’s constitutional protections.

The first act of the Legislative Assembly was to study a code of laws, researched by territorial Supreme Court Justice William Howell. He was assisted by Attorney General Coles Bashford, who later revised and compiled Howell's Code in 1871.^{14,15} Howell wrote in December of 1864, that the New Mexico code “was found that the laws under which we were required to act [the laws of New Mexico] were so ill-adapted to our condition.”¹⁶

The new Arizona code took effect April 20, 1865.¹⁷ The code was based mainly on the California and New York codes, primarily the former, changed to suit the conditions in Arizona.¹⁸

Bashford, president of the legislative council, he advocated for repealing the New Mexico code based on its allowance of peonage and debtor's prisons.¹⁹ Bashford later compiled the 1871 code, which formed the basis of the 1877 "Hoyt Code" compiled by John P. Hoyt, a secretary of the territory, in 1876. In April of 1877, Hoyt succeeded as governor until 1878.²⁰ In 1877, the Bashford-revised Howell Code was superseded by the 1877 Hoyt Code.

In 1865, there was no concealed weapons law present.²¹ In 1867, the Legislature enacted restrictions against essentially brandishing and the unsafe discharge of firearms.

1867

Brandishing and unsafe discharge

“AN ACT to prevent the improper use of deadly weapons, and the indiscriminate use of fire arms in the towns and villages of the Territory,” *The Compiled Laws of the Territory of Arizona including the Howell Code and the session laws...* (Weed, Parsons and Co. Albany), 1871, p. 96

¹² Jay J. Wagoner, *Arizona Territory 1863-1912; a Political History* (University of Arizona Press, Tucson), 1970, pp. vi-viii

¹³ *The Compiled Laws of the Territory of Arizona including the Howell Code and the session laws...* (Weed, Parsons and Co. Albany), 1871, p. 23

<https://arizona.app.box.com/v/CLL-Compiled-Laws-1864-1871>

¹⁴ "An Act Authorizing the Appointment of a Commissioner to report a Code of Laws," October 1, 1864. *Acts, Resolutions, and Memorials, [...] of the Territory of Arizona*, 1864, p. 19

¹⁵ John S. Goff, "William T. Howell and the Howell Code of Arizona," *The American Journal of Legal History* 11, no. 3 (1967), pp. 221-33.

¹⁶ Wagoner, p. xii

¹⁷ *The Howell Code*, 1865, p. xiii [Hathi Trust](#)

¹⁸ Wagoner, p. 47

¹⁹ Wagoner, pp. 44-46

²⁰ Wagoner, p. 158

²¹ See: *Howell Code*: Tenth Division, "Offenses against the Public Peace and Tranquility," pp. 89-91, §114-122

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SECTION 1. That any person in this Territory, having, carrying or procuring from another person, any dirk, dirk knife, bowie knife, pistol, gun or other deadly weapon, who shall, in the presence of two or more persons, draw or exhibit any of said deadly weapons in a rude, angry or threatening manner, not in necessary self-defense, or who shall, in any manner, unlawfully use the same in any fight or quarrel, the person or persons so offending, upon conviction thereof in any criminal court in any county of this Territory, shall be fined in any sum not less than one hundred nor more than five hundred dollars, or imprisonment in the county jail not less than one nor more than six months, in the discretion of the court, or both such fine and imprisonment, together with the cost of prosecution.

SEC. 2. That any person or persons having or carrying any pistol or gun who shall, in the public streets or highways, discharge the same indiscriminately, thereby disturbing the peace and quiet, and endangering the lives of the inhabitants of any town or neighborhood in this territory, such person or persons, upon conviction thereof, before any justice of the peace in the county where such offense may be committed, shall be fined in any sum not less than ten nor more than fifty dollars, and imprisonment in the county jail not less than two nor more than ten days, in the discretion of the justice of the peace, together with the cost of prosecution.

SEC. 3. It shall be the duty of all sheriffs, deputy sheriffs, constables and all peace officers and private citizens to see that the provisions of section second of this act are enforced, by informing on all persons violating its provisions, by having them arrested and brought before the proper officer for trial and punishment.

SEC. 4. It is hereby made the duty of all civil and peace officers in this Territory to be diligent in carrying into effect the provisions of section one of this act, as well also as all grand juries or grand jurors, to inquire into and make presentment of each and every offense against the provisions of said section one of this act which shall come within their knowledge. And it is also made the duty of all judges in this Territory to give said section one in charge of the grand juries at each term of their respective courts.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED September 30, 1867.

In 1883, carrying weapons was banned for minors ages 10-17. It appears that there may have been a broader proposal to ban concealed carry by everyone, not just minors. The exact evolution of the bills is based on a scant mention in newspapers.

“The sooner Bolan’s bill against carrying concealed weapons goes into effect the better. Tuesday and Wednesday nights shots were fired in the heart of the town,”²² wrote the editor of

²² *Arizona Silver Belt*, January 29, 1883, p. 3

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the *Arizona Silver Belt*. The nature of the editor's hopes, nearly nine months after the below law was passed, don't mesh with the nature of the minor's only ban. Perhaps Bolan's bill failed and a competing bill by Ellis succeeded.²³ On the other hand, the editor could have simply misunderstood the nature of the law applying only to children.

1883

minors

"An Act to prevent the improper use of deadly weapons, and the indiscriminate use of firearms in the towns and villages of the Territory," No 36, *Laws of the 10th, 11th, and 12th Legislative Assemblies of the Territory of Arizona*, 1883, pp. 65-66 [Hathi Trust](#)

SECTION 1. Any person in this Territory having, carrying or procuring from another person, any dirk, bowie-knife, pistol, gun, or other deadly weapon, who shall in the presence of two or more persons draw or exhibit any of said deadly weapons in a rude, angry or threatening manner, not in necessary self-defense, or who shall unlawfully use the same in any fight or quarrel, or who shall handle the same in a careless manner, thereby endangering the life or person of another, shall, upon conviction thereof in any Court of competent jurisdiction, be fined in any sum not exceeding three hundred dollars, or shall be imprisoned in the County Jail not more than six months, or shall be punished by both such fine and imprisonment, in the discretion of the Court trying the cause.

SEC. 2. Any person who shall purposely or carelessly discharge any gun, pistol, or other firearm in any saloon, dance-house, store, or other public house or business house in this Territory, thereby endangering the life or person of another, or thereby disturbing any of the inmates thereof, or who shall thereby injure, destroy or damage any property therein, or who shall discharge the same in any city, village or town of this Territory, except in necessary self-defense, shall, upon conviction thereof in any Court of competent jurisdiction, be fined in any sum not exceeding three hundred dollars, or be imprisoned in the County Jail for a period not exceeding six months, or shall be punished by both such fine and imprisonment, in the discretion of the Court trying the cause.

SEC. 3. Any person in this Territory over the age of ten and under the age of seventeen years, having or carrying, concealed or unconcealed, any dirk, dirk-knife, bowie-knife, slung-shot, brass-knuckles, or pistol within any city, village or town in this Territory shall, upon conviction thereof in any Court of competent jurisdiction, be fined in any sum not more than fifty dollars, or be imprisoned in the County Jail not more than one month, or be punished by both such fine and imprisonment, in the discretion of the Court trying the case. [emphasis added]

²³ "Concealed Weapon Bill," *Weekly Phoenix Herald*, February 09, 1883, p. 2

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SEC. 4. All Acts and parts of Acts in conflict with this Act are hereby repealed.

SEC. 5. This Act shall take effect and be in force from and after its passage.
Approved February 24th, 1883.

The 1887 revision of the code added a new penal code which included the ban on firearms in cities and towns. I was unable to locate a copy of the 1887 session laws online, but all searches led me to the 1887 Revised Statutes. I found no evidence that the language in §661-644 was adopted in earlier sessions, so it appears that the revised penal code included the addition of a new section against carrying concealed weapons.

1887

First AZ law, Cities and towns

Title XI—Of Crime Against the Public Peace, *Revised Statutes of Arizona*, 1887, p. 726 [Hathi Trust](#)

661. (Sec. 661.) Any person who shall purposely or carelessly discharge any gun, pistol or other fire-arm in any saloon, dance-house, store or other public house or business house in this territory, thereby endangering the life or person of another, or thereby disturbing any of the inmates thereof, or who shall thereby injure, destroy or damage any property therein, or who shall discharge the same in any city, village or town of this territory, except in necessary self-defense, shall be fined in any sum not exceeding three hundred dollars, or be imprisoned in the county jail for a period not exceeding six months, or shall be punished by both such One and imprisonment.

662. (Sec. 662.) Any person in this territory having or carrying concealed any dirk, dirk-knife, bowie-knife, slung-shot, brass-knuckles, or pistol, or other weapon within any city, village or town in this territory, shall be fined in any sum not more than three hundred dollars, or be imprisoned in the county jail not more than six months, or be punished by both such fine and imprisonment. [emphasis added]

663. (Sec. 663.) Every person who, not in necessary self defense, in the presence of two or more persons, draws or exhibits any deadly weapon in a rude, angry, or threatening manner, or who, in any manner, unlawfully uses the same, in any fight or quarrel, is guilty of a misdemeanor.

664. (Sec. 664.) Every person using or procuring, encouraging or assisting another to use any force or violence in entering upon or detaining any lands or other possessions of another, except in the cases and in the manner allowed by law, is guilty of a misdemeanor.

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In 1889, a much broader weapon ban was enacted. Section 1 applied the city/town ban to both open and concealed carry of any weapon. Section 2 allowed various exceptions to the law, most notably to travelers and “imminent danger” exceptions. Section 3 increased penalties for carrying in “sensitive” places. Section 6 allowed travelers outside of towns to carry weapons and allowance for entering/leaving towns. Section 7 placed duties on certain businesses to post notices regarding the law. The law took effect April 1, 1889.

1889

Universal total carry ban

An Act Defining and Punishing Certain Offenses Against the Public Peace,” No. 13, *Acts, Resolutions and Memorials...of the Territory of Arizona*, 1889, pp. 30-31 [Hathi Trust](#)

Section 1. If any person within any settlement, town, village or city within this Territory shall **carry on or about his person**, saddle, or in his saddlebags, any pistol, dirk dagger, slung shot, sword-cane, spear, brass knuckles, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in addition thereto, shall forfeit to the County in which he is convicted, the weapon or weapons so carried. [emphasis added]

Sec. 2. The preceding article shall not apply to a person in actual service as a militiaman, nor as a peace officer or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on ones own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack upon legal process.

Sec. 3. If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into a hall room, social party or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this Territory are collected to vote at any election, or to any other place where people may be assembled to muster or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, tilling shot, sword-cane, spear, brass knuckles, bowie knife, or any other kind of a knife manufactured and sold for the purposes of offense or defense, he shall be punished by a fine not less than fifty nor more than five hundred dollars, and shall forfeit to the County the weapon or weapons so found on his person.

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[Section 4, excluded peace officers, omitted from this text]

[Section 5, arrest procedures, omitted from this text]

Sec. 6. Persons traveling may be permitted to carry arms within settlements or towns of the Territory for one-half hour after arriving in such settlements or town, and while going out of such towns or settlements; and Sheriffs and Constables of the various Counties of this Territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective offices.

Sec. 7. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted up in a conspicuous place in his bar room, or reception room if there be no bar in the house, a plain notice to travelers to divest themselves of their weapons in accordance with Section 9 of this Act, and the Sheriffs of the various Counties shall notify the keepers of hotels, boarding houses and drinking saloons in their respective Counties of their duties under this law, and if after such notification any keeper of a hotel, boarding house or drinking saloon, shall fail to keep notices posted as required by this Act, he shall, on conviction thereof before a Justice of the Peace, be fined in the sum of five dollars to go to the County Treasury.

The Mohave County Sheriff publicized the law by having it published in the *Mohave County Miner*.²⁴

In 1893, the law was repealed and replaced by a less restrictive ban that applied only to concealed carry, but like the 1889 law, was universal in application. Fines were increased. Based on the 1901 code compilation, it appears the 1893 act only created a territory-wide concealed weapon ban (in unincorporated areas) without repealing the provisions applying to all forms of carry in cities and towns.

Later in the year, despite a local ordinance and the statute, many concealed weapons could be found.

“A well known man about town called the writer's attention a few days ago to the fact that more than forty guns, could be found; any night in the three large saloons on Washington street. Said the gentleman: ‘At a game last night there were not less than eight guns in the pockets of the per-sons playing.’”²⁵

The statute also banned pretextual deputization in order to allow someone to carry concealed weapons (no permits were allowed). Concealed carry was obviously still popular; so much so that many men were appointed deputy sheriffs as a matter of contrivance to get around the law.

²⁴ Published by the Mohave County Sheriff in *Mohave County Miner*, June 08, 1889, p. 3

²⁵ “Concealed Weapons,” *Arizona Republican*, October 24, 1893, p. 4

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One editorial decried the practice of pretextual deputization in Phoenix.²⁶ Why didn't they carry openly so as not to break the law?²⁷

1893

Universal concealed weapons

“An Act To regulate and prohibit the carrying of deadly weapons concealed,” No. 2, *Acts, Resolutions and Memorials, [...] of the Territory of Arizona*, 1893, p. 13 [Hathi Trust](#)

SECTION I. It shall be unlawful for any person (except a peace officer in actual service and discharge of his duty) **to have or carry concealed** on or about his person any pistol or other firearm, dirk, dagger, slung-shot, sword cane, spear, brass knuckles, or other knuckles of metal, bowie knife or any kind of knife or weapon except a pocket-knife not manufactured and used for the purpose of offense and defense. [emphasis added]

SEC. 2. Any person violating any of the provisions of Section 2 of this Act, shall be guilty of a misdemeanor, and may be arrested with or without a warrant either in the day-time or night-time, and taken before the nearest Justice of the Peace for trial; and any peace officer who shall fail, neglect or refuse to arrest any such person on his own knowledge of the violation of said Section, or upon the information from some credible person, or who shall appoint any person a deputy not intended to be used in regular service, but as a mere pretext for the purpose of carrying a concealed weapon, shall he guilty of a misdemeanor.

SEC. 3. Any person found guilty of violating any of the provisions of Sections 1 and 2 of this Act, shall be punished by a fine of not less than fifty nor more than three hundred dollars.

SEC. 4. All Acts or parts of Acts in conflict with this Act are hereby repealed.

SEC. 5. This Act shall take effect and be in force from and after its passage.
Approved March 6, 1893.

1901

Penal Code Title 11, Crimes Against the Public Peace, *The Revised Statutes of Arizona*, 1901, pp. 1251-1252 [Hathi Trust](#)

[381, unsafe discharge, omitted from this text]

²⁶ *Phoenix Enterprise* in: “The Ready Revolver,” *Bisbee Daily Review*, July 27, 1905, p. 4

²⁷ “Sheriff Bell Declares For Law,” *Bisbee Daily Review*, August 17, 1904, p. 7

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“382. It shall be unlawful for any person (except a peace officer in actual service and discharge of his duty), to **have or carry concealed** on or about his person, any pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, or other knuckles of metal, bowie-knife or any kind of knife or weapon, except a pocket-knife, not manufactured and used for the purpose of offense and defense.” [emphasis added]

[383, arrest procedure and pretextual deputization, omitted from this text]

“384. Any person found guilty of violating any of the provisions of the two proceeding sections shall be punished by a fine of not less than five nor more than three hundred dollars, and shall forfeit to the county, such weapon or weapons.”

“385. If any person within any settlement, town, village, or city within this territory shall carry on or about his person, saddle, or in saddlebags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, bowie-knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and, in addition thereto, shall forfeit to the county in which he is convicted the weapon or weapons so carried.”

“387. If any person shall go into church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into a ball room, social party or social gathering, or to any election precinct, on the day or days of any election, where any portion of the people of this territory are collected to vote at any election, or to any other place where people may be assembled to minister or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, bowie knife or any other kind of a knife manufactured and sold for the purposes of offense or defense, he shall be punished by a fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.”

389. Any persons violating any of the provisions of section 382 and 385 may be arrested without warrant by any peace officer and carried before the nearest justice of the peace for trial; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by a fine not exceeding three hundred dollars.

390. Persons traveling may be permitted to carry arms within settlements or towns of the territory, for one-half hour after arriving in such settlement or towns, and while going out of such towns or settlements; and sheriffs and constables of the various counties of this territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective offices.

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391. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted up in a conspicuous place in his bar room, or reception room if there be no bar in the house, a plain notice to travelers to divest themselves of their weapons in accordance with section 382, and the sheriffs of the various counties shall notify the keepers of a hotel, boarding house and drinking saloon in their respective counties of their duties under this law, and if after such notification any keeper of a hotel, boarding house or drinking saloon, shall fail to keep notices posted as required by this act, he shall, on conviction thereof before a justice of the peace, be fined in the sum of five dollars to go to the county treasury.

“To have or carry concealed”

The language “to have or carry concealed” in the 1893 and 1901 versions of the law is a bit difficult to parse. While a few states used the “have or carry” construction, it doesn’t appear Arizona copied from anyone else. Did the Legislature mean to ban concealed carry or both open carry? The clause could be read a number of ways:

- It was either illegal to both possess (have) a weapon on one’s person and illegal and illegal to carry a concealed weapon on one’s person; or,
- It could be illegal to possess (have) a concealed weapon or carry a concealed weapon on one’s person.

The plain grammatical reading seems to make it illegal to have a weapon on one’s person and to carry a concealed weapon, although in application it does not appear that is what the legislators meant. In proper grammar, to exclude only concealed carry, the clause should have been written “to have, or carry, concealed” [commas added].

I argue that the intent was only to ban concealed carry and the statute was written poorly. “Carry” means to bear, transport, or convey; “having” in this context would mean “to possess.” While the two terms seem to be duplicative, “have” could be understood to apply to possession of a concealed weapon while stationary and “carry” while in movement.

“Have” likely refers to a weapon in a saddlebag or other luggage immediately at hand (within reach), not directly holstered on the clothing. “Carry” refers to a holstered weapon on the body, tucked in the belt, or in a pocket. It is not beyond the possibility to see an attorney arguing someone sitting down could not be “carrying” something if they aren’t going anywhere, thus the distinction was felt necessary.

Additionally, other statutes writing is illuminating. The 1887 law reads “having or carrying concealed” while the 1889 amendment reads only “carry.” If there was a distinction about “having” an openly carried weapon on the person, why didn’t the 1889 amendment include “to have” or “having” in its language? Also, the 1889 “sensitive places” law²⁸ states “have or carry about his person” without specifying “concealed.” Clearly the intent in this section was to

²⁸ 1889 Sec. 3; 1901 §387; 1913 §459

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ban possession of a weapon entirely, not just a concealed weapon. If the “sensitive places” law intended to ban merely concealed carry, that word would be found in that section.

Finally, we have to look at application. In 1902, a newspaper wrote “In Arizona concealed weapons are a rarity. The man who has a pistol on his person has it in full view.”²⁹ In 1905:

“[...] the officers of Douglas are going after concealed weapons and they say they will make no exceptions [...] If people feel that they need to protect themselves with firearms, the only way to carry the gun is with a belt and holster in plain view.”³⁰

A “Mexican” was arrested in Douglas in 1909 for carrying a concealed weapon despite the gun being “worn in a belt with coat and waistcoat both open.” He was given only a fine on account of his good character. Apparently the case was “different” because the man was in the red light district.³¹ The article did not say if it was a state or local ordinance that was allegedly violated, which may have precluded prohibited any form of carry.

A man was tried in Bisbee in 1903 for openly carrying a gun, despite it being in “plain view.” The article states Bisbee had a city ordinance against “carry[ing] a gun” within city limits, but then refers to those “convicted of carrying concealed weapons.” The man in question had apparently carried the gun openly for some time after having trouble with another man, but was arrested for “flourishing” his pistol in “a threatening manner” after pistol whipping someone.

From this article, it appears that the city ordinance either applied to both manner of carry or the fine was levied for the other offenses. Another possibility is that the newspaper editor called it a “concealed weapon” violation from the general title of the ordinance even though the various offenses may have included brandishing and assault. However, if open carry was banned by the ordinance or by the state, why was he not stopped from openly carrying for the past year?³²

A newspaper article claims (dubiously) that concealed carry was a rare practice and that those who carried guns did so openly.

“In Arizona concealed weapons are a rarity. The man who has a pistol on his person has it in full view. Indiscriminate shooting is very rare and no State in the Union can show a record of less murders than can this Territory. The pistol is not part of Arizona man's attire, but the use of the pistol, when necessary, is by no means a lost art.

“Long ago a wholesome public opinion abolished the revolver as a mere ornament. It was discovered that very few men could lug a pistol around from day to day without ultimately coming to grief or doing injury to others. When the Indian abandoned the war path, and the desperados from the older States found inhospitable graves here, the pistol gradually disappeared as a necessary

²⁹ “The Pistol in Arizona,” *The Tucson Citizen*, January 29, 1902, p. 2

³⁰ *Arizona Silver Belt*, February 25, 1904, p. 2

³¹ “Douglas Starts Campaign on Gun Packers,” *Bisbee Daily Review*, November 14, 1909, p. 3

³² “Cost Him Thirty to Carry Gun,” *Bisbee Daily Review*, January 16, 1903, p. 4

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equipment. In Arizona the walking arsenal is now regarded as a freak or humbug [...] ³³

Why would men carry openly if it was illegal? One stood little chance of having a hidden gun detected, but a plainly visible one would be foolhardy to carry if it were illegal to do so. I have to assume that open carry was not within the intent of the state laws, though local ordinances may have banned both open and concealed carry.

1912

The Grand Canyon State joined the Union in February of 1912. This brought with it a new constitution. The 1891 territorial constitution was not unlike many others at the time that allowed the regulation of concealed carry.

SEC. 4. The right of the people to keep or bear arms for their own defense, and that of the government, shall not be infringed. The Legislature shall have the power to regulate the wearing of arms to prevent crime. ³⁴

In the process leading up to statehood, the replacement constitution was drafted and debated in 1910. It would be another two years before President Taft approved the constitution with the removal of a provision for voter recall of judges. In 1912, that was replaced by the following:

The right of the individual citizen to bear arms in defense of himself or the State shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men. ³⁵

Arizona's 1912 provision was taken from Washington's constitution. "Other than punctuation, the bear arms provision in the Washington Constitution is identical to the one adopted by the delegates to the Arizona Constitutional Convention." ^{36,37}

Tufte argues that New Mexico's constitutional provision and debate are "particularly relevant in construing the intended boundaries of the Arizona provision because the delegates of the two neighboring states were necessarily considering the same legal and political context." New Mexico adopted its constitution in January 1911, two months after Arizona adopted its own,

³³ "The Pistol in Arizona," *The Tucson Citizen*, January 29, 1902, p. 2

³⁴ Sec 2. Article II (Bill of Rights), 1891 Arizona Territorial Constitution.

³⁵ Sec. 26. Article II (Declaration of Rights), 1912 Arizona State Constitution.

³⁶ Jerod E. Tufte. "Some Explicitly Guaranteed Rights Are More Fundamental Than Others: The Right to Bear Arms in Arizona." *Arizona State Law Journal*. Vol. 33:341. 2001. https://www.azcdl.org/Tufte_RKBAInAZ.pdf Accessed 5/27/2020 pp. 346, 348

³⁷ Washington Constitution, Article I, § 24 ("The right of the individual citizen to bear arms in defense of himself, or the state, shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men.")

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which qualified the right to bear arms thus: "nothing herein shall be held to permit the carrying of concealed weapons."^{38,39}

While other state constitutions, particularly those of western frontier states, held that concealed carry (or carry altogether) could be regulated, New Mexico holds special significance. The former is the mother state of Arizona and the similarities in history, country, people, and the mining/ranching communities are very close. Considering that the two proto-states' constitutional debates were practically occurring at the same time, the significance is especially important.

Even though the two states shared ideas on the limitations of concealed carry, we must ask why did they choose to leave open carry alone? Were the delegates aware of earlier case law affirming the constitutional of open carry?

Lawyers of the time would be more likely to be aware of developments in Second Amendment case law in the preceding decade. In 1902, Idaho's *In re Brickey* decision declared the ban on openly carried firearms in cities and towns unconstitutional and a year later, in 1903, the Vermont Supreme Court⁴⁰ invalidated a local concealed weapon ordinance. Earlier precedence in other states certainly is a possibility for influencing the delegates, but it remains to be seen if they were aware of this precedence or cared. Certainly other states ignored it.

The constitutional delegation's debate about Arizona's right to keep and bear arms article sheds some important light.⁴¹

There were two unsuccessful votes on the amendments language to allow the regulation of carrying firearms. Ostensibly, this would be to limit concealed carry and carrying firearms in towns. "The people shall have the right to bear arms for their safety and defense, but the legislature shall regulate the exercise of this right by law," failed on a voice vote (tallies are not recorded on voice votes). Another amendment phrased "...but the legislature shall have the right to regulate the wearing of weapons to prevent crime," failed 22-23.

The second amendment better shows the possibility of what could have been. Texas had a nearly identical provision in its constitution and carrying a weapon either openly or concealed was illegal, except for the nebulous "traveling" exception. Tennessee also strictly regulated carrying firearms only carrying an Army/Navy pattern pistol in the hand (presumably in active self-defense) was permitted. Limitations deemed "sensible" are always a product of the time in which they are produced and have the potential to become extreme in scope.

Tufte argues that the two failed votes "indicate that the original intent of the delegates to the convention was to prohibit state regulation of the peaceful carrying of weapons." In his opinion, while the proposals to allow regulation of carrying weapons may have been "to make explicit the [state's] police power," he feels that the fail of the votes was "a rejection of the State's power to regulate arms bearing."⁴²

I argue to the contrary. Instead, it appears that the *lengths* to which the article should go in enumerating or limiting the right was being debated. Again, this was a feature of the debate over the Second Amendment and the analogues in the first states' constitutional debates. Beyond

Commented [GJ1]: What is the purpose then of the "bodies of armed men provision?"

³⁸ Tufte, p. 349

³⁹ New Mexico Constitution, Article II, §6 (1911 version): "The people have the right to bear arms for their security and defense, but nothing herein shall be held to permit the carrying of concealed weapons."

⁴⁰ *State v. Rosenthal*, 55 A. 610, 611 (Vt. 1903)

⁴¹ For source material on this point I am indebted to Tufte. As of this writing, the COVID-19 crisis has made it possible to request a library loan of the source material for the 1910 constitutional debate. Consequently, any limited understanding of this particular debate is limited to Tufte's material.

⁴² Tufte, pp. 346-347

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semantics, it is clear that society at the time felt that concealed carry could be regulated and also should be regulated. The legislators questioned how best to phrase where the line between the power of the government and the individual right lay.

A delegate Mr. Baker opinion helps shed some light:

“I never in all my life found it necessary to carry a six shooter and I have passed through nearly all the scenes and experiences of this wild and unsettled country. Carrying arms is dangerous. It is a very dangerous thing to oneself and to one’s associates and should not be permitted under any circumstances. I have seen lives lost and innocent blood spilled just through the carrying of arms, concealed weapons, under one’s coat or shirt. It is most dangerous and vile, a practice that should never be permitted except in times of war and never in time of peace. Think of it: carrying a six shooter or a knife or some other terrible arm of defense, and then in a moment of heated passion using that weapon. I do not believe in it, and I move to strike out that section.”

This was affirmed by Mr. Webb who said he had “never seen the time when it was necessary to carry concealed weapons except in times of Indian troubles.”

Both men refer unambiguously to “concealed weapons.” Baker talks about violence because of a weapon concealed under clothing. The two likely believed that carrying concealed weapons was reprehensible because of their use in sudden, passionate violence. Thus, concealed carry should be regulated on the basis of its association with criminality.

Openly carried weapons, of course, don’t keep someone from assaulting another in the heat of the moment anymore than a concealed weapon influences its owner to sudden homicide. Rather, the association with the method of carry is an important consideration in the delegates’ (and legislators’) minds.

From their own words, absent an active threat, carrying a firearm was unnecessary. The presence of the weapon could cause a hot-tempered man to kill. Baker and Webb, along with many in the legislature and legal profession, were not of the hot-blooded type. They did not associate with dangerous or impetuous men. Consequently, keeping away from the type of situations where one might need to defend themselves, they felt little need to go armed.

Instead of reading these men’s disavowal of a need to go armed as condemnation of armed self-defense, it is a comment on the society of the time. Unlike today, these communities were small and generally much more homogenous than today. Random violent crime was rarer than today. These men felt safe in their communities, the same as many Americans today in well-policed communities feel no need to carry a weapon.

If the delegates and legislators felt safe to go unarmed, is it any wonder they would question the need for carrying weapons? Today, the average citizen being armed for his self-defense is arguably more accepted than any time in our history, despite the advances in policing and communications. Our perspective on the character of those who carried concealed weapons has changed in the intervening century and a half.

As for open carry, like in other states, there seems to be an unspoken understanding that it could not be banned. Open carry was not stigmatized because everyone could see the weapon and a potential adversary in a fight would know their opponent is carrying. Also the general stigma against carrying weapons would tend to discourage person from openly carrying when it

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wasn't necessary. In a place where the chance of random violence was low, one might very well have no need to carry a gun even as a contingency.

This constitutional debate and the change in how the right to keep and bear arms was enumerated in Arizona law set the stage for the 1913 concealed weapon provisions of the penal code.

1913

A new revision of the codes was prepared in 1913.⁴³ This revision of the penal code saw section §383 (the ban on all carry on cities/towns) and §391 (hotel/barkeeper signage duty) dropped from the code. Apparently, the state no longer had any need to have business owners inform their customers of the law.

1913 code revision, from Senate Bill 60, Second Special Session, First Legislature, of the State of Arizona.

426. It shall be unlawful for any person (except a peace officer in actual service and discharge of his duty), to have or carry concealed on or about his person, any pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, or other knuckles of metal, bowie-knife or any kind of knife or weapon, except a pocket knife, not manufactured and used for the purpose of offense and defense.

427. Any person violating any of the provisions of the preceding section shall be guilty of a misdemeanor, and may be arrested with or without a warrant, either in the day-time or night-time, and taken before the nearest justice of the peace for trial; and any peace officer who shall fail, neglect or refuse to arrest any such person on his own knowledge of the violation of said section, or upon the information from some credible person, or who shall appoint any person a deputy, not intended to be used in regular service, but as a mere pre-text for the purpose of carrying a concealed weapon, shall be guilty of a misdemeanor.

428. Any person found guilty of violating any of the provisions of the two preceding sections shall be punished by a fine of not less than twenty nor more than three hundred dollars and shall be imprisoned in the county jail for not less than ten nor more than thirty days.

429. If any person shall go into church or religious assembly, any school room or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball room or social party or social gathering, or to any election precinct, on the day or days of any election, where any portion of the people of this state are

⁴³ Senate Bill 60, Second Special Session, First Legislature, of the State of Arizona

collected to vote at an election, or to any other place where people may be assembled to minister or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, sword-cane, brass knuckles, bowie knife or any other kind of a knife manufactured and sold for the purpose of offense or defense, he shall be punished by a fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

430. The preceding sections shall not apply to peace officers or other persons authorized or permitted by law to carry arms at the places therein designated.

431. Persons traveling may be permitted to carry arms within settlements or towns of the state, for one-half hour after arriving in such settlements or towns, and while going out of such towns or settlements; and sheriffs and constables of the various counties of this state and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective offices.

1928

The 1928 Revised Statutes §4724 refined the definition of carrying a concealed weapon to: “concealed on or about his person, any pistol, [etc].”⁴⁴

Enforcement

Newspaper reports of arrests and trials show that the concealed weapon law was regularly enforced and as regularly violated. Up until the late 1880s, violations of local ordinances were met with a customary \$25 fine. There were a few outliers.

A Prescott man charged with disturbing a meeting and carrying a concealed weapon while doing so claimed that the chief of police denied him a permit. The chief responded that he told the man “if he was attacked he would have the right to defend himself, and that under such circumstances when a man was arrested and weapon found on him, a nominal fine of only \$5 only was imposed.”⁴⁵ Generous of the court, given the circumstances.

The fines below the territorial statutory limit continued under local control to some degree as the statutes began to fall into place. In Phoenix in 1890, a \$3 fine was assessed.⁴⁶ Two brothers were sentenced to ten days for begging on the street, John Hughes was given a five dollar fine for being drunk and disorderly, while John Johnson was fined a dollar for carrying a concealed weapon. Another was arrested for singing obscene songs on the street, an evil which Recorder Schwartz was determined to stamp out, and gave the offender ten days in jail.⁴⁷

⁴⁴ A copy of the 1928 Revised Statutes was not available in full online and was unable to locate a print copy to review.

⁴⁵ "Kearney's Corpse," *The Weekly Arizona Miner*, November 28, 1879, p. 1

⁴⁶ "Personals," *Arizona Republican*, August 05, 1890, p. 4

⁴⁷ "Police Court," *Arizona Republican*, February 07, 1893, p. 5

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In Prescott, J. C. Reyes, a student traveling to visit his parents in Chihuahua, Mexico, got drunk waiting for a train in 1892. When he vomited on the platform, Reyes was arrested and taken to jail where his concealed weapon was found. He was fined seven dollars before a judge. The arresting officer felt this was “insufficient” punishment and swore out a second complaint before a second judge. Reyes was prosecuted, but acquitted by a jury as he was “a traveler in the full sense of the word, and was permitted to carry a pistol under the statutes.” The newspaper commented it was unusual for Reyes to carry a gun and called the double jeopardy “an outrage.”⁴⁸

In 1893, fines and jail sentences began to increase. A \$50 fine was levied in Prescott in June 1893.⁴⁹ That same year a Tombstone man earned 60 days.⁵⁰ A “Mexican” was arrested for “flourishing” his revolver and swearing in front of a woman on Main Street. He was fined the maximum \$50 under the territorial statute (the city ordinance setting the highest fine at \$300); but the defendant chose 50 days in jail instead.⁵¹

A 50 days sentence for minorities, who were often too poor to afford the fines (usually one day per dollar was a standard sentence), was not uncommon. An Indian was given 50 days in jail in Phoenix and so was Jose Ygnacio of Tempe.^{52,53} Two Indians were arrested for drunkenness. One was given ten days for the public intoxication charge and the one who was carrying a concealed weapon given 50 days.⁵⁴ A “Mexican” received 50 days in Tombstone.⁵⁵ Manuel Perez was arrested on CCW charges and fined \$50, lacking which, he was sentenced to 50 days. He was denied a reprieve to sell a horse to pay the fine.⁵⁶

Interestingly, the inflexibility of the law (and the unwillingness of the judge to nullify the charges) resulted in a pardon. Trinidad Arriolo was arrested for carrying a concealed weapon; a butcher knife that was carefully wrapped. Arriolo was sentenced to fifty days in jail, but his sentence was commuted/pardoned at 30 days by the governor, owing the apparent fact that Arriolo was not engaged in other criminal activity in addition to personal reasons. The newspaper editor commented that it was the judge himself who applied for the pardon.⁵⁷

Sometimes, a concealed weapon charge was preferred to other charges. A teamster beat a man with a club, however “the offence was hardly enough to make a charge of assault with a deadly weapon, so one of carrying concealed weapons was instituted.”⁵⁸ In some cases, due to a lack of witnesses, the concealed weapon violation was easier to “prove.”⁵⁹ If the weapon was not visible for the crime, then it must have been concealed. A man involved in a fight ran from an officer, then brandished and aimed the pistol at the officer. The charge was CCW.⁶⁰

Usually, the violation was taken relatively casually, but one violator got the book thrown at him and deservedly so. John Smoot was sentenced to \$200 or 200 days in jail for carrying a concealed weapon; this outlying punishment was on account of Smoot being a felon on parole.

⁴⁸ *Arizona Weekly Citizen*, September 17, 1892, Tucson, p. 1

⁴⁹ *Arizona Weekly Journal-Miner* (Prescott), June 07, 1893, p. 3.

⁵⁰ *Tombstone Epitaph*, June 21, 1893, p. 3

⁵¹ “Given Fifty Days,” *Arizona Weekly Citizen*, July 08, 1893, Tucson, p. 3

⁵² *Arizona Republican*, August 31, 1893, p. 2

⁵³ *Arizona Republican*, October 14, 1893, p. 5

⁵⁴ *Arizona Republican*, October 14, 1893, p. 2

⁵⁵ *Tombstone Epitaph*, October 22, 1893, p. 2

⁵⁶ *Arizona Republican*, September 20, 1894, p. 5

⁵⁷ “An Unbending Law,” *Arizona Republican*, October 23, 1894, p. 4

⁵⁸ *Arizona Weekly Citizen*, January 27, 1894, p. 4

⁵⁹ *Arizona Republican*, September 19, 1895, p. 5

⁶⁰ “Officer Fitch Effects Important Arrest,” *Arizona Republican*, August 19, 1913, p. 9

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His parole was revoked making him the first parolee in Arizona to be sent back to prison for violation of parole.^{61,62,63}

Editorials

Newspaper editors in Arizona were not shy about condemning the practice of pistol toting. One editor correctly identified the source of the problem of violence. “The custom so prevalent in this country of using weapons on slight pretext for the purpose of redressing wrongs must be stopped.”⁶⁴ To stop murders from occurring in hot blood, the solution was to disarm men.

“...the scrape is due to the reckless manner the law against carrying concealed weapons is violated, not alone in this vicinity, but throughout the Territory, and these brutal murders will continue to be of almost daily occurrence here until the united voice of the press, backed by the influence of our best citizens, demand that the pistol must go.”⁶⁵

Rather hyperbolically, one editor believed that many killings could have been avoided if such a law had been in existence and rigorously enforced,⁶⁶ as he wished for a concealed weapon law. Another paper echoed:

“It has been something over two years since the last fatal shooting affair in this county. If the law enacted by the last Arizona Legislature against carrying concealed weapons is energetically enforced affairs of this nature will be few in this county, as well as elsewhere in the Territory.”⁶⁷

The *Arizona Republican* was stridently against civilians carrying a gun and felt that an armed citizen only put himself in danger for possibly resisting a criminal.

“[...] it is evident that there would have been no killing if the slayer had not already violated the law against the carrying of concealed weapons.

“When any law is broken, usually to violator only is to blame, but in the case of carrying concealed weapons whole communities are to blame for winking at a practice which only futile efforts have been made to abolish. The punishment is not nearly severe enough and officers are not diligent enough. [...]

“There is absolutely no excuse for the carrying of in such a community as this and it may be presumed that when one does so he has in his mind the possible commission of another unlawful act. The footpad if he is bent on plying his trade will carry a gun if he is wise. So will the burglar. For both of them in the very

⁶¹ *Arizona Silver Belt*, December 19, 1901, p. 5

⁶² “Paroled Prisoner,” *Arizona Republican*, December 22, 1901, p. 2

⁶³ *Arizona Weekly Journal-Miner*, December 18, 1901, p. 3

⁶⁴ “The Full Penalty,” *Arizona Weekly Citizen*, May 26, 1883, p. 3

⁶⁵ *The Arizona Champion*, July 05, 1884, p. 3

⁶⁶ *Arizona Silver Belt*, February 03, 1883, p. 2

⁶⁷ *Mohave County Miner*, June 08, 1889, p. 3

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nature of things may have use for that defensive weapon. The law abiding citizen can have no use for it. If he becomes the subject of a holdup his weapon will only increase his peril. At his home for the repelling of burglars a revolver may come into useful play, for there the householder has the advantage of position.”

The editorial seems to suggest that criminals would see no need to carry firearms if their prospective victims were equally disarmed.

While most editorials supported banning concealed carry (or pistols entirely), a few differed in opinion. In 1898, we find another modern-minded approach towards disarmed citizens becoming the victims of crime.

“There is a law against carrying concealed weapons. Theoretically speaking it is a wise and proper ordinance. But as a matter of practical fact the only persons who honor this law are the victims of the murderer, the foot-pat and the rowdy.

“The law disarms the only class who could with safety be trusted to carry weapons of self-defense, and puts them at the mercy of every criminal they meet. What real service does the regulation perform in the social scheme, we should like to know. It sacrifices good citizens and it imposes absolutely no restraint whatever upon the others.

“It is our deliberate opinion that any respectable person who has been threatened by a crank should be authorized to arm himself and should be held guilt-less if, at the slightest provocation from that quarter, he uses his weapon with promptness and efficiency. The life of one useful, law-abiding citizen is worth a hundred of pestiferous vermin, and no law should impose upon him the risk of defenselessness in case of murderous attack.

“We do not advocate law-breaking! What we propose is such an amendment of the law as will fit the situation. Every ruffian, crank and criminal carries his pistol or his knife. Why should we have laws which sacrifice their friends and strengthen and uphold their enemies?”⁶⁸

Two years later, the editor of the Florence *Arizona Enterprise* also took a divergent viewpoint.

“In this connection, it is perhaps excusable to refer to the fact that the policy of laws for the prohibition of carrying of concealed weapons, has been recently under discussion by the police authorities and press of San Francisco, with a decided bearing toward the—to me, most sensible—conclusion, derived from argument based on the results of actual experience and observation, that such laws serve only to leave the law-abiding citizen in a defenceless [sic] condition in the emergencies of unexpected danger, while they have no restraining effect whatever upon the lawless element which they are intended to check and control. And will not such reasoning apply with fully as much, if not greater, force to the law now under consideration:

“While I haven't the same respect for the Arizona bill of rights that your Globe correspondent appears to entertain, yet I fully appreciate and participate in

⁶⁸ *Mesa Free Press* in: “Concealed Weapons,” *The St. Johns Herald*, March 19, 1898, p. 4

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his reverence for the constitution of the United States, and were it not that the law prohibiting the carrying of offensive weapons concealed or unconcealed, had met with the approval of the House judiciary committee—for whose legal opinions I have the most profound regard—I should unhesitatingly pronounce such law unconstitutional, as being in direct conflict with the 2nd amendment to the constitution.”⁶⁹

That editor is striking concurrent with modern arguments for armed citizens.

Gun control as experimental crime control

I have posited that concealed weapon laws were an experiment in crime control. If police and judges could just get people to stop carrying weapons, then violent crime might go down. Phoenix’s determination to curb the habit shows how earnest authorities were in enforcement, but still failed.

“Recorder Schwartz has given out with frigid distinctness that he intends to make it an object worth while for people to disarm themselves within the incorporation of Phoenix. If they fail to do so he will fill them with regret and incidentally fill the city jail. Every man arrested and upon whom is found a pistol of any variety or dangerous looking knife will be given the same kind of a sentence passed on Netherby [150 dollars or days]. There will be absolutely no deviation from this rule unless it be to make it more rigid. The recent and numerous shootings and cuttings have presented a necessity for the enforcement of the law against carrying concealed weapons.”⁷⁰

The final sentence of the above quote explained why Phoenix intensified enforcement. But light punishments weren’t working often because the concealed weapon charge was dropped.

“The lightest punishment is severe enough to produce discouragement if it were inflexibly inflicted, but frequently a man who is arrested for some other offense is found in possession of a deadly weapon. The seriousness of the offense for which he is arrested usually determines whether or not an additional charge of carrying concealed weapons is lodged against him. If he is not regarded as an unsafe person a complaint is seldom made and so his offense is compounded in what in his particular case is believed to be a spirit of justice, though the letter of the law is violated. It will not be so any longer in the police court.”⁷¹

No longer would a person’s character be used to overlook the violation or the additional charge set aside (or so the *Republican* editor thought).

⁶⁹ *Arizona Enterprise*, February 25, 1890 in: “From Phoenix,” *Arizona Weekly Enterprise*, March 08, 1890, Florence. p. 1

⁷⁰ “He Bore Arms,” *Arizona Republican*, November 02, 1894, p. 4

⁷¹ “He Bore Arms,” *Arizona Republican*, November 02, 1894, p. 4

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In the following days' paper, the editor pointed out that the law was flagrantly violated and attributed concealed carry being the precedent crime to many murders.

“The need of heroic action in this matter is shown in the following incident witnessed in a gambling saloon in this city nearly a year ago, and if times have changed at all since then the change has been for the worse. One night in the course of a heavy play at a faro table, a score of interested spectators crowded around the players. One man observed the butts of revolvers sticking out of the pockets of three or four spectators. Being of a statistical turn of mind he began taking a census of the weapons in the crowd and discovered that eighteen men were armed, contrary to the law and not one of them could offer a reasonable excuse for the possession of a weapon.

“Within the past year there have been more murders in Phoenix than one would care in the interest of the city's good name to enumerate. It is only necessary to consider that each of these crimes was preceded by the hardly less serious one of carrying concealed weapons.”⁷²

What the city recorder and the paper editor neglected to understand was that the gun didn't cause the killing, it was the man behind the gun.

“It ought to be understood that there is no substitute for the enforcement of the law against murder. As long as the murderous spirit exists and is not adequately restrained weapons will be found with which to commit a crime. Legislation against concealed weapons may or may not be useful, but it is entirely inadequate. We must punish the men who use weapons, of whatever kind, unlawfully.”⁷³

Despite the so-called aggressive enforcement against concealed carriers, violations and murders still happened.

How well the concealed weapon law experiment work?

After the turn of the century, Phoenix police reported very few concealed weapon arrests. The Phoenix police recorded the following arrests: 1907, 8; 1908, 6; 1909, 5; 1910, 7; 1911, 6.⁷⁴ Whether or not arrests were made, enforcement did not seem to achieve the goals the laws sought out to.

The *Arizona Republican* recommended that carrying a concealed weapon be made a felony in 1913. “The minimum penalty should be sufficiently severe and should carry so much obloquy with it, that it would act as a deterrent, so that the average citizen would no more 'pack a

⁷² “On the Right Track,” *Arizona Republican*, November 03, 1894, p. 2

⁷³ *The Argus* (Holbrook), April 2, 1898, p. 2

⁷⁴ “Exhibit J. Summary of Police Department,” *Arizona Republican*, February 03, 1913, p. 11

The table is not clear if the separate “violating ordinances” charges include violating state or local weapon ordinances.

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gun' than he would steal a horse. Our law on this subject at present is a joke which is generally intensified by the execution of the law.”⁷⁵

Phoenix was joined by Bisbee in lacking compliance with the law, but the paper there laid blame with police.

“That [the CCW law] is not enforced is due solely to the negligence of any or all peace officers in this community. What efforts are put forth by the authorities to uphold the law. How many arrests have been made in Bisbee within the past few months on charges of carrying concealed weapons? What testimony can local officials adduce that they have been active in the matter?”⁷⁶

The *Arizona Republican* was long critical of CCW and the lack of punishment and preferential treatment.

“It is true that one may be arrested now for packing a gun but not one nun in fifty is arrested and those who may be are so lightly punished that the punishment is not exemplary. If the criminal happens to be a so-called respectable citizen the incident is regarded as a joke. If he is a hobo, his crime is about as if he had been found drunk and sleeping.”⁷⁷

In 1918, the *Arizona Republican* was still complaining that the concealed weapon law went lightly enforced and that offenders frequently had their weapons returned to them. The editor admitted that many carriers went undetected until they committed another crime. “As a rule men who carry weapons are not good citizens. They belong to a criminal or a criminally inclined class. Every one of them is a potential murderer.”⁷⁸

Compliance was not achieved through the law or enforcement. In 1921, police still considered concealed weapons to be a problem and implemented a program reminiscent of the NYPD’s late stop-and-frisk policy. Officers were ordered to search anyone on the streets after 8 PM for concealed weapons in a 1921 attempt to reduce violent crime. Police clarified to reporters that this only applied to those officers believed were carrying concealed weapons.⁷⁹

Local Laws

While many counties and cities passed concealed weapon ordinances, few references to the original ordinances survive and are available online. Two of the best preserved examples are presented.

Why would local ordinances be enforced or kept on the books as the territorial statutes were passed? Local ordinances provided a level of flexibility (for leniency or to ban both forms of carry) to local authorities. Also, money fined under a local ordinance would be kept locally, so it was in the financial interest of the community to enforce the local law with local fines.

⁷⁵ *Arizona Republican*, February 5, 1913, p. 4

⁷⁶ “Carrying Concealed Weapons,” *Bisbee Daily Review*, March 14, 1914, p. 4

⁷⁷ “The Concealed Weapon,” *Arizona Republican*, November 27, 1908, p. 2

⁷⁸ “Carrying Concealed Weapons,” *Arizona Republican*, August 5, 1918, p. 4

⁷⁹ “To Search All on Streets After 8 O’clock at Night,” *Arizona Republican*, January 20, 1921, p. 8

Tombstone

The Legislature granted Tombstone the power to regulate “the carrying of concealed or deadly weapons.”⁸⁰ That same year, the infamous Ordinance Number Nine was passed.

Ordinance No. 9.

Section 1. It is hereby declared unlawful to carry in the hand or upon the person or otherwise any deadly weapon within the limits of said city of Tombstone, without first obtaining a permit in writing.

Section 2: This prohibition does not extend to persons immediately leaving or entering the city, who, with good faith, and within reasonable time are proceeding to deposit, or take from the place of deposit such deadly weapon.

Section 3: All fire-arms of every description, and bowie knives and dirks, are included within the prohibition of this ordinance.⁸¹

In 1882, the mayor reminded Tombstonians:

By virtue of the following section of ordinance No. 9, as amended February 6, 1882, I hereby cancel all permits heretofore issued for the carrying of concealed weapons within the limits of the city of Tombstone:

Ordinance No. 9. Section 1. It is hereby declared to be unlawful for any person to carry any deadly weapon, concealed or otherwise (except the same be carried openly in sight and in the hand), within the limits of the City of Tombstone.

—John Carr, Mayor⁸²

That year, Peter Black was fined \$25 for carrying concealed weapons in Tombstone⁸³ and John Doe, fined \$30.⁸⁴ *Tombstone Epitaph* editor Sam Purdy was arrested for carrying a concealed weapon, claiming he was on his way out of town.⁸⁵

Jeff Guinn, in *The Last Gunfight*, the authoritative book about Wyatt Earp and the Gunfight at the O.K. Corral, argued that pistol ownership was rare in Tombstone.

“Many Tombstone residents had no mounts or guns of their own—as town dwellers with easy access to stages and police protection, they didn’t have need of

⁸⁰“AN Act To incorporate the City of Tombstone, to define its limits and rights, to specify its privileges and powers, and provide for an efficient government for the same,” No. 39, *Acts and Resolutions [...] of the Territory of Arizona*, 1881, p. 40

⁸¹ Ordinance No. 9. Tombstone, Arizona, “To Provide against Carrying of Deadly Weapons,” April 19, 1881.

⁸² “Enforcement of Ordinance No. 9,” *The Tombstone Epitaph*, February 20, 1882, p. 5

⁸³ “Local Splinters,” *The Tombstone Epitaph*, March 13, 1882. p. 4

⁸⁴ “Local Splinters,” *The Tombstone Epitaph*, March 20, 1882, p. 1

⁸⁵ Territorial Notes,” *Weekly Phoenix Herald*, September 22, 1882, p. 3

them on a daily basis. That was for rural folk out in the decidedly uncivilized countryside.”⁸⁶

The arrests and complaints seem to tell a different tale. Probably many people in Tombstone owned and carried guns but they didn’t get into trouble with them.

Most violence in Tombstone was a result of drinking and bad tempers in the saloons while “wanton, cold-blooded murder was rare in Cochise County.” This fits with the overall pattern of criminality at the time and indeed the major problems police seemed to deal with was keeping public order.⁸⁷ Police made 108 arrests in June and July of 1881.

“Most were [arrested] for being drunk and disorderly, but two were for carrying concealed weapons, three for committing a nuisance, one for discharging firearms, and one for fast riding. The council wanted even the most minor transgressions punished with arrests and fines.”⁸⁸

This is entirely typical of Arizona Old West criminality and broadly uniform across the Frontier.

As far as the actual gunfight goes, the root cause was the tensions between the Earps and the Cowboys. The ostensible cause of the famous confrontation on October 26, 1881, was an attempt by the Earps to disarm the Clanton-McLaury gang for violating the weapon ordinance after several of them were seen to be armed. It has been argued that the ordinance would not have applied because some members of the Cowboys were either coming into town or leaving, but regardless of this, the ordinance specified “immediately leaving or entering the city” which none of the Cowboys seemed to have complied with.

While much mythmaking has circulated about the gunfight, the underlying tensions boiled over under the guise of gun control. From the behavior of the Cowboys, despite strict enforcement, hostile law enforcement, and an uncompromising ordinance, “pistol toting” in Tombstone was endemic.

Tucson

1871

Ordinance No. 4.

It is ordained by the Mayor and Council of the village of Tucson:

Breaches of the peace

Section 1.—Any person who shall draw or exhibit in a rude and threatening manner toward any other person within the village limit, any knife, pistol, gun or other deadly weapon, except in necessary self-defense, or an officer making an arrest, shall, upon conviction before the Recorder, be fined any sum not exceeding \$100, in the discretion of the Court.

Sec. 2—Any person who shall discharge any pistol, gun or any other fire arm upon any street, lane alley, plaza or vacant lot, within the inhabited limits of the village of Tucson, unless

⁸⁶ Guinn, Jeff, *The Last Gunfight* (Thorndike Press, large print edition), 2011, p. 338

⁸⁷ Ibid. pp. 267, 282

⁸⁸ Ibid. p. 305

in necessary self-defense or by an officer in the discharge of his duties, shall, conviction before the Recorder, be fined any sum not exceeding \$100, in the discretion of the Court.

November 22, 1871⁸⁹

1873

ORDINANCE No. 9.

IT IS ORDAINED BY THE MAYOR and Council of the Village of Tucson:
CARRYING DEADLY WEAPONS.

Section 1.—Every person not being a peace officer, who shall wear or carry any dirk, dirk-knife, gun, pistol, sword in a cane, slung-shot or other dangerous or deadly weapon, contrary to the provisions of this ordinance, within the inhabited portions of the corporate limits of the Village of Tucson, shall upon conviction before the Recorder be fined in any sum not exceeding ten dollars, or be imprisoned for a period not exceeding ten days, or by both such fine and imprisonment in the discretion of the court.

Sec. 2.—It shall be the duty of the Village Marshal or any peace officer to notify all persons who he may observe with any dangerous or deadly weapon, in violation of section one of this ordinance, to at once remove the same, stating to the person so notified that it is a violation of the ordinances of the Village of Tucson to carry any arms, dangerous or deadly, weapon, and if any person, after having been so notified by the Marshal or a peace officer, shall refuse, fail or neglect for a period of two hours to remove the same, it shall be the duty of the Marshal or peace officer to take any dirk, dirk-knife, gun, pistol, sword in a cane, slung-shot or other dangerous or deadly weapon from the party upon whose person it may be found, and arrest any such person so offending and take him before the Recorder, who shall fine the party so offending in any sum not exceeding ten dollars, or be imprisoned for any period not exceeding ten days, or by both such fine and imprisonment in the discretion of the court; provided, that nothing in this section contained shall be construed to prohibit the Marshal or any peace officer from disarming any person at once upon giving tilt notification hereinbefore required if he has good reason to believe that a breach of the peace is contemplated or may ensue.

January 28, 1873⁹⁰

1878

ORDINANCE NO. 14. CARRYING DEADLY WEAPONS.

The Common Council of the City of Tucson do ordain as follows:

⁸⁹ *Arizona Citizen*, December 09, 1871, p. 2

⁹⁰ *Arizona Citizen*, February 15, 1873, p. 1

Sec. 1. Every person not being a peace officer, who shall wear or carry any dirk, dirk knife, gun, pistol, sword in a cane, slung shot or other dangerous or deadly weapon, contrary to the provisions of this ordinance, within the inhabited portions of the corporate limits of the City of Tucson, shall upon conviction before the Recorder or any Justice of the Peace be fined in any sum not exceeding Ten Dollars, or be imprisoned for a period not exceeding ten days or by both such fine and imprisonment, in the discretion of the Court.

Sec. 2. It shall be the duty of the City Marshal or any peace officer to notify all persons who he may observe with any dangerous or deadly weapon. In violation of Section 1 of this ordinance, to at once remove the same, stating to the person so notified that it is a violation of the ordinances of the City of Tucson to carry any arms, dangerous or deadly weapon. and if any person after having been so notified by the Marshal or a peace officer shall refuse, fail, or neglect for a period of two hours to remove the same, it shall be the duty of the Marshal or peace officer to take any dirk, dirk knife, gun, pistol, sword in a cant, slung shot or other dangerous or deadly weapon from the party upon whose person it may be found, and arrest any such person so offending and take him before the Recorder or any Justice of the Peace, who shall fine the party so offending in any sum not exceeding ten dollars or be imprisoned for any period not exceeding ten days or by both such fine and imprisonment in the discretion of the Court; provided that nothing In this section contained shall be construed to prohibit the Marshal or any peace officer from disarming any person at once upon giving the notification hereinbefore required, if he has good reason to believe that a breach of the peace is contemplated or may ensue.

Passed in the Common Council of the City of Tucson, August 14th, 1878.
Repealed by Ord. #44, §15⁹¹

1883

Ordinance No. 44 (Defining Misdemeanors), approved May 8, 1883.

Unlawful to Carry Concealed Weapons

Sec. 15. If any person shall within the corporate limits of the City of Tucson carry concealed upon his person any gun, pistol, bowie knife, dagger or other deadly weapon, he shall be deemed guilty of having committed a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding three hundred dollars or be imprisoned in the county or city jail for any period of time not exceeding six months, or be punished by both such fine and imprisonment; provided that this section shall not be construed to apply to

⁹¹ Leslie C. Hardy, compiler, *Charter and Ordinances of the City of Tucson* (Star Job Rooms), 1910, pp. 89-90
[Google Books](#)

Sheriffs, Constables or police officers, when exercising their legitimate duties.
[...] approved May 8, 1883⁹²

Conclusion

Legislatively, It appears that the 1887, 1901, and 1913 versions of the concealed weapons statutes were added as part of an update to the code. I was not able to find a separate act for those additions.

Arizona was very much the land portrayed in Hollywood myth. One myth that is demonstrably not true is the walkdown at high-noon. The problem with violence was not street duels, but thought to be men keeping guns at hand. Violence was inevitable, but homicide might be tamed if the terror of the law could convince men to voluntarily disarm themselves. It did not. Fines were usually low, promptly paid, and jail sentences rare. Society tolerated armed men.

The amount of violence was overblown and most persons who were not involved in drinking or petty disputes had little to fear. Those, like today, who carried guns for protection from random crime, were not part of the problem. Even those arrested for many concealed weapon violations were taken in for another violation and only charged with the weapons violation upon a search.

The experiment in banning concealed carry did little to stem the tide of violations for reasons of human nature and lenient punishment.

⁹² Ibid. p. 110

Connecticut

First statewide law: 1907

Allowed local permits (may issue)

May-issue, concealed carry

"An Act concerning Concealed Weapons," Ch. 140, Public Acts, 1907 (see below for text).

Statutory History

Predecessor statutes

1830

Sentence enhancement to burglary

"An Act concerning Crimes and Punishments," Public Acts, 1830, pp. 256-257 Hathi Trust

Sec. 29. Every person who shall commit robbery, or burglary, and shall, in the perpetration thereof, be guilty of any personal abuse, force, or violence; or shall be so armed, with any dangerous armor or weapon, as clearly to indicate violent intentions, and shall be thereof duly convicted, shall suffer imprisonment in the Connecticut State Prison, for a term not less than seven, nor more than ten years. [emphasis added]

1879

Vagrant law

"An Act concerning Tramps," Ch. LIX, Public Acts, 1879, p. 9 Hathi Trust

Sec. 4. Every tramp who shall willfully and maliciously injure any person, or shall be found carrying any firearms, or other dangerous weapon, shall be imprisoned in the state prison not more than three years.

1907

May-issue, concealed carry

"An Act concerning Concealed Weapons," Ch. 140, Public Acts, 1907, pp. 689-690 Hathi Trust

SECTION 1. Every person who shall carry concealed upon his person any pistol, slung shot, sand bag, brass knuckles, or stiletto, or any knife the blade of which exceeds four inches in length, or any other dangerous or deadly weapon or implement, unless in possession of a written permit issued and signed by the mayor or chief of police of the city, the warden of the borough, or the first selectman of the town, authorizing said person to carry such weapon or implement within such city, borough, or town, as the case may be, wherein such person may be found, shall, upon conviction, be fined not more than two hundred dollars, or imprisoned in the county jail not more than one year, or both; provided, however, that this section shall not apply to any sheriff,

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deputy sheriff, bailiff, constable, policeman, or any other duly appointed officer charged with the preservation of the public peace.

SEC. 2. Whenever any person shall be found guilty of a violation of this act, any weapon or other implement within the provisions of section one found concealed upon the body of such person shall be forfeited to the municipality wherein such person was apprehended, notwithstanding any failure of the judgment of conviction to expressly impose such forfeiture.

SEC. 3. This act shall not apply to any person who shall be found with any such weapon or implement concealed upon his person while lawfully, in the peace and in good faith, removing his household goods or effects from one place to another, or from one residence to another, nor to any person while actually and peaceably engaged in carrying any such weapon or implement from his place of abode or business to a place or person where or by whom such weapon or implement is to be repaired, or while actually and peaceably returning to his place of abode or business with such weapon or implement after the same has been repaired.

Approved, June 21, 1907.

1911

Non-substantive changes; defines edged blade length for knives

"An Act amending an Act concerning Concealed weapons," Ch. 261, "Public Acts, 1911, p. 1556-1557 Hathi Trust

Every person who shall carry concealed upon his person any pistol, revolver, slung shot, black jack, sand bag, metal or brass knuckles, or stiletto, or any knife the edged portion of the blade of which is four inches, or over, in length, or any other dangerous or deadly weapon or implement, unless in possession of a written permit, issued and signed by the mayor or chief of police of the city, or warden of the borough, or the first selectman of the town, authorizing said person to carry such weapon or implement within such city, borough, or town, as the case may be, shall, upon conviction, be fined not more than two hundred dollars, or imprisoned in the county jail not more than one year, or both; provided, that this section shall not apply to any sheriff, deputy sheriff, bailiff, constable, policeman, or any other duly appointed officer charged with the preservation of the public peace.

1917

Open and concealed carry

"An Act amending an Act concerning Concealed Weapons." Ch. 129, Public Acts, 1917. Hathi Trust

Section one of chapter 140 of the public acts of 1907 as amended by chapter 261 of the public acts of 1911 is amended to read as follows:

Every person who shall carry upon his person any pistol, revolver, slung shot, black jack, sand bag, metal or glass knuckles, or stiletto, or any knife, the edged portion of the blade of which is four inches or over in length, or any other dangerous or deadly weapon or instrument, unless such person shall have been granted a written permit issued and signed by the mayor or chief of police of a city, warden of a borough, or the first selectman of a town, authorizing such person to carry such or instrument within such city, borough or town, shall, upon conviction, be fined not

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more than five hundred dollars, or imprisoned not more than three years, or both. The provisions of this section shall not apply to any officer charged with the preservation of the public peace.

See also: Ch. 331, Offenses Against the Public Peace and Safety, The General Statutes of Connecticut, 1918, p. 1745 Hathi Trust

Sec. 6369. Concealed weapons. Every person who shall carry upon his person any pistol, revolver, slung shot, black jack, sand bag, metal or glass knuckles, or stiletto, or any knife the edged portion of the blade of which is four inches or over in length, or any other dangerous or deadly weapon or instrument, unless such person shall have been granted a written permit issued and signed by the first selectman of a town, mayor or chief of police of a city or the warden of a borough, authorizing such person to carry such or instrument within such town, city or borough, shall, upon conviction, be fined not more than five hundred dollars or imprisoned not more than three years or both. The provisions of this section shall not apply to any officer charged with the preservation of the public peace.

1919

State may-issue permit system

“An Act concerning the Granting of State Licenses to carry Weapons” Ch. 206, Public Acts, 1919, p. 2864 Hathi Trust

Any person who shall have been granted a written permit to carry weapons by authority of the provisions of section 6369 of the general statutes may apply to the superintendent of state police for a state permit, and said superintendent may grant a permit which authorizes the holder thereof to carry such weapons in any town in this state, but the holder thereof shall, at all times, have such permit on his person when carrying such provided any permit granted by the superintendent of state police by authority of the provisions of this act may be revoked by said superintendent at his discretion, and upon the revocation of such permit the same shall be surrendered to said superintendent.

1921

State permits

“An Act amending an Act concerning the Granting of State Licenses to Carry Weapons.” Ch. 127, Public Acts, 1921, p. 3128 Hathi Trust

SECTION 1. Chapter 206 of the public acts of 1919 is amended to read as follows: Any person who shall have been granted a written permit to carry weapons, by authority of the provisions of section 6369 of the general statutes, may apply to the superintendent of state police for a state permit, and said superintendent may grant a permit which authorizes the holder thereof to carry such weapons in any town in this state for a period of one year, upon the payment of a fee of one dollar, and such permit may be renewed from year to year upon the application of the holder and the payment of a renewal fee of twenty-five cents, provided such application and fee is presented to said superintendent within ten days of the expiration of such permit. The holder of such permit shall, at all times, have such permit on his person when carrying such weapon. Any permit

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granted by the superintendent of state police by authority of the provisions of this act may be revoked by said superintendent at his discretion, and upon the revocation of such permit the same shall be surrendered to said superintendent.

SEC. 2. This act shall take effect from its passage and all permits heretofore issued and held for one year or more shall be void. Any such permit may be renewed as hereinbefore provided.

1923

Proto-Uniform Firearm Act

Open carry banned; may-issue

"An Act Concerning the Possession, Sale and Use of Pistols and Revolvers." Ch. 252 (SB 265). "Public Acts." 1923, pp. 3707- Hathi Trust

SEC. 9. No person shall carry any pistol or revolver in or upon any vehicle or upon his person, except when such person shall be within his dwelling house or place of business, without a permit to carry the same issued as hereinbefore provided.

SEC. 10. The provisions of section nine of this act shall not apply to the carrying of any pistol or revolver by any marshal, sheriff or peace officer, or to any soldier, sailor or marine in the service of the United States or this state when on duty or going to or from duty, or to any member of any military organization when on parade or when going to or from any place of assembly, or to the transportation of pistols or revolvers as merchandise, or to any person carrying any pistol or revolver while contained in the package in which it was originally wrapped at the time of sale and while carrying the same from the place of sale to the purchaser's residence or place of business, or to any person removing his household goods or effects from one place to another, or to any person while carrying any such pistol or revolver from his place of residence or business to a place or person where or by whom such pistol or revolver is to be repaired or while returning to his place of residence or business after the same shall have been repaired.

Note: non-carry sections omitted here for brevity; §1: definition, §2: dealer license required, §3: may-issue carry licenses, §4: permit fees, §5: dealer sale requirements, §6: carry permit revocation, §7: aliens, §8: false statements, §11: altering markings, §12: punishment, §13: non-substantive.

Historical Analysis

It will come as no surprise that as a northern state and original colony, Connecticut's frontier days were longer ago when the first concealed weapon statute was passed than the time from the statute to that if this writing. Even during the initial settlement of the colony there existed no "honor culture" that developed in the southern colonies. Until increased foreign immigration and urbanization occurred in the late 19th century, Connecticut had no need for a concealed weapon law, like much of the northeast.

In 1895 a newspaper editorialized that there was no state law against concealed weapons, but local only ordinances. Evidence of concealed weapon ordinances dates from at least the early 1880s. In 1882, New Haven County recorded seven concealed weapon charges. Waterbury passed a stronger concealed weapon ordinance in 1895 so there must have been a law already on the books.

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Though I have been unable to find evidence of a proposed bill in the state House and Senate journals, a newspaper provided evidence of a concealed weapon bill proposed in 1899. I have been unable to find any indications of any state bills before 1907 or any definitive statements as to why it was felt a statute was needed.

Editorial concern over concealed weapons began a definite uptick from the 1890s through the first decade of the 20th century. The height seems to have come between 1895 and 1897 when the major cities enacted harsher penalties (and provided for a may-issue permit system). This was amid increased violence and concerns about the Italian community; the latter will be covered in detail below. By inference, violence in, and xenophobia towards, immigrant communities seems to be the driving factor regarding the drive for harsher penalties.

Labor disputes were common around the turn of the century and in many cases many of the strikers and strikebreakers were mutually carrying concealed weapons, though this does not appear to be a driver for CCW legislation.

As for the actual state law itself, it appears it was driven by a perceived need to have a statewide statute, in lieu of a patchwork of local ordinances, to address the matter. A state concealed weapon statute was called for at the 1906 State Police Association meeting, noting that there were only local ordinances that were considered inadequate. It was believed a state law would make it a "serious matter" to go armed. A penal statute could provide for harsher terms than a city or town ordinance. An unsuccessful 1909 house bill attempted to reduce the time a license was valid for to three months.

There was some dissent as three bills were introduced in 1907 and each were criticized by "country" legislators as "city bills" without provision for sportsmen. A much tougher and far-reaching bill (based on the Uniform Firearms Act) was passed in 1923 that allowed various exemptions, none of which allowed transport to shooting ranges or events. Excluding moving homes, purchase, and repair, any time a pistol moved outside the home it was expected the person doing so would possess a carry license, regardless if they went armed for self-defense or were merely going to target practice.

Regressing a bit, unlicensed open carry was prohibited in 1917 and the penalty for carrying a weapon was raised to a felony with up to three years' imprisonment and a five hundred dollar fine. In 1919, a statewide permit system under the authority of the state police was instituted. This would allow anyone with a state issued permit to carry in any city in any town of the state, rather than just a local permit good for one city or town. By 1921, it appears that the local system of permits was superseded by the state permit system.

In 1923, again we see no real internal influence to greatly expand the scope of the concealed weapon statute, however, the model pistol statute in the form of the poorly named Uniform Firearms Act was making its way across the country. Connecticut adopted it as many states did in one form or another. The influence in 1923 seems to be a general desire to control pistol sales and licensing, which was the aim of the model act. While highly restrictive, the act was better written and thought-out than anything the state had done itself before.

Enforcement

Before the 1907 statute, fines typically ranged from five dollars to \$20, plus costs, with the average base fine being \$5. A Mr. Stowe of New Haven was fined \$5 and \$6.24 in costs in 1888. \$50 was usually the maximum typical fine levied in extreme cases.

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In 1891, a \$50 fine was levied against an Italian carried a concealed dirk, and possibly threw away a revolver, although his two friends resisted the officer. The judge said he was “going to put a stop” to carry concealed weapons, which in connection with the resistance, probably explains the high fine.

Concealed weapon arrests were frequent. Many offenders were drunk or engaged in some other disturbance. Actual incidents of violence where concealed carry was an included or lesser preferred charge were much less common. After the state statute, jail sentences began to be imposed.

Weapons other than firearms seem to be the plurality rather than pistols, with knives, slungshot, and metal knuckles being popular. A Bridgeport paper complained that “foreign born” iron workers turned out metal knuckles which were favorite weapons used in fights.

A lack of enforcement (or effective enforcement) seems to have lead to an attitude that the concealed weapon law “applies to thee, not for me.”

“Although there is a fine of \$50 and costs for carrying concealed weapons, the thing doesn't amount to anything, and as a result nobody takes much stock in it. For this reason the officer don't make an arrest unless they really can't help it, and this has led many to conclude that there is no law with reference to such matters, and that a man has as much right to carry a revolver in his hip pocket as a clay pipe or a paper of chewing tobacco.”

With the punishments much lighter than \$50, and the offense being impossible to detect unless one unintentionally exposed their weapon, it is not hard to see how an attitude flaunting the law might develop.

Another issue that might lead to the favorability of illegal carry is the inability to obtain a license. If one discounts latent or inexplicit racism, immigrants likely would not qualify for licenses (or rarely) so due to a lack of ties and prominence in the community. The idea behind a license is that the mayor or police chief would have some idea about the applicant's character. For a well-established person, regardless off ethnicity, this wouldn't be an issue. It would be for a young, Italian male new to the country who may associate with elements the issuer would consider disreputable.

Jail terms, especially measured in months, were imposed more frequently after 1910. Token fines in the form of a dollar for costs were issued frequently when a jail sentence was imposed, though not always. Cases complicated by other crimes could incur a wide range of fines, usually not more than \$50.

In 1908, two New Haven boys were sentenced to 30 days in jail for brandishing firearms and driving people out of a saloon. A Mr. Girard was also give six months for carrying concealed weapons after a “breach of the peace” where he threatened to kill his wife. Jail sentences, especially longer ones, were imposed in connection with other crimes and often greater than, or in place of, the underlying crime.

In 1909, enforcement was still problematic. The Norwich Bulletin called enforcement of the concealed weapon law a “dead letter” and noted with glee that a Meriden man, an Italian, was sentenced to six months in jail, rather than a fine “which would have been readily paid.” This was in connection with a theft, for which he only received 30 days and a seven dollar fine. Regardless of surrounding events, sentences could vary widely. Charges in city could be plead upwards to the Court of Common Pleas, but the decisions were not always reductions. In one case, a man appealed a fine of one dollar in costs and 30 days in jail only to receive a \$50 fine

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and two months in jail; another had his sentence reduced to 10 days from 30 and fined the dollar in costs.

Editorials

The Connecticut newspapers were light in the condemnation of carrying weapons, at least as it came to their involvement in violence. A city attorney was quoted as saying: "Most of the murders and assaults that have occurred in New Haven for the past few years have been the result of carrying concealed weapons." , It was recognized that a deadly weapon might cause a contentious encounter to escalate into homicide, but total abolition of the right to carry wasn't called for.

The Hartford Times tied concealed carry to impulsive violence, yet it approved of licensing and strong penalties for unlicensed carry. It also cited the opinion that firearm sales should be licensed, "so as to make it more difficult for brawlers, hoodlums and quiet-tempered folks to get possession of gunpowder implements of destruction. The requirement of a license to sell firearms and also a license to carry them would probably exercise a mildly restraining influence." This hints at the kind of men who carried were problematic, not that guns exerted magical influence all who toted pistols.

This even handedness was rare in the papers I surveyed. Fiery damnations directly linking and blaming assaults and homicides on carrying weapons stood were not common in the papers surveyed as so many other editors opined. Rather, the Connecticut papers give the impression that carrying weapons was seen as unnecessary and frankly silly, rather than a menace.

In the following account, the viewpoint that going armed was puerile comes across.

"Firearms never were in greater demand in Waterbury than at the present time. Many are buying revolvers and carrying them without saying anything about it to anyone, while others have called upon the mayor and securing permits to carry concealed weapons. A prominent citizen entered the mayor's office this morning and asked: 'Mr Mayor, will you please make out a permit for me to carry a concealed weapon?' 'What do you want to carry,' asked the mayor, 'an axe?' 'No,' answered the man, 'a pistol.' He got his permit and walked out of the office with the air of a man who did not care a rap for all the footpads from here to Harlem."

Merely carrying a gun, even openly, drew ridicule. Bob Taylor, a Montanan who came east to work on the railroads during a strike, "terrorized" New Haven by openly carrying a firearm in "the Western style" complete with sombrero and spurs. He typically carried two revolvers and a full cartridge belt against his waist.

The Journal and Courier compared his effect upon the city to "the despotism of the czar of Russia." Taylor was arrested as a "desperado" for holding up persons at gun point and forcing them to turn out their pockets as he searched for a lost pocket book. The editor's style is so hyperbolic it is difficult to tell if Taylor had a history of bad firearms discipline or not. Perhaps Taylor was a rather unusual example but open carry was not commonplace. Concealed weapon licenses were rather frequently issued, although why they were so in vogue remains unclear. Based on arrest and court reports, many men carried concealed illegally, though in order to be searched they must have been doing something illegal, so the men may not have been of the class who would receive a license.

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Doubtless other men, who would be considered “of good character” and granted a license, carried without one, secure in the knowledge that without being involved in scurrilous behavior, they would not be detained and searched. That licenses were frequently issued and licensing schemes widely issued indicates it wasn’t carrying per se that was the problem, it was who was carrying.

That is not to say that the editors wanted anyone to carry; even though their opinions may have been mild ones, typical of New Englanders, a general attitude of disapproval carried through.

“The police and the public are in a sense at to mercy of an element that appears to mistake liberty for license and unless something is done very soon to make them feel that the law in this country can be enforced with as much rigor as in any other part of the world, decent citizens will want to carry guns too. In the opinion of some very good people the time has come when the law abiding part of the community might be suspected of being armed just as well as the other fellows.”

Society might approve of licensing concealed carriers, but the papers did not.

Local Laws

Hartford

SECTION I. Every person within the limits of the City of Hartford carrying a concealed weapon without first obtaining written permission from the Chief-of-Police of the City of Hartford, shall be deemed to have committed a misdemeanor, and upon conviction shall be punished by a fine of not more than fifty dollars (\$50.00), or committed to jail for 30 days, or both.

SEC. 2. The Chief-of-Police of the City of Hartford is hereby authorized to issue permits in the name of the City of Hartford to any one applying for the same who may desire to carry a concealed weapon, but the Chief-of-Police may exercise his discretion as to whether or not he will issue such permission.

SEC. 3. The Chief-of-Police shall; when issuing said permit, take a full description of the person to whom said permission is granted, name, address, the particular reason why said permission is asked for, and shall state in the permit the term for which it is to continue, and the said Chief-of-Police -Shall keels a numbered duplicate in book form of the original permit, which shall be kept by the Chief-of-Police.

SEC. 4. The Chief-of-Police of the City of Hartford, for cause, may revoke any permission granted by him under this ordinance before the expiration of the same, and when said permission is revoked the Chief-of-Police shall give personal written notice of said revocation, or may designate any member of the police department to give personal written notice of said revocation to the licensee.

Approved, March 27, 1906.

New Haven

There is evidence of New Haven having a concealed weapon ordinance in 1887 based on arrests made.

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Waterbury

There is evidence of an earlier ordinance. Waterbury's police commissioners recommended a stronger concealed weapon ordinance in 1895.

1895

Section 1. Every person who shall have in his or her possession in said city, any steel, iron or brass knuckles, or any slung shot or weapon of similar character, or shall carry any weapon concealed upon his person shall forfeit and pay a penalty of not less than \$5 nor more than \$100 for every such offense.

Sec. 2. Any police officer of said city may arrest without warrant any person whom they have reason to believe has upon his person any concealed weapon, and may search such person for such weapon, and in case no weapon shall be found concealed upon such person may thereupon release him from custody.

Sec. 3 The mayor is authorized and empowered to issue permits to such suitable persons as may apply therefor to carry concealed weapons, whenever in his judgment it is advisable so to do: such permit to be recorded in the office of the chief-of-police in a book kept by him for that purpose and to be revocable at the pleasure of the mayor, and no person having such permit in force shall be liable to arrest under the provisions of this ordinance.

[Section 4 omitted]

Approved September 9, 1895.

1897

SEC. 6. Every person who shall have in his possession in said city any steel, iron or brass knuckles, or any slung shot or weapon of similar character, or shall carry any weapon concealed upon his person, shall forfeit and pay a penalty of not less than five dollars nor more than one hundred dollars for every such offense.

SEC. 7. Any police officer of said city may arrest without warrant any person whom he may have reason to believe has upon his person any concealed weapon and may search such person for such weapon and in case no such weapon shall be found upon him, may thereupon release him from custody.

SEC. 8. The Mayor is authorized and empowered to issue permits to such suitable persons as may apply therefor to carry concealed weapons. whenever in his judgment it is advisable so to do; such permit to be recorded in the office of the Chief of Police in a book kept by him for that purpose. and to be revocable at the pleasure of the Mayor, but no permit shall remain in force for a longer period than one year from date of issuance thereof, and no person having such permit in force shall be liable to arrest under the provisions of this ordinance.

Passed by Board of Aldermen March 15, 1897. Approved March 19, 1897.

The Italian Influence

The connection with Italian immigrant violence and concealed weapons is inescapable in reading the newspapers of the late 19th century and early 20th. The demographics were shifting in certain neighborhoods in cities and with the new immigration pattern poverty, uncertainty, and

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a change in culture came with it. A large number of young men, the vanguard of any migration, behaved in rowdy, raucous way that lead to violence. In that respect, these areas of Connecticut bear similarities to the overwhelmingly male western towns where men were unrestrained by family obligations.

There is an obvious, if understated link between the concealed weapon laws and the Italian community, the members of which, were often arrested for going armed, fighting, and sometimes killing. A researcher would always hope to see overt links of racism like jingoistic statements disparaging the newcomers, but at least with mention of concealed weapons, the reportage was remarkably evenhanded. Yet without editorials clearly condemning a certain nationality in connection with carrying concealed, the links must be inferred. Italians were not infrequently arrested for carry concealed weapons.

"Every session of the city court during the past few weeks has shown that it is impossible to estimate the number of weapons that are unlawfully carried concealed in this city evenings. Hardly a prisoner of a non-English speaking nationality that has appeared before the city court in the time mentioned that was not charged with carrying concealed weapons, and the nature and looks of the weapons showed that business was the intent of carrying them."

Much of the violence (and concealed weapon arrests) was concentrated in immigrant communities. A newspaper complained that police said Brooklyn and Town Plot areas of Waterbury, where the Italians lived, were the most dangerous.

"The vast difference between the locality selected by the police and that chosen by the women of the north and west end of the city, is so glaring, so vast and apparent that to make a comparison of any length is to waste space. The gentry and well-to-do of the town live in one, the other is practically a large colony of all non-English speaking races in the city. And to this very fact, which is evident in the city court records of the past two or three years, and is every morning repeated in the same institution, the police attribute it to the increase in non-English speaking people. Singular explanation, one would say, yet the police say it is true. They have no grudge against these men yet about three years ago, they say that the carrying of concealed weapons was a thing very seldom heard of outside of the people of one country. These mostly carried daggers of various kinds knives and stilettos, and occasionally a revolver. But seldom if ever did they arm themselves with a black-jack, the weapon that knocks one senseless without leaving a mark.

"The element that carries this weapon is, to a degree, a new one in this city court affairs. To within half a dozen years ago, it was almost unheard of there. Once in a while, at long intervals, a man was haled on a charge of simple intoxication, but now the charge of carrying concealed weapons is always accompanied by the other. Usually three go together drunkenness, carrying concealed weapons and breach of the peace; and sometimes a fourth is added resisting the officer.

"The police look upon the element in question as the most dangerous there is in the city...

"A few weeks ago a policeman testified in the city court that almost every man of a certain nationality carried weapons of some kind concealed on his person nights, and that almost every night some man is sandbagged.

"A great change has taken place in nationality of those who make business for the police and the city court, as in fact a great change has taken place in everything throughout the city. One race has given way to another and when a broken head, a shooting affray, a stabbing or a case of

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carrying concealed weapons has occurred the police invariably look toward the [Italian neighborhoods].”

While the newspaper may have been stating a fact (one today could correlate violence with minority communities) the association to the Italian areas is clear. This is an association that would have been on the mind of legislators and supporters of a concealed weapon ban.

Support within the Italian-American community for concealed weapon laws were mixed. In 1899, Italian men in Brooklyn were "greatly worked up" debating "the measure now before the legislature in reference to carrying concealed weapons, a move which Italians do not look upon with much favor." A year later, some support was recorded.

“Some [...] made no bones about stating that in their opinion it would be an excellent thing for the Italians if the authorities would make a practice searching people now and then who are suspected of carrying concealed weapons about them.”

By 1907, there was official support from the Italian community for a state statute, even it as a whole did not support the bill. When the Italo-American Civic Association formed in New Haven, the Journal and Courier expressed hope that the association would press for disarmament. An Italian immigrant spoke in favor of the bill to the Judiciary Committee, citing an Italian law, and adding "all his countrymen were heartily in favor of a rigid law."

In January 1907, the Waterbury Democrat attributed three homicides to "the concealed weapon practice" and at least 16 to the same the previous year. The paper also attributed slashings to "Italians and Lithuanians" stating that in sixteen murder trials interpreters were needed. It was in this legislative session that the ban was passed. Based on the newspaper reports, the violence, concealed weapon violations, and unstated concerns about the Italian community must have influenced passage of the ban.

Based on the above, it seems that the Italian connection with the increasing penalties for carrying concealed weapons and the eventual state statute are less about racism than intolerance for violence. Yes, Italians disproportionately engaged in violence and lived in neighborhoods that were considered more dangerous, but laws appear to have been made in order to curb the habit and thus reduce violent rather than disarm a population. Even so, the latent distrust for newcomers, regardless of their national or ethnic origins, and their relationship with violence, must have factored into the support for passage of these laws.

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Florida

Florida's digitalization of its legislative record was extremely spotty. I was able to find most of the session laws from the late 1820s to 1864. There were a few digitized records in the years between 1864 and 1909 and a gap between 1923-1929.⁹³ The remaining laws were taken from the Revised Statutes, various compilations, and newspaper reports of legislation.

Constitution

1838

Article I, Declaration of Rights, Section 21. That the free white men of this State shall have the right to keep and to bear arms, for their common defense.

1868

Article I, Declaration of Rights, SEC. 22. The people shall have the right to bear arms in defence of themselves and of the lawful authority of the State.

1885

Article I, Declaration of Rights, SEC. 20. The right of the people to bear arms in defence of themselves and the lawful authority of the State, shall not be infringed, but the Legislature may prescribe the manner in which they may be borne.

1968

Article I, Declaration of Rights, Sec. 8. (a) The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law. [sections (b)-(d) omitted]

Statutory History

1835

⁹³ The years I was able to survey session laws for were: 1827-1864, 1870, 1875, 1889, 1909-1923, 1929-1937

Concealed carry

“An Act to prevent any person in this Territory from carrying arms secretly” Ch. 860, *Acts of the Governor and Legislative Council of the Territory of Florida*, 1835, p. 318 [Hathi Trust](#)

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this Act, it shall not be lawful for any person in this Territory, to carry arms of any kind whatsoever secretly, on or about this persons, and if any dirk, pistol, or other arm, or weapon, except a common pocket knife shall be seen, or known to be secreted upon the person of any one in this Territory, such person so offending, shall on conviction, be fined not exceeding five hundred dollars, and not less than fifty dollars, or imprisoned not more than six months, and not less than one month, at the discretion of the jury; Provided however, that this law shall not be so construed as to prevent any person from carrying arms openly, outside of all their clothes; and it shall be the duty of judges of the superior courts in this Territory to give the matter contained in this act in special charge to the grand juries in the several Counties in this Territory, at every session of the Courts.

1868

Open carry (handgun) criminalized

Allen H. Bush, Comp, Chapter XLIX, *A Digest of the Statute Law of Florida...* (1872), pp. 252-253 [Hathi Trust](#)

11. Whoever, when arrested upon a warrant of a magistrate issued against him for an alleged offence against the laws of this State, and whoever, when arrested by a sheriff, deputy sheriff, constable, police officer, or watchman, while committing a criminal offence against the laws of this State, or a breach or disturbance of the public peace, is armed with, or has on his person, slung shot, metallic knuckles, billies or other dangerous weapon, shall be punished by fine not exceeding fifty dollars, and by imprisonment in the county jail not exceeding one year.

12. Whoever manufactures, or causes to be manufactured, or sells, or exposes for sale, any instrument or weapon of the kind usually known as slung shot or, metallic knuckles, shall be punished by fine not less than fifty dollars, or by imprisonment in the county jail not exceeding six months.

15. Whoever shall carry arms of any kind whatever secretly, on or about their person, or whoever shall have about or on their person any dirk, pistol, or other arm or weapon, except a common pocket knife, upon conviction thereof shall be fined in a sum not exceeding one hundred dollars or imprisonment in the county jail not exceeding six months.

Note: Section 11 imposed a penalty for persons who were armed when arrested upon a *warrant*. Section 15 criminalized carrying pistols and concealed weapons generally as well as criminalizing openly carrying a handgun.

1885

Section 1. Whoever shall carry arms of any kind whatever secretly on or about their persons, or whoever shall have concealed on or about their person any dirk, pistol or other arm or weapon, except a common pocket knife, shall be deemed guilty of misdemeanor, and upon conviction thereof shall be fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding six months.

SEC. 2. That the Circuit Courts of this State shall have exclusive original jurisdiction to try and determine all cases of violation of this act. and it shall be the duty of the Circuit Judge of the several circuits to charge the grand juries specially upon the crime of carrying concealed weapons and the State Attorney, of the several circuits shall receive a fee of ten dollars for each and every conviction under this act, to be paid as other conviction fees.

SEC. 3. It shall be the duty of the Sheriff or ether officer making the arrest under this act, to take possession of any arms found upon the person arrested tinder this act and retain the some until after the trial of such person, and if he be convicted, then the said arm or arms shall be forfeited, and the Sheriff shall sell them at public sale and account for and pay over the proceeds of this sale the same. as in fines collected; but if such person be acquitted, theta the said arm or arms shell be returned to him.⁹⁴

1893

Licenses to openly carry repeating (Winchester) rifles

Note: No text of the 1893 law was found and is not presented here. Additionally, I am unable to retroactively parse the 1901 law because I do not have record of what was added or amended in that year. The 1901 statute references both “Winchester” repeating rifles and pistol licenses, without distinguishing which came about when, however, it appears that repeating rifles were first licensed in 1893, followed by pistols in 1901.

Ch. 4147, Acts 1893 (text not available) seems to have added a requirement for permits to carry a pistol or a “Winchester” or other repeating rifle.⁹⁵ The reference to the Acts of 1893 is taken from the marginalia of the complications listed below for 1901. The first mention of Winchester licenses was in November of 1893 in the *Florida Agriculturist*.⁹⁶ Bonds were approved for two men to carry Winchester rifles in Marion County in October of 1894.⁹⁷ This was a common mention in papers beginning this year.

⁹⁴ “Carrying Concealed Weapons,” *Florida Agriculturist*, April 29, 1885, p. 916 [LOC](#)

⁹⁵ Winchester was the most prolific manufacturer of repeating (usually lever or slide action) rifles and the name became a common sobriquet for those kinds of rifles at the time.

⁹⁶ “Floridiana,” *Florida Agriculturist*, November 1, 1893, p. 703

⁹⁷ “Marion’s Commissioners,” *Ocala Banner*, October 12, 1894, p. 4

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In the early 1890s, there were a few mentions of incidents and killings that involved Winchester rifles, but I was unable to find any evidence that any of these were the inspiration for the law. One editorial opined: “Many of the latter class in the labor camps and sometimes on the streets carry Winchesters openly (allowed by law) and as this law is enforced against the weaker class, ere long I fear hundreds of men will be armed with these deadly weapons.”⁹⁸

Based on newspaper searches, it seems to me that only permits to carry Winchester or repeating rifles were allowed to be issued in 1893. The footnotes/marginalia of the complications directly reference the Acts of 1893, i.e. “(Ch. 4147, Acts 1893, § 1, as amended by ch. 4928, Acts 1901, § 1.)”⁹⁹. I was unable to find references to pistol or revolver licenses/permits being issued before 1901 with a number issued regularly thereafter.

1901

Open (carry) licenses for pistols

I believe that in 1901, the Florida legislature allowed permits to carry pistols to be issued. Prior to this, all carry of a pistol, open or concealed, was totally banned. Only the open carry of repeating rifles was permitted from 1893.

This is based on newspaper searches that revealed “Winchester licenses” to carry repeating rifles between 1893 without mention of pistol/revolver licenses/permits. The latter did not begin to appear until late 1901 and then thereafter when both were often mentioned in reviews of county politics. Also, the compilations mentioning pistol permits do not reference any statutes earlier than 1901.

Crimes and Criminal Procedures, Ch. III, Article 5, Deadly Weapons, *The Compiled Laws 1914 of the State of Florida* (1915), pp. 1672-1675 [Hathi Trust](#)

3262. Carrying concealed weapons.—Whoever shall secretly carry arms of any kind on or about his person, or whoever shall have concealed on or about his person any dirk, pistol, metallic knuckles, slung shot, billie or other weapon, except a common pocketknife, shall be punished by imprisonment of not less than three months nor exceeding six months, or by fine of not less than one hundred dollars nor exceeding five hundred dollars: Provided, That nothing in this section shall be considered as applying to sheriffs, deputy sheriffs, city or town marshals, policemen, constables or United States marshals or their deputies.

3263. Officer to arrest without warrant.—The carrying of concealed weapons is hereby declared a breach of peace, and any officer authorized to make arrests under the laws of this State is hereby authorized to make arrests without warrant of persons violating the provisions of the preceding section.

⁹⁸ “Alliance Department,” *Ocala Banner*, April 3, 1891, p. 3

⁹⁹ Crimes and Criminal Procedures, Ch. III, Article 5, Deadly Weapons, *The Compiled Laws 1914 of the State of Florida* (1915), pp. 1674 [Hathi Trust](#)

3264. Grand jury may indict.—The several grand juries, in their respective counties, may return indictments, and the several State attorneys, in their respective circuits, may file informations against parties for carrying any pistol, razor or dirk or other deadly weapon, except a common pocketknife, secretly on or about their person.

3265. Indictments, where tried.—All such indictments or information shall be by the clerk of the circuit court transmitted and certified to the county judge for trial, except in counties where criminal courts of record and county courts have been established. In such counties all such indictments and information shall be transmitted and certified to criminal courts of record or to the county court for trial.

3266. Conviction fees in certain courts.—Every person convicted in any court in this State of carrying concealed weapons, said court having a regular or special prosecuting officer, shall pay a conviction fee of ten dollars, which shall be taxed as costs in addition to the other costs and fines imposed: Provided, however, Where the party convicted is in-solvent and unable to pay the costs and conviction fee that no liability shall attach to or be incurred by the respective counties for such conviction fee herein provided for.

3267. Penalty for carrying pistol or repeating rifle without first obtaining license.—Whoever shall carry around with him, or have in his manual possession, in any county in this State, any pistol, Winchester rifle or other repeating rifle, without having a license from the county commissioners of the respective counties of this State, shall, upon conviction thereof, be punished by fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days: Provided, This section shall not apply to sheriffs, deputy sheriffs, city or town marshals, policemen, constables or United States marshals or their deputies as to the carrying of concealed weapons. (Ch. 4147, Acts 1893, § 1, as amended by ch. 4928, Acts 1901, § 1.)

3268. How license procured.—The county commissioners of the respective counties of this State may at any regular or special meeting grant a license to carry a pistol, Winchester or other repeating rifle, only to such persons as are over the age of twenty-one years and of good moral character, for a period of two years, upon such person giving a bond payable to the Governor of the State of Florida in the sum of one hundred dollars, conditioned for the proper and legitimate use of said weapons, with sureties to be approved by the said county commissioners. And the said commissioners shall keep a record of the names of the persons taking out such a license, the name of the maker of the fire-arm so licensed to be carried, and the caliber and number of the same. (Ch. 4147, Acts 1893, § 2, as amended by Acts 1903, § 1.) Cited. State v. Parker, 49 So. 124, 57 Fla. 170.

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3270. (2424.) Officer to take possession of arms.—The officer making any arrest under the preceding sections shall take possession of any arms or weapons found upon the person arrested, and shall retain the same until after the trial of such person, and if he be convicted, said arms or weapons shall be forfeited, and the sheriff shall sell the same at public sale and account for and pay over the proceeds thereof as in the case of fines collected ; but if such person be acquitted, the said arms or weapons shall be returned to him. (Ch. 3620, Acts 1885, § 3.) See *Barnes v. State*, 46 Fla. 96, 35 So. 227.

Text of the 1901 chaptered laws¹⁰⁰

Chapter 4927, No. 43, “An Act Allowing All Sheriffs, Deputy Sheriffs, Constables and Police Officers to Have and Carry Weapons upon Their Persons, Concealed or Otherwise, Without Giving Bond.”

Be it enacted by the Legislature of the State of Florida:

Section 1. That from and after the passage of this act, all sheriffs, deputy sheriffs, constables and police officers are allowed to have and carry upon their persons, concealed or otherwise, without giving bond, any deadly weapon.

Sec. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall take effect immediately upon its passage and approval by the Governor.

Approved May 30, 1901.

Chapter 4928, No. 44, “An Act to Amend Section 1 of Chapter 4147 of the Laws of the State of Florida Entitled an Act to Regulate the Carrying of Fire-Arms Approved June 2, 1893.”

Be it enacted by the Legislature of the State of Florida:

Section 1. That Section 1 of Chapter 4147, of the Laws of the State of Florida, being an act entitled an act to regulate the carrying of firearms, be amended so as to read as follows: That in each and every county in this State it shall be unlawful to carry a pistol, Winchester or other repeating rifle without first taking out a license from the County Commissioners of the respective counties before such person shall be at liberty to carry around with him on his person such pistol, Winchester rifle or other repeating rifle; Provided, That nothing in this act shall be construed to alter, affect or amend any laws now in force in this State or which may be hereafter enacted relative to carrying concealed weapons on or about one's person.

Approved May 9, 1901.

Chapter 4949, No. 45, “An Act to Prohibit the Carrying of Concealed Weapons in This State, and to Provide a penalty Therefor.”

¹⁰⁰ Taken from “Pistol Toting Laws,” *Weekly Tallahasseean*, July 4, 1901, p. 1 and “Laws in Regard to Pistol Toting,” *Florida Star*, July 12, 1901, p. 4

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Be it enacted by the Legislature of the State of Florida:

Section 1. That whoever shall secretly carry arms of any kind on or about his person, or whoever shall have concealed on or about his person, any dirk, pistol metallic knuckles, slung shot, billie or other weapon, except a common pocket knife, shall, upon conviction, be punished by imprisonment of not less than three months nor exceeding six months or by fine of not less than one hundred dollars nor exceeding five hundred dollars, or by both a fine and imprisonment: Provided That nothing in this act shall be considered as applying to sheriffs, deputy sheriffs, city or town marshals, policemen, constables or United States marshals or their deputies.

The carrying of concealed weapon is hereby declared a breach of the peace, and any officer authorized to make arrests under the laws of this State is hereby authorized to make arrests, without warrant, of persons violating the provisions of is act.

Sec. 2. That all laws or parts of laws in conflict with this act be and the same are hereby repealed.

Approved May 31, 1901.

Chapter 4926, No. 42, “An Act to Provide for the Effectual and Vigorous Prosecution of the Offense of Carrying Arms Secretly,”

Be it enacted by the Legislature of the State of Florida:

Section 1. That from and after the passage of this act, the several grand juries in their respective counties may return indictments and the several State attorneys in their respective circuits may file informations against parties for carrying any pistol, razor, dirk or other deadly weapon, except a common pocket knife, secretly on or about their person.

Sec. 2. That all such indictments or information shall be by the Clerk of the Circuit Court transmitted and certified to the County Judge for trial, except in counties where Criminal Courts or Record and County Courts have been established. In such counties all such indictments and Information shall be transmitted and certified to the Criminal Courts of Record or to the County Court for trial.

Sec. 3. Every person convicted in any court in this State, said court having a regular or special prosecuting officer, shall pay a conviction fee of ten dollars which shall be taxed as costs in addition to the other costs and fines imposed: Provided, however, Where the party convicted is insolvent and unable to pay the costs and conviction fee, that no liability shall attached or be incurred by the respective counties for such conviction fee herein provided for.

Approved May 31, 1901.

Note: It is important to note that the only unlicensed carry permitted was the open carry of shotguns or non-repeating rifles. Carry licenses were *not* for concealed carry, even if this fact may have been ignored by local authorities, as the *Palatka News* and the *Gainesville Daily Sun* commented.

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“The law gives the county commissioners authority to grant certain person a permit to carry pistols, but not concealed pistols. Very many persons to whom these permits are issued do not seem to understand this.”¹⁰¹

“Mr. Holt has a license to own and carry a pistol, but, like many others who hold licenses, has a misconception of the same. The law does not permit the carrying of a weapon concealed, but it must be carried in full view, and on the front of the body or person.”¹⁰²

There were two distinct violations; carrying concealed and carrying a pistol/repeating rifle without a license. 3262, carrying concealed weapons, or Chapter 4949, No. 45, was the penalty for a *concealed* weapon, punishable by 3-6 months and/or a \$100-500 fine. Openly carrying a pistol or a repeating rifle without a license, 3267, Chapter 4928, No. 44, was a separate violation, punishable by up to a \$100 fine or 30 days in jail.

¹⁰¹ “Concealed Weapons,” *Palatka News and Advertiser*, September, 9, 1904, p. 2

¹⁰² “For Concealed Weapons,” *Gainesville Daily Sun*, August 13, 1905, p. 5 [LOC](#)

Georgia

Constitution

1861

The right of the people to keep and bear arms shall not be infringed.

1865

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.

1868

A well regulated Militia being necessary to the security of a free people, the right of the people to keep and bear arms shall not be infringed; but the General Assembly shall have power to prescribe by law the manner in which arms may be borne.

1877

The right of the people to keep and bear arms shall, not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne.

1945

The right of the people to keep and bear arms, shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne.

1976

The right of the people to keep and bear arms, shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne.

1983

The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne

Statutory History

1837

Open and concealed; Pistol sale ban

"AN ACT to guard and protect the citizens of this State, against the unwarrantable and too prevalent use of deadly weapons," No. 74, *Acts of the General Assembly of the State of Georgia*, 1837, pp. 90-91 [Link](#)

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and it is hereby enacted by the authority of the same*, That from and after the passage of this act, it shall not be lawful for any merchant, or vender of wares or merchandize in this State, or any other person or persons whatsoever, to sell, or offer to sell, or to keep, or have about their person or elsewhere, any of the hereinafter described weapons, to wit: Bowie, or any other kind of knives, manufactured and sold for the purpose of wearing, or carrying the same as arms of offence or defence, pistols, dirks, sword canes, spears, &c., shall also be contemplated in this act, save such pistols as are known and used, as horseman's pistols, &c.

Sec. 2. *And be it further enacted by the authority aforesaid*, That any person or persons within the limits of this State, violating the provisions of this act, except as hereafter excepted, shall, for each and every such offence, be deemed guilty of a high misdemeanor, and upon trial and conviction thereof, shall be fined, in a sum not exceeding five hundred dollars for the first offence, nor less than one hundred dollars at the direction of the Court; and upon a second conviction, and every after conviction of a like offence, in a sum not to exceed one thousand dollars, nor less than five hundred dollars, at the discretion of the Court.

Sec. 3. *And be it further enacted by the authority aforesaid*, That it shall be the duty of all civil officers, to be vigilant [sic] in carrying the provisions of this act into full effect, as well also as Grand Jurors, to make presentments of each and every offence under this act, which shall come under their knowledge.

Sec. 4. *And be it further enacted by the authority aforesaid*, That all fines and forfeitures arising under this act, shall be paid into the county Treasury, to be appropriated to county purposes: Provided, nevertheless, that the provisions of this act shall not extend to Sheriffs, Deputy Sheriffs, Marshals, Constables, Overseers or Patrols, in actual discharge of their respective duties, but not otherwise: Provided, also, that no person or persons, shall be found guilty of

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violating the before recited act, who shall openly wear, externally, Bowie Knives, Dirks, Tooth Picks, Spears, and which shall be exposed plainly to view: And provided, nevertheless, that the provisions of this act shall not extend to prevent venders, or any other persons who now own and have for sale, any of the aforesaid weapons, before the first day of March next.

[Sec. 5 omitted]

Assented to, 25th December, 1837.

Note: This statute was invalidated in 1845 as unconstitutional by *Nunn v. State*¹⁰³, which found that prohibiting open carry was improper. The court also challenged the pistol sale/possession ban and the language of the statute.

1852

Concealed carry only

"An Act to prohibit the sale of deadly weapons, and to prescribe the manner of carrying the same...," No. 165, *Acts of the General Assembly of the State of Georgia*, 1851-'2, Vol 1, p. 269

[Link](#)

SECTION I. *Be it enacted by the Senate and House of Representatives of the State of Georgia in General Assembly met, and it is hereby enacted by the authority of the same*, That from and after the passage of this Act, it shall not be lawful for any person or persons whatever, to have or carry about their persons, any pistol (except horseman pistols,) dirk, sword in a cane, spear, [Illegible Text] knife, or any other kind of knives manufactured and sold for the purpose of offence and defence, save and except in the manner hereinafter mentioned.

SEC. II. No person or persons shall have or carry about their persons, any one or more of the weapons [Illegible Text] and embraced in the first section of this Act, except such person or persons shall have or carry such weapon or weapons in an open manner and fully exposed to view.

SEC. III. Any person or persons violating any of the provisions of this Act shall be guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, at the discretion of the Court.

SEC. IV. An Act entitled an Act to guard and protect the [Illegible Text] of this State against the unwarrantable and too prevalent use of deadly weapons, assented to December 25th, 1837, be and the same is hereby repealed, and all laws and parts of laws militating against this Act, be and the same are hereby repealed.

This Act Approved, January 12, 1852.

Note: *Stockdale v. State*¹⁰⁴ in 1861 upheld this statute and *Nunn* in stating that a partially concealed handgun (pistol barrel down the pants below the belt) was openly carried and within the requirements of Section II.

¹⁰³ 1 Ga. (1 Kel.) 243 (1846)

¹⁰⁴ 32 Ga. 225 (1861)

1870

Sensitive places

“An Act to preserve the peace and harmony of the people of this State, and for other purposes,” *Acts and Resolutions of the General Assembly of the State of Georgia*, 1870, Vol. 1, p. 421 [Link](#)

Section 1. Be it enacted, etc., That, from and immediately after the passage of this act, no person in said State of Georgia be permitted or allowed to carry about his or her person any dirk, bowieknife, pistol or revolver, or any kind of deadly weapon, to any court of justice, or any election ground or precinct, or any place of public worship, or any other public gathering in this State, except militia muster-grounds.

Sec. 2. Be it further enacted, That if any person or persons shall violate any portion of the above recited section of this act, he, she or they shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty nor more than fifty dollars for each and every such offense, or imprisonment in the common jail of the county not less than ten nor more than twenty days, or both, at the discretion of the court.

[Sec. 3 omitted]

Approved October 18, 1870.

Note: This was upheld by *Hill v. State*¹⁰⁵ in 1874

1876

Minors

Selling pistols to minors prohibited. [Link](#)

1883

The act was amended to strike out the words "except horseman's pistol." Horseman's pistols were large pistols too difficult to conceal and would have fallen out of common use at this time.

"An Act to amend section 4527 of the Code of 1882 in reference to carrying concealed weapons...etc.," No. 93, *Acts and Resolutions of the General Assembly of the State of Georgia*, 1882-83, pp. 48-49

[Link](#)

1898

Non-substantive changes regarding "metal knucks." [Link](#)

¹⁰⁵ 53 Ga. 472 (1874)

1909

Sensitive places, non substantive changes [Link](#)

“Section will read as follows: "Whoever shall carry about his person any dirk, bowie knife, pistol or revolver, or any kind of deadly weapon, to or while at a court of justice or an election ground or precinct, or any place of public worship, or any other public gathering in this State, except militia muster grounds, shall be punished as for a misdemeanor. This Section shall not apply to any sheriff, deputy sheriff, coroner, constable, marshal, policeman or other arresting officers or their posse acting in the discharge of their official duties”

1910

Open and concealed carry, may issue licenses

"An Act to prohibit any person from having or carrying about his person, in any county in the State of Georgia, any pistol or revolver without first having obtained a license....,"No. 77/432, *Acts and Resolutions of the General Assembly of the State of Georgia*, 1910, pp. 134-135

SECTION 1. *Be it enacted by the General Assembly of Georgia, and it is hereby enacted by authority of the same*, That from and after passage of this Act it shall be unlawful for any person to have or carry about his person, in any county in the State of Georgia, any pistol or revolver without first taking out a license from the Ordinary of the respective counties in which the party resides, before such person shall be at liberty to carry around with him on his person, or to have in his manual possession outside of his own home or place of business, provided that nothing in this Act shall be construed to alter, affect or amend any laws now in force in this State relative to the carrying of concealed weapons on or about one's person, and provided further, that this shall not apply to sheriffs, deputy sheriffs, marshals, or other arresting officers of this State or United States, who are now allowed, by law, to carry revolvers; nor to any of the militia of said State while in service or upon duty; nor to any students of military colleges or schools when they are in the discharge of their duty at such colleges.

SEC. 2. Be it further enacted, That the Ordinary of the respective counties of this State in which the applicant resides may grant such license, either in term time or during vacation, upon the application of party or person desiring to apply for such license; provided applicant shall be at least eighteen years old or over, and shall give a bond payable to the Governor of the State in the sum of one hundred dollars, conditioned upon the proper and legitimate use of said weapon with a surety approved by the Ordinary of said county, and the Ordinary granting the license shall keep a record of the name of the person taking out such license,

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the name of the maker of the fire-arm to be carried, and the caliber and number of the same.

SEC. 3. The person making such application and to whom such license is granted shall pay to the Ordinary for granting said license the sum of fifty cents, which license shall cover a period of three years from date of granting same.

SEC. 4. Be it further enacted, That any person violating any of the provisions of the above Act shall be punished as for a misdemeanor, as prescribed in Section 1039 of the Penal Code of 1895, and amendments thereto.

[Sec. 5 omitted]

Approved August 12, 1910.

Note: *Nunn* was overruled in 1911 by *Strickland v. State*¹⁰⁶ which found that the license requirement was not unconstitutional. The court decided that the application of the Second Amendment to the state in *Nunn* was incorrect and invalidates it using its own reasoning. The dissent criticized the majority's interpretation as well the impracticality of the law to certain situations as taking a pistol home from a gun shop. To this latter point, a conviction for a man who took a pistol to a pawn shop to sell it was upheld four years later in *Usry v. State*¹⁰⁷.

Case Law

<https://www.georgiapacking.org/caselaw/>

Nunn v. State, 1846

1 Ga. (1 Kel.) 243 (1846) [Opinion](#)

"2d. That said act is contrary to the Constitution of the State of Georgia. "3d. The indictment does not charge that the pistol was carried secretly."

"A statute which, under the pretence [sic] of regulating, amounts to a destruction of the right, or which requires arms to be so borne as to render them wholly useless for the purpose of defence, would be clearly unconstitutional. But a law which is merely intended to promote personal security, and to put down lawless aggression and violence, and to this end prohibits the wearing of certain weapons in such a manner as is calculated to exert an unhappy influence upon the moral feelings of the wearer, by making him less regardful of the personal security of others, does not come in collision with the Constitution."

"There is great vagueness in the wording of this statute. It would seem to have been the intention of the Legislature to make the proviso in the 4th section as broad as the enacting clause in the 1st. But such is not the fact. Pistols and sword-

¹⁰⁶ 137 Ga. 1 (1911)

¹⁰⁷ 17 Ga. App. 268 (1915)

canes are inserted in the 1st, and omitted in the 4th section; and tooth-picks are mentioned for the first time in the proviso, in the 4th section. Were we disposed to criticize [sic] language, an ample field is here spread out before us. It might be insisted, and with much plausibility, that even sheriffs, and other officers therein enumerated, might be convicted for keeping, as well as carrying, any of the forbidden weapons, while not in the actual discharge of their respective duties. And yet it is hardly to be supposed, that it was expected of sheriffs, constables, marshals, overseers and patrols, to procure a new supply of arms for each successive service, and throw them away when it was accomplished: for they dare not sell or otherwise dispose of them after March, 1838. It is the plain and literal meaning of the act, too, that no person should be found guilty of selling or offering to sell, or keeping or having about their persons, or elsewhere, bowie or any other kind of knives, pistols, dirks, sword-canes, or spears, who shall openly wear, externally, bowie-knives, dirks, tooth-picks, and spears, and which shall be exposed plainly to view. But this would be an absurdity too glaring to impute to the wisdom of that body."

"We are of the opinion, then, that so far as the act of 1837 seeks to suppress the practice of carrying certain weapons secretly, that it is valid, inasmuch as it does not deprive the citizen of his natural right of self-defence, or of his constitutional right to keep and bear arms. But that so much of it, as contains a prohibition against bearing arms openly, is in conflict with the Constitution, and void; and that, as the defendant has been indicted and convicted for carrying a pistol, without charging that it was done in a concealed manner, under that portion of the statute which entirely forbids its use, the judgment of the court below must be reversed, and the proceeding quashed."

[Stockdale v. State, 1861](#)

[32 Ga. 225 \(1861\) Opinion](#)

Partial concealment okay, open carry is to warn/advertise to others the person is armed

"If one, in having and carrying about his person, any of the weapons designated by the Act of 19th January, 1852, as 'deadly weapons,' shall have and carry it in such an open manner that others, with whom he may come in contact, can see and know that it is a pistol, or other weapon, he will not be guilty of a violation of that act, although some part of the weapon may be concealed from view."

"The State having rested at this point, the defendant introduced Kilby Moore and James M. Moore, who testified: 'That they were present on the occasion testified to by the witnesses for the State; that the pistol which the defendant had, at that time, could be plainly and distinctly seen; that there was no effort to conceal it; that the barrel was inserted beneath the pantaloons in front, whilst his coat was unbuttoned, and he had on no vest at the time; that the cock, cylinder, and caps of

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the pistol could be plainly and distinctly seen, and any person could know that it was a pistol, without any difficulty."

Here the testimony closed, and the presiding Judge charged the jury: "That if they believed, from the evidence, that the defendant had a pistol, and did not carry the same in an open manner, and fully exposed to view, that then he was guilty, and it was their duty, in that event, so to find; that the meaning of the statute was, that the defendant had to carry the pistol (if at all) entirely exposed to view; that no matter if the butt and cock of the pistol were exposed, and any one could tell and know that it was a pistol, yet, if any part of it was concealed; if any part of the barrel was stuck down beneath the pants, that it was a violation of law."

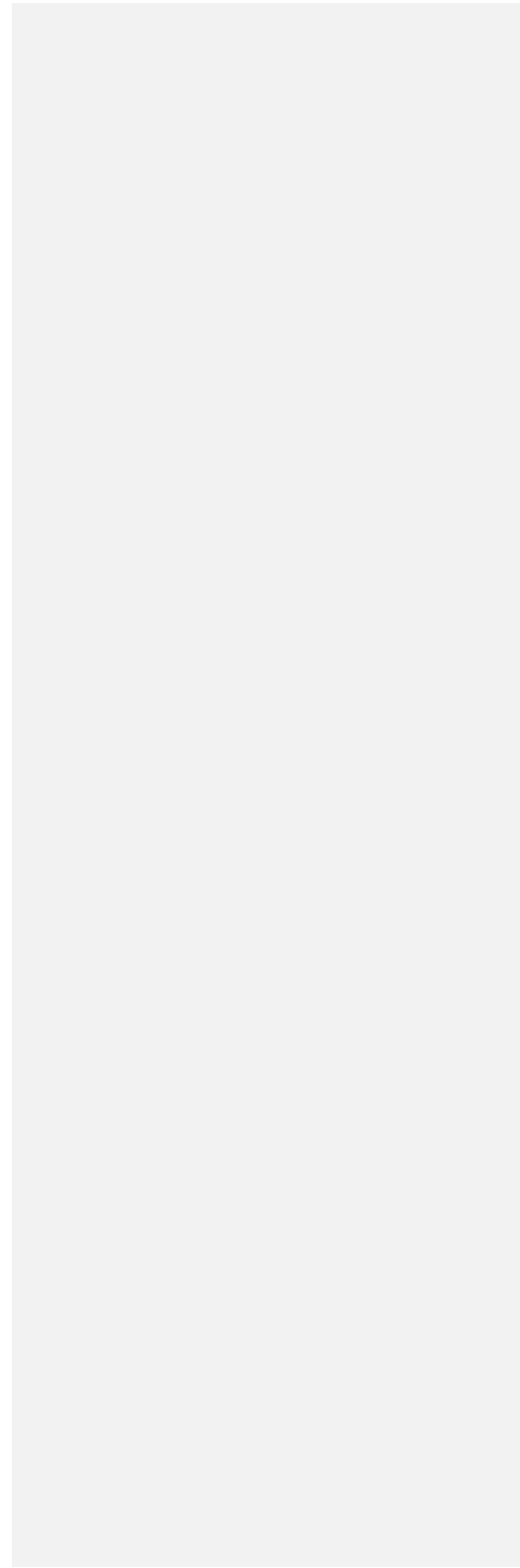
"Counsel for the accused requested the Court to charge the jury: 'That if the defendant carried the pistol in an open manner, and so plainly and fully exposed to view, that any person could see and know that it was a pistol, that then, the defendant was not guilty.' The Court refused to give the request in charge, but charged instead, 'that the meaning of the statute was, that the defendant had to carry the pistol (if at all) entirely exposed to view; that no matter if the butt and cock of the pistol were exposed, and any one could tell and know that it was a pistol, yet, if any part of it was concealed, if any part of the barrel was stuck down beneath the pants, that it was a violation of law.' We think that the refusal of the Court to give the charge requested, and the charge given, was erroneous."

"That, so much of that Act as prohibited the citizen from bearing arms openly, was in conflict with the constitution and void; that while the Legislature had the right to prescribe the mode of carrying arms, yet, if in doing so, the manner prescribed amounted to a prohibition, then the act itself was an infringement of the constitutional rights of the people to keep and bear arms. That decision has been constantly adhered to from that time to the present, and must continue to stand as the law of this Court on that subject. Yet, if the charge of the Court below is right, that decision is wrong; for it is impossible for one to have and bear about his person a pistol or weapon of any kind, without having some part of the weapon concealed from view. If one holds it in his hand, some part of it is hidden from the view, yet it is not concealed. So, if the barrel be pushed behind a belt or waistband of the pants, the whole pistol can not be seen by a third person; yet, such person, from the parts of the To pistol exposed to view, can see at a glance that it is a pistol. enforce the law, as the Court construed it to the jury, would be to prohibit the bearing of those arms altogether, and to bring the act within the decision in Nunn's case. This, the Legislature did not intend to do. What the Legislature did intend, was to compel persons who carried those weapons to so wear them about their persons, that others, who might come in contact with them, might see that they were armed, and dangerous persons, who were to be avoided in consequence. Hence, we think the Court should have given the jury the charge requested by counsel for accused; that, in our opinion, being the true interpretation of the act under which defendant was indicted."

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Hawaii

First (kingdom) law: 1852

Concealed weapons

"An Act to Prevent the Carrying of Deadly Weapons," *Constitution and Laws of His Majesty Kamehameha III...* (see below).

Historical background

Europeans first arrived in Hawaii marked by the landing of Captain James Cook in 1778. Hawaii remained as a kingdom until January 17, 1893, when the monarchy was overthrown by a group composed mostly of Americans who favored the annexation of the archipelago by the United States. In 1894, the Provisional Government was replaced by the Republic of Hawaii. The United States annexed Hawaii as a territory on August 12, 1898.

Statutory history

1852

First law, open or concealed

"An Act to Prevent the Carrying of Deadly Weapons," *Constitution and Laws of His Majesty Kamehameha III...* 1852, p. 19

Section 1. Any person not authorized by law, who shall carry, or be found armed with, any bowie-knife, sword-cane, pistol, air-gun, slung-shot or other deadly weapon, shall be liable to a fine of no more than Thirty, and no less than Ten Dollars, or in default of payment of such fine, to imprisonment at hard labor, for a term not exceeding two months and no less than fifteen days, upon conviction of such offense before any District Magistrate, unless good cause be shown for having such dangerous weapons; and any such person may be immediately arrested without warrant by the Marshal or any Sheriff, Constable or other officer or person and be lodged in prison until he can be taken before such Magistrate.

[Sections 2 and 3 omitted]

Passed May 25, 1852

*Present as Ch. 54 "Criminal Procedure," §688, compiled by Sidney Miller Ballou, *The Penal Laws of the Hawaiian Islands*, 1897, pp. 251 [Hathi Trust](#)

1896

Ch. 54, “Carrying Deadly Weapons,” §688-689 reiterated verbatim the 1852 statute regarding carrying deadly weapons. It is not reprinted here for the sake of brevity.¹⁰⁸ The law was amended that year to provide for licenses to carry deadly weapons by amending what were previously hunting regulations.

Act 64, "An Act to Amend, Add to and Consolidate the Laws Relating to Certain Licenses...", *Laws of the Republic of Hawaii*, 1896, pp. 224-226 [Hathi Trust](#)

[Repealed] Chapter 61 of the Laws of 1886, relating to licenses for carrying Fire-Arms.

Section 59. Except as hereinafter otherwise provided, the annual fee for a license to possess, carry, or use a pistol, rifle, shotgun or other fire-arm, shall be one dollar for each such fire-arm.

Section 60. Except hereinafter provided, no fire-arm shall be possessed, carried or used in the Republic without a license issued under this Act.

Section 61. Each such license shall enumerate:

1. The name of the licensee, his nationality and residence, whether or not her I a member of the Police, Citizen's Guard or any military organization, and if so, what organization, giving the company or squad.
2. The character of the fire-arm licensed.
3. The name of the maker.
4. The maker's number.
5. The calibre of the fire-arm.

[Sections 62-64 omitted]

Section 65. The existence of any unlicensed fire-arm in the room, building, or upon the premises of any person, shall be prima facie evidence that such fire-arm is in the possession of the person owning, renting, leasing or occupying the room, building or premises in or upon which such fire-arm is found.

Section 66. Any person who shall possess, carry, or use any fire-arm, without a license to do so under this Act, shall be fined not less than Five nor more than One Hundred Dollars for each unlicensed fire-arm possessed, carried or used by him, and such or any unlicensed fire-arm shall be forfeited to the Government.

¹⁰⁸ [Hathi Trust](#)

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Note: this primarily dealt with hunting on Oahu, but broader application was drawn in Section 60.

*Present as Ch. 55 “Licenses”, §746-755, compiled by Sidney Miller Ballou, *The Penal Laws of the Hawaiian Islands*, 1897, pp. 265-266 [Hathi Trust](#)

Note: The 1896 laws originated in an 1870 act, intended to curb “the indiscriminate use of Firearms” to kill birds and regulated carrying firearms for sporting purposes.¹⁰⁹ An 1886 act, “to License the Carrying of Firearms for Hunting Purposes,” which was substantially similar to the 1896 version, except carrying weapons for hunting purposes was regulated, not all forms of carry.¹¹⁰

Republic v. Clark, (10 Hawaii 585)

Charles Clark was arrested for a misdemeanor and a search revealed he was carrying a loaded revolver on his person. Clark was issued a license by the Interior Department to carry a .38 caliber Smith & Wesson revolver (specifically serial number 91,743) that was valid from November 2, 1896 for one year. The court found that the license was sufficient to satisfy the "authorized by law" exemption clause in the carrying deadly weapon statute.

1905

First American law, open and concealed

The Hawaiian Organic Act of 1900 continued the 1898 Ballou compilation of the Republic’s laws (see Ch. 1 §1). But Section 7 repealed the hunting license section.¹¹¹ In 1905, the first revised code was created. Note the below section this is merely the re-codification of the existing 1852 deadly weapons statute.

Chapter 209, Carrying Deadly Weapons, *Revised Laws of Hawaii*, 1905, pp. 1122-1123 [Hathi Trust](#)

Sec. 3089 Persons not authorized; punishment. Any person not authorized by law, who shall carry, or be found armed with, any bowie-knife, sword-cane, pistol, air-gun, slung-shot, or other deadly weapon, shall be liable to a fine of not more than thirty, and not less than ten dollars, or in default of payment of such fine, to

¹⁰⁹ “An Act to License the Carrying of Fowling Pieces and Other Fire-arms,” Chapter 20, *Laws of his Majesty Kamehameha V...*, 1870, p. 26 [Google Books](#)

¹¹⁰ “An Act to License the Carrying of Firearms for Hunting Purposes,” Chapter 56, *Laws of His Majesty Kalakaua I...* 1886, pp. 111-112 [Google Books](#)

¹¹¹ “That the constitution of the Republic of Hawaii and of the laws of Hawaii, as set forth in the following acts, chapters, and sections of the civil laws, penal laws, and session laws, and relating to the following subjects, are hereby repealed: Penal laws: [...] sections seven hundred and forty-eight to seven hundred and fifty-five, inclusive, Firearms [...]”

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imprisonment at hard labor for a term not exceeding two months and not less than fifteen days, upon conviction of such offense, unless good cause be shown for having such dangerous weapons; and any such person may be immediately arrested without warrant by the high sheriff, or any sheriff, policeman, or other officer or person.

1913

Act 22, "An Act to Amend Section 3089 of the Revised Laws of Hawaii," *Laws of the Territory of Hawaii Passed... Passed by the Legislature...*, 1913 p. 25 [Hathi Trust](#)

Section 1. Section 3089 [...] is hereby amended so as to read as follows: [...]

Any person not authorized by law, who shall carry, or be found armed with, any bowie-knife, sword-cane, pistol, air-gun, slung-shot, or other deadly weapon, shall be liable to a fine of not more than Two Hundred and Fifty Dollars, and not less than Ten Dollars, or in default of payment of such fine, to imprisonment for a term not exceeding one year, nor less than three months, upon conviction of such offense, unless good cause be shown for having such dangerous weapons; and any such person may be immediately arrested without warrant by the high sheriff, or any sheriff, policeman, or other officer or person. [underlining added]

Comprehensive licensing schemes

Pre-Uniform Firearms Act licensing

In 1907, registration was required of any firearm or ammunition with the county clerk. A report of all firearms so registered was required to be delivered to the governor twice annually. Every January 1 and July 1, for any firearm or ammunition dealer to supply a list of such items in their possession. Punishment for individuals not in compliance was a fine up to \$500.^{112,113}

In 1915, legislation removed the lower fine limit of \$10 and lowered the term of imprisonment to a maximum of six months.¹¹⁴ In 1921, suspension of licenses during a national

¹¹² Act 85, "An Act to Require the Furnishing of Information Regarding the Possession and Ownership of Fire Arms and Ammunition...", *Laws of the Territory of Hawaii Passed...*, 1907, pp. 112-115 [Hathi Trust](#)

¹¹³ This act was codified as Ch. 125, "Firearms and Ammunition," §2199-2205, in the 1915 *Revised Laws of Hawaii*, pp. 849-852 [Hathi Trust](#)

¹¹⁴ Act 103, "An Act to Amend Section 4072 of the Revised Laws of Hawaii of 1915...", *Laws of the Territory of Hawaii Passed...*, 1915, p. 121 [Source](#)

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emergency was allowed.¹¹⁵ In 1923, the 1907 registration act was amended to require a permit approved by a sheriff or his deputy to purchase a firearm or handgun ammunition.¹¹⁶

1927

It appears that in 1927, Hawaii adopted the uniform licensing legislation going around nearly verbatim.

“Small Arms Act”—Act 206, "An Act Regulating the Sale, Transfer and Possession of Certain Firearms and Ammunitions..." *Laws of the Territory of Hawaii Passed...*, 1927, pp. 209-217
[Source](#)

SECTION 5. Carrying or keeping small arms by unlicensed persons. Except as otherwise provided in Sections 7 and 11 hereof in respect of certain licensees, no person shall carry, keep, possess, or have under his control a pistol or revolver; provided, however, that any person who shall have lawfully acquired the ownership or possession of a pistol or revolver may, for purposes of protection and with or without a license, keep the same in the dwelling house or business office personally occupied by him, and, in case of an unlawful attack upon any person or property in said house or office, said pistol or revolver may be carried in any lawful, hot pursuit of the assailant. [underlining added]

SECTION 7. Issue of licenses to carry. The judge of a court of record or the sheriff of a county, or city and county, shall, upon the application of any person having a bona fide residence or place of business within the jurisdiction of said licensing authority, or of any person having a bona fide residence or place of business within the United States and a license to carry a pistol or revolver concealed upon his person or to carry one elsewhere than in his home or office, said license being issued by the authorities of any state or political subdivision of the United States, issue a license to such person to carry a pistol or revolver within this territory elsewhere than in his home or office, for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol or revolver, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the treasurer of the territory, and shall bear the name, address, description, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee; the duplicate shall, within seven days, be sent by registered mail, to the treasurer of the territory and the triplicate shall be preserved for six years by the authority issuing said license. [underlining added]

¹¹⁵ Act 13, "An Act to Amend Chapter 121 of the Revised Laws of Hawaii, 1915...", *Laws of the Territory of Hawaii*, 1921, pp. 11-12 [Source](#)

¹¹⁶ Act 156, "An Act to Amend Section 2202B of the Revised Laws of Hawaii, 1915...", *Laws of the Territory of Hawaii*, 1923, pp. 185-186 [Hathi Trust](#)

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SECTION 26. Section 2146 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows: "Section 2146. Penalties. Any person who shall be found in the possession of any firearm or firearms or any ammunition without having complied with the provisions of this chapter, or who shall fail to give, file or forward required information, reports or statements, or who shall otherwise violate the provisions of this chapter in matters not covered by Section 2142 hereof, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined by the court of appropriate jurisdiction in a sum of not more than five hundred dollars (\$500.00).

1933

The 1933 codification¹¹⁷ (*Revised Laws*) is an outlier that seems totally at odds with the rest of the statutes. The Forward to the 1935 compilation states that a Compilation Commission was appointed by a legislative act mainly to update the statutes because of the practice "of amending the laws with general references than with reenactments of sections in toto as amended." The members of the committee had authority to make changes with some leeway.

Speaking from a perspective of admiration for clear regulations, the 1933 "Firearms and Ammunition" was inferior to the much better 1927 adaptation of the Uniform Firearms Act. It seems that the 1935 statutes (in my opinion) were a more poorly written adaptation of prior Hawaiian legislation. Even so, many of the same elements relating to carrying that were present in 1927 were present in 1935.

Ch.81, "Firearms and Ammunition," §2540-2557, *Revised Laws of Hawaii, 1935*, pp. 431-434
[Hathi Trust](#)

Sec. 2543. Possession by licensed hunters. Any person who has procured a hunting license under the provisions of sections of 2463-2468, inclusive, shall while actually engaged in hunting or while going to and from the place of hunting, be authorized to carry and use any lawfully acquired rifle or shotgun and suitable ammunition therefor.

Sec. 2544. Place to keep firearms. The possession of all firearms and ammunition shall be confined to the possessor's place of business, residence, or sojourn, or to carriage as merchandise in a wrapper from the place of purchase to the purchaser's home, place of business or place of sojourn, or between [those places].

Sec. 2547. Permits to carry.

¹¹⁷ See also: Act 120, "An Act to Amend Act 206 of the Session Laws of 1927..." *Laws of the Territory of Hawaii...*, 1933, p. 117 [Source](#). This act made small, non-substantive changes.

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In an exceptional case, when the applicant shows good reason to fear injury to his person or property, the chief of police of the city and county of Honolulu or the sheriff of a county, other than the city and county, may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of twenty years or more, to carry concealed on his person within the city and county or the county within which such license is granted, a pistol or revolver and ammunition therefor. Unless renewed, such license shall automatically become void at the expiration of one year from date of issue. No such license shall issue unless it appears that the applicant is a suitable person to be so licensed, and in no event to a person who has been convicted of a felony, or adjudged insane. All licenses to carry concealed weapons heretofore issued shall expire at midnight on January 9, 1934. No person shall carry concealed on his person a pistol or revolver or ammunition therefor without being licensed so to do under the provisions of this section. [underlining added]

For each such license there shall be charged a fee of ten dollars, which shall be covered into the treasury of the city and county or the county in which such license is granted.

Any person violating this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both.

Note: §2544 could be construed to prohibit openly carrying firearms, though §2547 only covers concealed carry.

Commentary

Early sources are limited. The origin of the 1852 is likely a response to violence caused by visiting sailors. This 1857 newspaper reference provides context:

“CARRYING CONCEALED WEAPONS. We are sorry to learn that this practice is becoming quite a common one with seamen on shore on liberty. The law is severe against the practice, and our Police Justice has evinced his determination to put it in force.—Would it not be well for masters on entering the ports of these islands to follow the worthy example of the commander of the *St. Marys*, an order their seamen to leave their sheath knives on board when they visit shore.”¹¹⁸

Americans and seamen coming to the islands likely brought their traditions of violence and carrying weapons with them, as one oblique reference may indicate:

¹¹⁸ “Carrying Concealed Weapons,” *The Pacific Commercial Advertiser* (Honolulu) October 22, 1857, p. 2

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“The practice of carrying concealed weapons, it is well known, has been the cause of more than two-thirds of the frightful homicides which darken the early pages of California’s history.”¹¹⁹

Most CCW violators were done by non-natives, either Asian workers or whites. Chinese being preyed upon by fellow Chinese was cited by one paper:

“...the custom of carrying concealed firearms is practiced somewhat extensively by Chinamen, particularly by those living a little way out of town...These are the people who are specially terrorized by the carrying of concealed weapons by their less respectable countrymen...”¹²⁰

From time to time, references of sailors causing trouble or large groups of foreign workers (Japanese or Filipino farm laborers) carrying weapons made the newspapers. In one incident, 18 Japanese were arrested and convicted in the Hamakua court district for CCW in 1902.¹²¹ Issues with new residents violating the law persisted into the American period.

“We have a number of people coming into the Territory who have been accustomed to use weapons recklessly and it is high time that it should be understood that this Territory is thoroughly and firmly opposed and intends to enforce the law.”¹²²

The general gist of the 1920s-1930s handgun registration and licensing scheme has continued to the present. Hawaii has by far the most restrictive carry licensing schemes among all the states. With the laws in place to essentially prohibit the carrying of weapons since 1852, it is no wonder that a culture of armed self-defense developed in the islands.

¹¹⁹ “Notes of the Week,” *The Pacific Commercial Advertiser* (Honolulu) April 9, 1870, p. 3

¹²⁰ *The Honolulu Daily Bulletin*, September, 28, 1886, p. 2

¹²¹ *Report of the Chief Justice (Hawaii) 1898-1902...* 1902, p. 139

¹²² “Concealed Weapons,” *The Hawaiian Star*, August 14, 1900, p. 4

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Idaho

First territorial law: 1889

Both open and concealed carry; both cities & towns

“An Act Regulating the Use and Carrying of Deadly Weapons in Idaho Territory,” (see below).

Constitution

Original version

Declaration of Rights, §11 Right to bear arms.

The people have the right to bear arms for their security and defense; but the legislature shall regulate the exercise of this right by law.

Current version

Article 1, Section 11. Right to Keep and Bear Arms.

"The people have the right to keep and bear arms, which right shall not be abridged; but this provision shall not prevent the passage of laws to govern the carrying of weapons concealed on the person nor prevent passage of legislation providing minimum sentences for crimes committed while in possession of a firearm, nor prevent the passage of legislation providing penalties for the possession of firearms by a convicted felon, nor prevent the passage of any legislation punishing the use of a firearm. No law shall impose licensure, registration or special taxation on the ownership or possession of firearms or ammunition. Nor shall any law permit the confiscation of firearms, except those actually used in the commission of a felony."

Statutory History

Predecessor law

Sentence enhancement

“An Act Concerning Crimes and Punishments,” *Laws of the Territory of Idaho*, 1864, p. 305

“Sec. 41. If any person shall assault and beat another, with a cowhide, stick, or whip, having at the time, in his possession, a pistol or other deadly weapon, with intent to intimidate and prevent the person assaulted from defending himself, such person shall, on conviction thereof, be imprisoned in the territorial prison not less than one, nor more than ten years.”

1889

First law; both open and concealed carry banned in cities & towns

“An Act Regulating the Use and Carrying of Deadly Weapons in Idaho Territory,” *General Laws of the Territory of Idaho*, 1889, p. 23 [Hathi Trust](#)

“SECTION 1. That it is unlawful for any person, except United States officials, officials of Idaho Territory, County officials, Peace officers, Guards of any jail, and officers or employees of any Express Company on duty, to carry, exhibit or flourish any dirk, dirk-knife, sword, sword-cane, pistol, gun or other deadly weapons, within the limits or confines of any city, town or village or in any public assembly of Idaho Territory. Every person so doing is guilty of a misdemeanor and is punishable by fine not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than twenty by nor more than fifty days, or by both such fine and imprisonment.”

Note: in 1902, the Idaho Supreme Court in *In re Brickey* found that the statute’s ban of open carry was unconstitutional

A defendant arrested under the new law had his case dismissed as the judge had no copy of the law and thus was unable to determine the sentence.¹²³

1909

This section re-criminalized concealed carry, without criminalizing open carry, the *Brickey* decision found that the constitution permitted regulating concealed carry, but not open carry.

“An Act to Regulate the Use and Carrying of Concealed Deadly Weapons...” HB 62, *General Laws of the State of Idaho*, 1909, p. 6 [Hathi Trust](#)

SECTION 1. If any person (excepting officials of a county, officials of the State of Idaho, officials of the United States, peace officers, guards of any jail, any officer of any express company on duty), shall carry concealed upon or about his person any dirk, dirk knife, bowie knife, dagger slung shot, pistol, revolver, gun or any other deadly or dangerous weapon, within the limits or confines of any city, town, or village, or in any public assembly, or in any mining, lumbering, logging, railroad, or other construction camp within the State of Idaho, or shall, in the presence of one or more persons, exhibit any deadly or dangerous weapon in a rude, angry, or threatening manner, or shall have or carry any such weapon upon

¹²³ *The Caldwell Tribune*, March 9, 1889, p. 4

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or about his person when intoxicated, or under the influence of intoxicating drinks, or shall, directly or indirectly, sell or deliver, loan or barter to any minor under the age of sixteen (16) years any such weapon, without the consent of the parent or guardian of such minor, he shall upon conviction, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00), or by imprisonment in the county jail for a period of not less than twenty (20) nor more than sixty (60) days, or by both such fine and imprisonment: *Provided, however,* that it shall be a good defense to the charge of carrying such concealed weapons if the defendant shall show that he has been threatened with great bodily harm, or had good reason to carry the same in the necessary defense of his person, family, home or property.

Note: This section incorporated multiple offenses beyond CCW, including brandishing, carrying while intoxicated, selling weapons to minors.

A successful self-defense plea was made under the provisions of the 1909 statute, resulting in an acquittal. A newspaper editor, Byrd Trego of the *Idaho Republican*, was assaulted by John Ireland, who accused the editor of printing unflattering things about him in the paper. Trego pulled out a slungshot after Ireland assaulted him. Both were arrested, but Trego was charged with carrying a concealed weapon. A trial, Trego's employees and an attorney testified that Ireland had threatened Trego. The editor was found not guilty by the jury.^{124,125}

1917

Permits

"An Act to Amend an Act...", Ch. 146 (HB 190), *General Laws of the State of Idaho*, 1917, pp. 461-462 [Hathi Trust](#)

Section 1. If any person (excepting officials of a county, officials of the State of Idaho, officials of the United States, peace officers, guards of any jail, any officer of any express company on duty) shall carry concealed upon or about his person, any dirk, dirk-knife, bowie-knife, dagger, sling-shot, pistol, revolver, gun or any other deadly or dangerous weapon within the limits or confines of any city, town or village, or in any public assembly, or in any mining, lumbering, logging, railroad or other construction camp, public conveyances or on public highways within the State of Idaho, or shall, in the presence of one or more persons, exhibit any deadly or dangerous weapon in a rude, angry or threatening manner, or shall have or carry such weapons upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall, directly or indirectly, sell or deliver, loan or barter to any minor under the age of sixteen (16) years any such weapon without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by a fine of not less than Twenty-

¹²⁴ "Editor Trego Goes Armed," *The Blackfoot Optimist*, April 22, 1915, p. 1

¹²⁵ "Trego Allowed to Go Armed," *The Blackfoot Optimist*, May 6, 1915, p. 1

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five Dollars (\$25.00), nor more than Two Hundred Dollars (\$200.00) and by imprisonment in the county jail for a period of not less than twenty (20) days nor more than ninety (90) days: *Provided, however,* That any person shall be allowed to carry any of the above weapons in the places mentioned above on securing a permit from the sheriff of the county after satisfying the sheriff of the necessity therefor.

Note: In lieu of the defense of being threatened with bodily harm, the statute allowed sheriffs to issue permits to carry concealed.

In re Brickey

In 1902, the Idaho Supreme Court found *In re Brickey*¹²⁶ that the statute's ban of open carry was unconstitutional and in doing so voided the entire statute. The opinion is provided below in full.

1. The act of the territorial legislature approved February 4, 1889, which prohibits private persons from carrying deadly weapons within the limits or confines of any city, town, or village in Idaho, contravenes the provisions of the second amendment to the federal constitution and the provisions of section 11, art. 1, of the constitution of Idaho, and is void.

2. While it is undoubtedly within the power of the legislature to prohibit the carrying of concealed deadly weapons, and such regulation is a proper exercise of police power; yet the legislature does not possess the power to prohibit the carrying of firearms, as the right to do so is guaranteed to the citizen both by our federal and state constitutions.

Application of L. D. Brickey for a writ of habeas corpus. Writ granted, and petitioner discharged.

S. S. Denning, for petitioner. Miles S. Johnson, Co. Atty., for the State.

QUARLES, C. J. The petitioner applies to this court for a writ of habeas corpus, and in the petition sets forth and shows that he is unlawfully imprisoned, confined, and restrained of his liberty by A. W. Kroutingier, sheriff of Nez Perce county, at the county jail in the county of Nez Perce; in the state of Idaho; that he is so imprisoned under a commitment which issued out of the justice's court of West Lewiston precinct, in the county of Nez Perce, in a criminal action wherein petitioner was convicted upon the charge of carrying a deadly weapon, to wit, a

¹²⁶Heard: Nov. 15, 1902. Citation: *In re Brickey*, 8 Idaho 597, 70 P. 609, 101 Am. St. Rep. 215, 1 Ann. Cas. 55 (1902), [In re Brickey](#)

loaded revolver; within the limits and confines of the city of Lewiston, contrary to the provisions of the act of the territory of Idaho approved February 4, 1889 (Sess. Laws 1889, p. 27); and, in accordance with the prayer of said petition, the writ was issued, and return thereto duly made by the said sheriff. From the petition and return it appears that the only offense charged against the petitioner, of which he has been convicted, and is now restrained of his liberty, is that he carried a deadly weapon within the limits of the city of Lewiston, in contravention of the said act of February 4, 1889. The second amendment to the federal constitution is in the following language: "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." The language of section 11, art. 1, Const. Idaho, is as follows: "The people have the right to bear arms for their security and defense, but the legislature shall regulate the exercise of this right by law." Under these constitutional provisions, the legislature has no power to prohibit a citizen from bearing arms in any portion of the state of Idaho, whether within or without the corporate limits of cities, towns, and villages. The legislature may, as expressly provided in our state constitution, regulate the exercise of this right, but may not prohibit it. A statute prohibiting the carrying of concealed deadly weapons would be a proper exercise of the police power of the state. But the statute in question does not prohibit the carrying of weapons concealed, which is of itself a pernicious practice, but prohibits the carrying of them in any manner in cities, towns, and villages. We are compelled to hold this statute void. The statute being void, the said justice's court had no jurisdiction of the subject-matter of the action, and the said judgment of conviction, and the commitment which issued thereon, and the detention of the petitioner under said commitment and judgment of conviction, are illegal and void.(p.610)

The said judgment being void, habeas corpus will lie, and the prisoner should be discharged from custody, and it is so ordered.

SULLIVAN and STOCKS LAGER, JJ., concur.

1903

A senate bill No. 48, authored by Mr. O'Neill, sought to make it illegal for anyone except peace officers to make arrests for CCW¹²⁷ (and presumably re-criminalize concealed carry).

Local laws

During interim when the state statute was voided as unconstitutional, it appears that several communities passed their own local CCW ordinances. Shoshone passed an ordinance in

¹²⁷ "Doings of the Legislature," *The Lewiston Teller*, February 24, 1903, p. 1

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1904¹²⁸ and Grangeville passed one again in 1908.¹²⁹ With limited access to records, it is not possible to tell what all communities passed ordinances during the interim. Municipal ordinances were passed earlier than this: Lewiston passed one in 1879, Pocatello had one in 1898¹³⁰, and Granville may have passed its first such ordinance in 1899, setting a maximum \$100 fine or 15 days in jail¹³¹. Bonner's Ferry passed an ordinance after the new statute in 1912¹³².

Lewiston

Charter and Code of the City of Lewiston Idaho, Ordinance 33 (1879), 1908, p. 315 [Hathi Trust](#)

SECTION 1. It shall be unlawful for any person to carry any firearms or deadly weapon of any kind, in a concealed manner, within the limits of the City of Lewiston.

SEC. 2. It shall be the duty of the marshal to arrest any person carrying any such concealed weapons.

SEC. 3. Peace officers shall be exempted from the provisions of this ordinance, as regards to the carrying of such firearms or weapons.

SEC. 4. Any person violating Section 1 of this ordinance shall be deemed guilty of a misdemeanor and on conviction before any court of competent jurisdiction shall be punished by a fine or not less than five dollars nor more than twenty-five dollars.

SEC. 5. That this ordinance No. 33, shall be in full force from and after its passage. Passed and approved November 18, A. D. 1879.

Misc. Editorials

“Out on the frontier men are altogether too prone to resort to the use of deadly weapons to settle fancied or real slights, and a few hangings would have a restraining effect on these gunmen. [...] Now, if our Mormon masters would only pass a law prohibiting the carrying of concealed weapons, we might look forward to having comparatively peaceable communities in Idaho, after a while.”¹³³

“The bill prohibiting the carrying of concealed weapons should not have become a law in Idaho. It will not make a blackguard gentlemanly because the blackguard is naturally a brute or he would behave like a man; it will not prevent the bully from ‘bluffing,’ because the practice seems necessary to his happiness; neither will it prevent assassins, thieves, burglars and law-breakers in general from carrying and using concealed weapons. As law-abiding citizens do not

¹²⁸ “Ordinance No. 23,” *Shoshone Journal*, February 12, 1904, p. 5 [LOC](#)

¹²⁹ “Ordinance No. 67,” *Idaho County Free Press*, April 23, 1908, p. 3 [LOC](#)

¹³⁰ *The Caldwell Tribune*, January 15, 1898, p. 5

¹³¹ “Ordinance No. 46,” *Idaho County Free Press*, May 19, 1899, p. 6 [LOC](#)

¹³² “Chapter XIII,” *Bonnors Ferry Herald*, January 27, 1912, p. 8 [LOC](#)

¹³³ “The Execution of George Parson,” *Wood River Times*, August 2, 1884, p. 2

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carry arms except when expecting to be compelled to defend their life, the bill deprives them of a protection which, in new communities, the law cannot afford them.”¹³⁴

“The pistol-carrying practice is abominable and cowardly. It is a constant menace to a community, and is largely responsible for the crimes of assault and murder. The man who habitually lugs a pistol in his hip pocket in a peaceable community is not only a deliberate violator of the law, but he is a threat against society. Conscious of his unfair advantage, he is more inclined to be provocative and [unintelligible] under excitement or the stimulus of drink, and in a difficulty, which is often encouraged by his reliance on his concealed weapon, there is more likelihood of violence and bloodshed. The pistol habit should be suppressed as far as possible by a rigorous enforcement of law. The law should be made more effective in its administration, and if need be in its provisions. But the question, whether the making of the punishment by imprisonment compulsory upon the courts, would accomplish or promote the desired end, should be seriously considered.”¹³⁵

“The past two months have witnessed three shooting scrapes in Idaho County over some small personal differences between the individuals, two of which proved fatal within a few hours after the shooting occur-red. One of the murderers is also in a serious condition and will be crippled for life, should he be freed by the law. The third offense is less important only on account of the wounds being less serious. One of the murderers was turned loose at the preliminary examination and it is understood that another is to plea self defense. The second murder seems to have been committed without scarcely any provocation and at a result that county now mourns the loss of a rod, highly respected and valuable citizen. Whether or not any or all the shootings were entirely or even partially justifiable they stand as a blot upon the good name of Idaho county the same as such things do on any community where deeds of this sort occur. But how can such things be prevented? Two of the scrapes occurred over a disputed account and the third one can perhaps be partly attributed to drink although it seems that the murder had been planned, or at least threats had been made some time prior to its execution. But whatever the causes may be it is a serious question to devise some means of protecting human lives from those who seem to have but little regard for the life of a fellow man. A very stringent law rigidly enforced against carrying concealed weapons by anyone except an officer when serving in the discharge of his duty, would to some extent help in this matter. A great percentage of the murderers are committed on the spur of the moment and if the participants could have had time to consider the matter a short time many or most of them would not be committed.”¹³⁶

¹³⁴ *Wood River Times*, February 6, 1889, p. 2

¹³⁵ *The Caldwell Tribune*, December 26, 1903, p. 2

¹³⁶ *The Nezperce Herald*, August 20, 1908, p. 4

Oklahoma and Indian Territory

Historical background

The current boundaries of Oklahoma were originally known as Indian Territory. It was created out of unorganized territory remaining from the Louisiana Purchase. The bulk of what would be Oklahoma was broken away from Arkansas Territory in 1824. Indian Territory within the area we are familiar with was created in 1854 by the Kansas-Nebraska Act.

This was a collection of the lands that the US Government specifically set aside from unorganized territory as part of the various Indian removals. The majority of the area was occupied by what was called the Five Civilized Tribes: Cherokee, Chickasaw, Choctaw, Muscogee/Creek, and the Seminole. Other tribes were relocated into smaller portions of the territory over time.

The tribes had limited sovereignty which included legislative powers. In this respect, among four of the five tribes I could document, they all adapted restrictions on carrying weapons in the same manner as other states and territories. This applied within each nation; there was not a uniform code across Indian Territory as there was no legislative body for that territory. Note that the laws of the Seminole Nation were not recorded and enforced the Creek laws.¹³⁷ The minor tribes were not included in this research.

Oklahoma Territory was established in 1890 in what would be roughly today's western half of the state. It existed conterminously with Indian Territory until 1907. Both territories were admitted to the union in 1907 as one state, as the federal government did not want two new states (Oklahoma and Sequoyah).

Commented [GJ2]: Similarities to Texas law

Indian Territory—Statutory History

Cherokee

1868

Public places, both methods

“An Act to Prohibit the Carrying of Weapons,” *Laws of the Cherokee Nation 1839-1867* (Missouri Democrat Print, St. Louis, MO, 1868), pp. 30-31 [Hathi Trust](#)

Be it enacted by the National Council, That it shall not be lawful for any person to carry any gun, pistol, bowie knife, or dangerous weapon of any kind, to any election, or court during the term, term, or any place of trade, town, or public assemblage whatever; and any person convicted of a violation of this act, before

¹³⁷ “Form of Government,” *Report on Indians Taxed and not Taxed; Eleventh Census 1890* (US GPO, 1894), p. 270

the District Court of the district in which such offense may have been committed, shall be fined in a sum of not less than ten nor more than twenty-five dollars, one-half for the benefit of the informer, and the other half for the benefit of the orphan fund: *Provided*, that this act shall not apply to sheriffs and persons acting under their authority, in the discharge of duties required by law, or in the pursuit of fugitives from justice, nor to persons traveling on a journey; and it shall be the duty of the solicitors of the several districts to prosecute every violation of this act.

Be it further enacted, That this act shall not take effect until after the fifteenth day of February, 1867.

1875

Ch. XII, Article XVIII, Revised Code, *Constitution and Laws of the Cherokee Nation*, 1875, pp. 228-229 [Hathi Trust](#)

Sec. 88. Every person, a citizen of this Nation, who shall in any way carry arms of any kind whatever, or who shall have on or about his person any dirk, bowie knife, pistol, revolver, slung shot, metal knuckles or other dangerous arm or weapon, except a common pocket knife, unless for the purpose of hunting game, or upon a journey, or in pursuit of fugitives from justice, or in the discharge of duty by virtue of a legal summons, shall forfeit such arms or weapons to the Nation, and be fined in any sum not exceeding one hundred dollars, or be imprisoned not exceeding six months, or be both fined and imprisoned at the discretion of the court having jurisdiction.

Sec. 89. All officers required by law to act as conservators of the peace, and to enforce or serve legal processes, are exempted from this article. And it is hereby made the duty of every sheriff, town constable and their lawful deputies, to disarm all persons detected in violating the provisions of this act; to turn over quarterly to the treasurer all weapons or arms confiscated, and report the person so offending to the solicitor for indictment before the district court of the district wherein the offense was committed. The judgment of the court shall be final, and no property shall be exempt from execution and sale to satisfy such judgment, improvements excepted.

Sec. 90. One half of fines thus collected, shall be divided equally between the sheriff and solicitor, and the other half shall be paid into the treasury for the benefit of the orphans; provided, that, whenever a case is not sustained before the court trying the same, an order shall issue from the court for the restitution of the arms seized; and the treasurer or sheriff shall restore, the same accordingly. But in all other cases the arms shall be the property of the Nation, subject to the order of the National Council.

Sec. 91. Citizens of the United States, and foreigners under their protection, lawfully residing, or temporarily sojourning, in the Cherokee Nation, who shall willfully neglect, or refuse, to conform to the requirements of this act, so far as it affects citizens of the Cherokee Nation, shall thereby forfeit the

protection of Cherokee laws, and the right or privilege of continuing longer in the Cherokee Nation, and shall be disarmed, arrested and turned over with such arms to the lawful authority for removal beyond the limits of the Cherokee country ; provided, that the provisions of the preceding sections shall not be so construed as to annul, impair, or in any manner abridge, or destroy, the ordinances and rights of town corporations as guaranteed by law.

Note: various interim amendments were made. See 1893 codification.

1893

Ch. 12, Article XX, *Compiled Laws of the Cherokee Nation* (The Foley R'Y Printing Co, Parsons, KS, 1893), 1892, pp. 342-344

SECTION 680. Every person, a citizen of this Nation, who shall in any way carry arms of any kind whatever, or who shall have on or about his person any dirk, bowie knife, pistol, revolver, slung shot, metal knuckles or other dangerous arm or weapon, except a common pocket knife, unless for the purpose of hunting game, or upon a journey, or in pursuit of fugitives from justice, or in the discharge of duty by virtue of a legal summons, shall forfeit such arms or weapons to the Nation, and be fined in any sum not less than twenty-five dollars nor exceeding one hundred dollars, and, in default of payment, be imprisoned for any term not less than three months nor exceeding six months, or be both fined and imprisoned at the discretion of the court having jurisdiction.—(December 20, 1886.) The presiding judge shall likewise attach the cost of trial to the fine in every case of conviction.—(November 21, 1882.)

SEC. 681. Should any officer, charged with the execution of this act, fail to report any violation of the same coming to his knowledge, to the solicitor of the district, he shall be summarily removed from office, and any solicitor, failing to report the same to the Grand Jury, shall be removed from office likewise.—(December 20, 1886.)

SEC. 682. All officers required by law to act as conservators senators of the peace, and to enforce or serve legal processes are exempted from this article. And it is hereby made the duty of every sheriff, town constable, and their lawful deputies, to disarm all persons detected in violating the provisions of this act; to turn over quarterly to the treasurer all weapons or arms confiscated, and report the person so offending to the solicitor for indictment before the district court of the district wherein the offense was committed. The judgment of the court shall be final, and no property shall be exempt from execution and sale to satisfy such judgement, improvements excepted.

SEC. 683. One half of fines thus collected shall be divided equally between the sheriff and solicitor and the other half shall be paid into the treasury for the benefit of the orphans; provided, that, whenever a case is not sustained before the court trying the same, an order shall issue from the court for the restitution of the arms seized ; and the treasurer or sheriff shall restore the same

accordingly. But in all other cases the arms shall be the property of the Nation subject to the order of the National Council.

SEC. 684. Citizens of the United States and foreigners under their protection, lawfully residing or temporarily sojourning in the Cherokee Nation, who shall wilfully [sic] neglect, or refuse to conform to the requirements of this act as far as it affects citizens of the Cherokee Nation, shall thereby forfeit the protection of Cherokee laws, and the right or privilege of continuing longer in the Cherokee Nation, and shall be disarmed, arrested and turned over with such arms to the lawful authority, for removal beyond the limits of the Cherokee country; *provided*, that the provisions of the preceding sections shall not be construed as to annul, impair, or in any manner abridge, or destroy, the ordinances and rights of town corporations as guaranteed by law.

Choctaw

1880

“An Act Preventing Carrying of Pistols in the Choctaw Nation,” Bill No. 10, *Acts and Resolutions...of the General Council of the Choctaw Nation*, 1880, pp. 7-8 [Hathi Trust](#)

Sec. 1. *Be it enacted by the General Council of the Choctaw Nation assembled*, That it shall not be lawful for any person to carry a of any kind within the limits of the Choctaw Nation, except the Sheriffs and their deputies and lighthorsemen.

Sec. 2. *Be it further enacted*, That for every violation of this act the offender shall be fined not less *than five, nor more than fifty dollars* by the county judge of the county wherein the offense was committed, and upon failure of said county judge to discharge his duty, as herein required, he shall be liable to indictment by the Grand Jury and be tried by the Circuit Court, and if found guilty to be fined not less than \$25, nor more than \$100.

Sec. 3. *Be it further enacted*, That it shall be the duty of sheriffs, their deputies and Lighthorsemen to arrest all violators of the first section of this act, without written process upon their own sight, or upon the information of any citizen of said Nation, and take them before the county judge to be fined in accordance with section 2nd of this act, and said sheriffs, their deputies and Lighthorsemen shall dispossess said violators of their pistols until their fines and usual costs are paid; but if said violators are unable to pay said fine and costs, then the county court shall issue executions against the pistols of said violators, which pistols shall be sold by the sheriff of the county at public auction, to pay costs first, and the remainder to be devoted to the payment of the fines; provided however, that said county courts shall have power to issue executions against any property of an offender liable to execution, to pay the penalties imposed by this act.

Sec. 4. *Be it further enacted*, That if the information herein provided for shall be given by a private citizen of the Nation, one half of the amount of the fine collected shall be paid to said informant, and the other half paid into the county.

Sec. 5. *Be it further enacted*, That sheriffs, their deputies and Lighthorsemen, who shall fail to discharge their duties under this act, shall; upon information, be fined by the county court one hundred dollars each offense, and its collection shall be enforced in the same way as provided in Sec. of this act against violators of Sec. 1 of this act ; and a fines collected of sheriffs, their deputies and Lighthorsemen and county judges shall be paid into the county treasury for county purposes.

Sec. 6. *Be it further enacted*, That all citizens of the United States, or non-citizens, who shall be found violating the first section of this act shall be reported to the Principal Chief, who shall report the same to the United States Indian Agent, and demand their removal from the Choctaw Nation.

[Sections 7-8, copies of legislation and severability/repeal, omitted]
Approved Oct. 28th, 1880.

1883

“An Act to Prevent the Carrying of Pistols and Fixing the Penalty Thereof,” Bill No. 45, *Laws of the Choctaw Nation*, 1883, pp. 34-35 [Hathi Trust](#)

Be it enacted by the General Council of the Choctaw Nation assembled: That it shall not be lawful for any person to carry a of any kind within the limits of the Choctaw Nation, except the Sheriffs and their deputies and the Light-horsemen and Militia on duty.

SEC. 2. Be it further enacted: That the grand jury shall indict all violators of this act; and all citizens that are convicted for violating this act shall be fined in any sum not exceeding fifty dollars and not less than five dollars, at the discretion of the Circuit Court having jurisdiction.

SEC. 3. Be it further enacted: That it shall be the duty of the Sheriff and his deputies and Light-horsemen to arrest all violators of this act without written process, upon their own sight or upon the information of any citizen of said Nation, and require them or him to give bond to appear at the Circuit Court from day to day while said court is in session until discharged by due course of law.

SEC 4. Be it further enacted: That it shall be the duty of the Sheriffs of this Nation and their deputies, and the Light-horsemen, to dispossess all citizens and non-citizens residing in the Choctaw Nation under a permit, and freedmen that formerly belonged to the Choctaws or Chickasaws, of any and all pistols they may be carrying in violation of this act, and hold the same until the fines and costs of the court are paid; but if the said offenders are unable to pistol pay said fine and costs, then the Circuit Court shall issue execution against the pistols of said offender, or offenders, which pistols shall be sold by the Sheriff of the county, at auction, to pay costs first, and the remainder to be devoted to the payment of the fines; provided, however, that the Circuit Court shall have power to issue

execution against any property of the offender, or offenders, liable to execution, to pay the penalties imposed by this act.

SEC. 5. Be it further enacted: That if the information herein provided for shall be given by a private citizen of the Nation, one-half of the fine collected shall be paid to said informant, and the other half paid into the county treasury of the county wherein the offense was committed.

SEC. 6. Be it further enacted: That Sheriffs, their deputies and Light-horsemen, who refuse or neglect to discharge their duties under this act, shall, on information before the Circuit Court having jurisdiction, be fined one hundred dollars for each offense; and all fines collected of Sheriffs, their deputies or Light-horsemen, shall be turned into the county treasury of the county wherein the offense was committed, for county purposes.

SEC. 7. Be it further enacted: That no person, or persons, shall carry a gun of any kind to a religious meeting, school or gathering of any kind, except Sheriffs, their deputies and Light-horsemen, and militia on duty; any persons violating this section of this act, shall be fined in any sum of not exceeding fifty dollars, nor less than five dollars; and it shall be the duty of the Circuit Judges of this Nation to charge the Grand Jury to make inquiry for all violations of the provisions of this act.

SEC. 8. Be it further enacted: That this act take effect and be in force from and after its passage; and all acts or parts of acts heretofore coming in conflict with the provisions of this act, are hereby repealed.

Approved November 1st, 1883.

Creek/Muskogee

1867

Ch. IV, Article XI, *Constitution and Laws of the Muskogee Nation*, 1880 p. 36 [Hathi Trust](#)

SECTION 1. No person, except District Solicitors, light horsemen and officers of the United States engaged in duty requiring them to carry weapons, shall be permitted to carry any deadly weapon of any kind, such as pistols, revolvers, bowie knives, dirks, or any other weapon, except a pocket knife, at any public gathering of citizens of this Nation, such as church meetings, or where persons are gathered for purpose of worship or the transaction of business, elections, towns, dancing or ball grounds, trials, courts, councils, or any place where people are gathered for pleasure.

SEC. 2. Any person found guilty of violating the provisions of paragraph 1 of this Article, shall be dispossessed of the weapons by the light horse, and the light horse so dispossessing such person shall dispose of the weapon for his own benefit.

SEC. 3. This Article shall not be so construed as to prevent travelers from carrying weapons along the public highways.

1881

Compiler: L. C. Perryman, "An Act to Amend an Act Relating to the Carrying of Deadly Weapons," *Constitution and Laws of the Muskogee Nation* (1890), November 2, 1881, pp. 107-108 [Hathi Trust](#)

Be it enacted by the National Council of the Muskogee Nation: That, after the passage of this bill, no person, excepting public officers engaged in the discharge of their duties, and persons traveling or hunting stock, shall be permitted to carry firearms within one-half mile of any town, political, religious or other gathering, for pleasure or profit ; and any person found guilty of violating this provision, or of discharging firearms at random within one-half mile of any town or gathering, as above mentioned, shall be fined in the sum of ten (\$10) dollars, and shall be dis-possessed of the weapon so used. The Light Horseman capturing such firearms shall be permitted to retain the same or dispose of them for his own profit ; and the person giving information which shall lead to conviction shall receive one-half of the fine, the other half to be trans-mitted to the National Treasurer.

Be it further enacted: That any Light Horseman who shall fail in the duty specified in this bill shall, upon conviction, be fined in the sum of twenty-five dollars (\$25), and shall be expelled from office. The Prosecuting Attorney securing the conviction of such Light Horseman shall receive ten (\$10) dollars of the fine, ten dollars shall be transmitted to the National Treasurer, and the remaining 6ve dollars shall be paid to the witnesses.

Be it further enacted: That no property of any kind shall be exempt from the payment of the above fine specified.

Be it further enacted: They any licensed merchant selling a postil or revolver of any description, shall be fined fifty (\$50) dollars for each and every pistol or revolver so sold.

Be it further enacted: That all persons found carrying concealed weapons at any gathering, as above mentioned, shall be fined the sum of fifty (\$50) dollars for each such offense. Be it further enacted : That in case the Light Horseman is unable to keep peace by being overpowered by armed men, he shall have power to call on other citizens of this Nation to aid him in carrying the above law into effect ; and in case of the refusal to obey the summons by Light Horse-men, without good reasons for such refusal, such citizens shall each he fined in the sum of five dollars. This law shall take effect from and after December 1st, 1881.

Approved November 2d, 1881.

Chickasaw

1884

“An Act to Prohibit the Carrying of Pistols Within the Limits of the Chickasaw Nation,”
Constitution, Treaties, and Laws of the Chickasaw Nation, 1890, p. 164 [Hathi Trust](#)

SECTION 1. Be it enacted by the Legislature of the Chickasaw Nation, That from and after the passage of this Act, it shall be unlawful for any person, citizen, non-citizen or freedman, to carry any revolver or pocket pistol of any kind within the limits of this Nation, and any person violating this Act, shall upon conviction before the County Court, where the crime may have been committed, be compelled to pay a fine of not less than twenty-five dollars nor more than one hundred dollars at the discretion of the Court.

SEC. 2. Be it further enacted, That persons legally summoned by any of the officers to assist in executing the Laws of this Nation, or any person or persons in pursuit of horse thieves or fugitives from justice, shall be exempt from the provisions of this Act while on such duty.

SEC. 3. Be it further enacted, That the fines collected under the provisions of this Act, shall one-half go to the informer and the other half to be placed in the hands of the Sheriff for county purposes.

SEC. 4. Be it further enacted, That any person or persons convicted under the provisions of this Act, not being able to pay their fines shall be lodged in the National Jail for not less than one month nor more than three months, with or without hard labor, at the discretion of the Court.

SEC. 5. Be it further enacted, That the National Secretary be, and is hereby directed to furnish the United States Indian Agent with a certified copy of this Act immediately after the Governor's approval, and ask for his assistance in removing all non-citizens beyond the limits of the Chickasaw Nation, that fail to comply with this Act.

APPROVED, September 30, 1884.

Oklahoma—Statutory History

Oklahoma Territory's statutes existed alongside those in Indian Territory. In 1907, at statehood, the Oklahoma statutes superseded those of the Indian nations' as far as what was the law of the land.

1890

Will T. Little, L. G. Pitman, and R. J. Barker, comps., Article 47, Concealed Weapons, *The Statutes of Oklahoma* (State Capitol Printing Co., 1891), 1890, pp. 495-496 [Hathi Trust](#)

(2432) §1. It shall be unlawful for any person in the Territory of Oklahoma to carry concealed on or about his person, saddle, or saddle bags, any pistol,

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revolver, bowie knife, dirk, dagger, slung-shot, sword cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided.

(2433) §2. It shall be unlawful for any person in the Territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided.

(2434) §3. It shall be unlawful for any person within this Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article.

(2435) §4. Public officers while in the discharge of their duties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: *Provided*, however, That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person.

(2436) §5. Persons shall be permitted to carry shot-guns or rifles for the purpose of hunting, having them repaired, or for killing animals, or for the purpose of using the same in public muster or military drills, or while travelling or removing from one place to another, and not otherwise.

(2437) §6. Any person violating the provisions of any one of the foregoing sections, shall on the first conviction be adjudged guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days or both at the discretion of the court. On the second and every subsequent conviction, the party offending shall on conviction be fined not less than fifty dollars no more than two hundred and fifty dollars or be imprisoned in the county jail not less than thirty days nor more than three months or both, at the discretion of the court.

(2438) § 7. It shall be unlawful for any person, except a peace officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

(2439) § 8. It shall be unlawful for any person in this Territory to carry or wear any deadly weapons or dangerous instrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

(2440) § 9. It shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

(2441) § 10. Any person violating the provisions of section seven, eight or nine of this article; shall on conviction, be punished by a fine of not less than fifty

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dollars, nor more than five hundred and shall be imprisoned in the county jail for not less than three not more than twelve months.

Concealing weapons

Will T. Little, L. G. Pitman, and R. J. Barker, comps., Article 38, Of Crimes Against the Public Health and Safety, *The Statutes of Oklahoma* (State Capitol Printing Co., 1891), 1890, p. 476 [Hathi Trust](#)

§20 Concealing weapons—Whoever carries concealed about his person any description of firearms, being loaded or unloaded or partly loaded, or any sharp or dangerous weapon, such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

Subsequent legislation attempts

Oklahoma, despite its stringent laws, was not immune from the pressures to increase the punishment for carrying a weapon. The governor’s 1911 message asked for carrying a concealed weapon to become a felony.

“The records of homicides in this state show that a large per cent of them are committed by persons carrying concealed weapons. If a law could be passed and enforced that would put an end to the practice of carrying concealed weapons the number of homicides would be reduced more than fifty per cent. It would not only be a great saving in human life, but it would result in a great saving to the people in the form of taxes in the lessening of the number of murder trials in the state. These trials are the most expensive item of conducting criminal courts, and any law that will tend to curtail this expense to the people would meet with approval.

“By the statutes of this state it is made a felony to carry, whether concealed or not, upon your person a slung shot. Certainly it should be no less offense to carry a concealed deadly weapon. Under our present law, however, anyone convicted of carrying a concealed weapon about his person,—firearms of any description, is guilty only of a misdemeanor. There is no excuse for anyone, other than an officer, carrying upon his person a concealed weapon. The present practice indulged in by many in the state of carrying a pistol, only increases the peril of law abiding citizens, and places them at a disadvantage when coming in contact with the law violating element.

“I recommend that you amend the law and make it a felony for anyone, other than an officer of the law, while in the discharge of his official duty, to carry concealed about his person a deadly weapon.”¹³⁸

¹³⁸ Lee Cruce, Governor’s message to the Legislature, Oklahoma House Journal, 4th Legislative Session, pp. 79-80

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The legislature would answer his call. Rep. Jones of Jefferson proposed a bill to make CCW a felony. Jones felt that “the vast number of homicides” in Oklahoma were attributable to the fact that “a large per cent of murders can be traced solely to the fact that the man had his ‘gun.’” He won over an initially unsympathetic house which amended the bill to prohibit the sale of pistols.

Rep. Ashby said that more people were killed in car accidents than by pistols. On the other hand, Rep. Rexroat felt that abolishing pistols would “check the majority of killings.” Several representatives cautioned that making the punishment too harsh would lead to it not being enforced. Rep. Barrett felt the solution to the problem of non-enforcement was to punish officers who were lax in their efforts and that carrying a gun was a damnation by itself.

“It is prima facie evidence for a bootlegger to be caught with whiskey on him. It ought to be prima facie evidence that a where a man has a ‘gun’ on his he means murder.”

These sentiments were not unique at the time. The bill was referred back to committee to be reconciled with HB 276 which sought to ban pistol sales.¹³⁹

The eventual compromise bill settled on making the penalty a range of \$50-\$200 in fines; a third conviction could fetch up to two years.¹⁴⁰ Several amendments were made to the bill, including one to disarm game wardens. Several suggestions lost on votes, including allowing sheriffs to issue permits for good cause, disqualification from office for officers who failed to enforce the law, and banning air guns.¹⁴¹ Ultimately, the bill failed to pass, receiving 48 ayes, 39 nays, and 22 absent.¹⁴²

More attempts at gun control were attempted in the 1913 legislative session. Lucien B. Wright, a lawyer from Sapulpa, proposed a concealed weapons bill that included registration and licensing provisions. While the version we have access to was reprinted in a newspaper, incidental mentions in the *House Journal* indicate that draft or something very similar was debated legislation.¹⁴³ As another newspaper said about an actual bill:

“...The first offense a misdemeanor; subsequent convictions for carrying dangerous weapons a felony punishable by as much as two years in the penitentiary. It would also require a register kept of all dangerous weapons sold in the state that every man carrying such weapons would be required to take out a special license; prohibits the exhibition of dangerous weapons in show cases, and provides other wholesome restrictions.”¹⁴⁴

If not Wright’s bill, the language of the bill suggested by the newspaper report indicated it might have been a variation of the Uniform Firearm Act.

Several bills were introduced, including Senator Thompson’s SB 38. The record is not clear on exactly which ones went forward, but none passed and the statutes remained unchanged.

¹³⁹ “House Against the Gun Toter,” *The Daily Ardmoreite*, January 29, 1911, p. 4

¹⁴⁰ “Grady in Fifteenth District,” *Chickasha Daily Express*, February 13, 1911, p. 1

¹⁴¹ Oklahoma House Journal, 3rd Legislature Regular Session, 1913, pp. 487-489

¹⁴² Oklahoma House Journal, 3rd Legislature Regular Session, 1913, pp. 534-535

¹⁴³ Lucien B. Wright, “Draft of An Act Designated to Regulate Manner of Owning Firearms,” in: “New Law Will Stop Criminals,” *Tulsa Daily World*, December 1, 1912, p. 1 [Library of Congress](#)

¹⁴⁴ “Prospect Good for Passage,” *Chickasha Daily Express*, March 12, 1912, p. 1

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A final attempt was made in 1915 before it seems that gun control attempts lost favor and ceased to be introduced for the time period studied.¹⁴⁵

¹⁴⁵ I was unable to access the Senate journals for much of the early statehood period.

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Kansas

Constitution

1859

Wyandotte Constitution

“The people have a right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.”

Statutory History

1860

Lawrence allowed to prohibit CCW. [Hathi Trust](#)

1867

Open and concealed carry

“An Act to prevent the carrying of Deadly Weapons,” *The Laws of the State of Kansas*, 1867, Ch. XII, p. 25 [Hathi Trust](#)

SECTION 1. Any person who is not engaged in any legitimate business, any person under the influence of intoxicating drink, and any person who has ever borne arms against the Government of the United States, who shall be found within the limits of this State, carrying on his person a pistol, bowie-knife, dirk or other deadly weapon, shall be subject to arrest upon charge of misdemeanor; and upon conviction shall be fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or both, at the discretion of the court.

SEC. 2. Justices of the Peace shall have original jurisdiction of all cases arising under this Act, and on complaint being made, shall proceed to hear and determine the same in a summary manner, and shall have full authority to enforce both fine and imprisonment as provided in this Act, *Provided*, that nothing in this Act shall conflict with the ordinance of any incorporated city of the State.

SEC. 3. In all cases arising under this Act, the accused shall be entitled to a jury of six men, possessing the qualifications of electors, who, if they find the defendant guilty, shall assess the fine to be paid by him, and fix the term of his

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imprisonment; and if convicted, may appear to the District Court of the proper county as in other cases provided by law.

[Sec. 4 omitted]

Approved, February 23d, 1867.

1871

Second and third-class (<2,000 or less people) city councils allowed to prohibit “carrying of firearms or other deadly weapons, concealed or otherwise.” [Hathi Trust](#)

1872

First class cities allowed to prohibit “carrying of firearms or other deadly weapons, concealed or otherwise.” See 1868 for prior legislation. [Hathi Trust](#)

1883

Illegal to sell pistols and toy pistols or other dangerous weapons to minors and for minors to carry them. [Hathi Trust](#)

1903

Concealed carry only

“An Act in relation to the carrying of concealed weapons,” Ch. 216, *State of Kansas Session Laws*, 1903, p. 371 [Hathi Trust](#)

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. That any person who is not an officer of the law, or a deputy to such officer, who shall be found within the limits of this state carrying on his person in a concealed manner any pistol, bowie-knife, dirk, sling-shot, knucks or any other deadly weapon shall be guilty of a misdemeanor, and on conviction he fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or both such fine and imprisonment, at the discretion of the court.

SEC. 2. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 3. This act shall be in force and effect from and after its publication in the statute-book. Approved March 11, 1903.

Several papers reported: “Contrary to the general impression there is now no state law against carrying concealed weapons. The house of representatives in committee of the whole has

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recommended for passage a bill making the carrying of concealed weapons a misdemeanor.”¹⁴⁶ This seems contrary to the 1867 act and even the title “An Act to prevent the carrying of Deadly Weapons.” Perhaps the editors were confused by the plethora of local concealed weapon ordinances which may have been more frequently charged than the statute.

¹⁴⁶ “Concealed Weapons,” *Chanute Times*, February 13, 1903, p. 8

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Massachusetts

First statewide law: 1906

Concealed carry, may issue

"An Act Relative to the Carrying of Concealed Weapons," (see text below).

I was unable to find much context given a cursory search, however the evolution of the statutes is evident.

Statutory history

Predecessor law: 1850

"An Act in relation to the carrying of slung shot," Ch. 194, *Acts and Resolves Passed by the General Court, 1849-1851*, p. 401 [Hathi Trust](#)

Created an offense for anyone who was arrested, and upon search, was found with slung shot on their person.

1906

first law, allowed permits

"An Act Relative to the Carrying of Concealed Weapons," Ch. 172, *Acts and Resolves Passed by the General Court, 1906*, p.150- [Hathi Trust](#)

SECTION 1. The justice of a court, or trial justices, the board of police or mayor of a city, or the selectmen of a town, or persons authorized by them, respectively, may, upon the application of any person, issue a license to such person to carry a loaded pistol or revolver in this Commonwealth, if it appears that the applicant has good reason to fear an injury to his person or property, and that he is a suitable person to be so licensed.

SECTION 2. Whoever, except as provided by the laws of this Commonwealth, carries on his person a loaded pistol or revolver, without authority or permission as provided in section one of this act, or whoever carries any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

1908

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“An Act Relative to the Carrying of Concealed Weapons,” Ch. 350, *Acts and Resolves Passed by the General Court*, 1908, pp. 301-302 [Hathi Trust](#)

SECTION 1. Whoever, except as provided by the laws of this Commonwealth, wealth, carries on his person a loaded pistol or revolver, without authority or permission as provided in section one of this act, or whoever carries any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine of not less than twenty-five nor more than one hundred dollars, or by imprisonment :for a term not exceeding one year, or by both such fine and imprisonment.

[new section]. Whenever any person is convicted of carrying a pistol, revolver or other weapon or article contrary to the provisions of section two of said chapter one hundred and seventy-two, the weapon or article so carried by him shall be confiscated to the use of the commonwealth.

Note: Ch. 350 was approved April 3, 1908, then amended by Ch. 583, approved Jun 4, 1908.

“An Act Relative to the Disposition of Confiscated Weapons,” Ch. 583, *Acts and Resolves Passed by the General Court*, 1908, pp. 351-352 [Hathi Trust](#)

Section 2. Whenever any person is convicted of carrying a pistol, revolver or other weapon or article contrary to the provisions of section two of said chapter one hundred and seventy-two, the weapon or article so carried by him shall be confiscated to the use of the commonwealth. Any pistol, revolver or other weapon or article so confiscated shall, by the authority of the written order of the court or trial justice, be forwarded by common carrier to the chief of the district police, who, upon receipt of the same, shall notify said court or justice thereof. Said officer may sell or destroy the same, and, in case of a sale, after paying the cost of forwarding the article, he shall pay over the net proceeds to the treasurer and receiver general.

1911

“An Act Relative to the Carrying of Concealed Weapons,” Ch. 548, *Acts and Resolves Passed by the General Court*, pp. 568-569 [Hathi Trust](#)

Section 1. The justice of a court, or trial justices, the board of police or mayor of a city, or the selectmen of a town, or persons authorized by them, respectively, may, upon the application of any person, issue a license to such person to carry a pistol or revolver in this commonwealth, if it appears that the applicant has good reason to fear an injury to his person or property, and that he is a suitable person to be so licensed.

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Section 2. Whoever, except as provided by the laws of this commonwealth, carries on his person a pistol or revolver, without authority or permission as provided in section one of this act, or whoever carries any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine of not less than fifty nor more than one hundred dollars, or by imprisonment for a term not less than one month and not exceeding one year, or by both such fine and imprisonment.

Handgun dealer licensing

“An Act Relative to Firearms,” Ch. 495, *Acts and Resolves Passed by the General Court*, 1911, pp. 484-486 [Hathi Trust](#)

Note: while not included here, the text is very reminiscent of the Uniform Firearms Act, which would become popular among state legislators late in this decade and in the next two.

1919

"An Act Relative to the Carrying of Concealed Weapons," Ch. 207, *Acts and Resolves Passed by the General Court*, 1919, pp. 157 [Hathi Trust](#)

Section 1. The justice of a court, or trial justices, the board of police or mayor of a city, or the selectmen of a town, or persons authorized by them, respectively, may, upon the application of any person, issue a license to such person to carry a pistol or revolver in this commonwealth, if it appears that the applicant has good reason to fear an injury to his person or property, or for any other proper purpose, and that he is a suitable person to be so licensed.

Section 2. Whoever, except as provided by the laws of this commonwealth, carries on his person a pistol or revolver, without authority or permission as provided in section one of this act, or who-ever carries any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for a term of not less than six months and not more than five years, or by both such fine and imprisonment.

1923

“An Act Relative to Dangerous Weapons,” Ch. 245, *Acts and Resolves Passed by the General Court*, p. 234 [Hathi Trust](#)

Section 10. Whoever, except as provided by law, carries on his person or under his control a pistol or revolver, loaded or unloaded, with permission under section one hundred and thirty-one of chapter one hundred and forty, or whoever so carries any stiletto, dagger, dirk knife, slung shot or metallic knuckles, or whoever, when arrested upon a warrant for an alleged crime or when arrested

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while committing a crime or a breach or disturbance of the public peace, is armed with, or has on his person or under his control in a vehicle, a billy or dangerous weapon other than those herein mentioned, shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not less than six months nor more than two and one half years in a jail or house of correction or for not less than two and one half years nor more than five years in the state prison, or by both such fine and imprisonment, and upon conviction the pistol or other article shall be confiscated by the commonwealth. The pistol or article so confiscated shall, by the authority of the written order of the court or trial justice, be forwarded by common carrier to the commissioner of public safety, who, upon receipt of the same, shall notify said court or justice thereof. Said officer may sell or destroy the same, and, in case of a sale, after paying the cost of forwarding the article, shall pay over the net proceeds to the commonwealth.

Note: this amended Section 10 of the 1911 act that instituted pistol sale licensing. The original section 10 dealt with requiring buyers to give factual information.

1927

Uniform Firearm Act

"An Act Relative to Machine Guns and Other Firearms," Ch. 326, *Acts and Resolves Passed by the General Court*, 1927, pp. 412-416 [Archive.org](#)

Section 10. Whoever, except as provided by law, carries on his person, or carries on his person or under his control in a vehicle, a pistol or revolver, loaded or unloaded, or possesses a machine gun as defined in section one hundred and twenty-one of chapter one hundred and forty, without permission under section one hundred and thirty-one of chapter one hundred and forty, or whoever so carries any stiletto, dagger, dirk knife, slung shot, metallic knuckles or sawed off shotgun, or whoever, when arrested upon a warrant for an alleged crime or when arrested while committing a crime or a breach or disturbance of the public peace, is armed with, or has on his person, or has on his person or under his control in a vehicle, a billy or dangerous weapon other than those herein mentioned, shall be punished by imprisonment for not less than six months nor more than two and one half years in a jail or house of correction or for not less than two and one half years nor more than five years in the state prison, and upon conviction the pistol or other article shall be confiscated by the commonwealth. The pistol or article so confiscated shall, by the authority of the written order of the court or trial justice, be forwarded by common carrier to the commissioner of public safety, who, upon receipt of the same, shall notify said court or justice thereof. Said commissioner may sell or destroy the same, and, in case of a sale, after paying the cost of forwarding the article, shall pay over the net proceeds to the commonwealth.

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New Hampshire

Statutory History

Note: I was unable to locate session laws for the years 1830-1875, nor after 1923.

1877

Murder special circumstance, “by a person bearing any deadly weapon, either open or concealed.”¹⁴⁷ [Hathi Trust](#)

Concealed weapon upon arrest

“An act regarding concealed weapons,” Ch. 102, *Laws of the State of New Hampshire*, 1877, p. 38 [Hathi Trust](#)

SECTION 1. Whoever when arrested upon a warrant of a magistrate issued against him for an alleged offense against the laws of this state, and whoever when arrested by a sheriff, deputy sheriff, constable, police officer or watchman when committing a criminal offense against the laws of this state, or a breach or disturbance of the public peace, is armed with or has on his person slung shot, metallic knuckles, billies, or other dangerous weapons, or it is shown by evidence before any competent tribunal that the party arrested had used said weapons or either of them in committing the offense for which he is arrested, shall be punished by a fine not exceeding fifty dollars, or by imprisonment in the jail not exceeding one year, or both.

SEC. 2. This act shall take effect and be in force from and after its passage.

[Approved July 19, 1877.]

1883

Toy pistols banned. [Hathi Trust](#)

1909

First law, open and concealed carry

¹⁴⁷ §7 Ch. 276, *Report of the Commissioners to Compile and Revise the Statute Laws of New Hampshire (1877)*, (John B. Clarke, Manchester, 1878), p. 807 [Hathi Trust](#)

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"An Act to Prohibit Carrying Concealed Weapons," Ch. 114, *Laws of the State of New Hampshire*, 1909, pp. 451-452 [Hathi Trust](#)

SECTION 1. Whoever, except as provided by the laws of this state, carries on his person a loaded pistol or revolver, or any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding one year or by both such fine and imprisonment; and any such weapon or article so carried by him shall be confiscated to the use of the State.

SEC. 2. The provisions of the preceding section shall not apply to officers of the law, to members of military forces, to persons holding hunters' licenses, when lawfully engaged in hunting, to employees of express companies while on duty, to watchmen while on duty, or to persons securing a license as provided in the next section.

SECT. 3. The selectmen of towns or the mayor or the chief of police of cities may, upon the application of any person issue a license to such person to carry a loaded pistol or revolver in this state, if it appears that the applicant is a suitable person to be so licensed.

Note: While the act was titled as a “concealed weapons” bill, the text did not mention “concealed” at all.

1917

Firearm permit required, aliens

“An act for the regulation of the sale and use of explosives and firearms,” Ch. 185, *Laws of the State of New Hampshire*, 1917, pp. 727-730 [Hathi Trust](#)

[Sec. 1, dealer license required; Sec. 2, must be a citizen or permanent resident,

SECT. 3. Every person so licensed shall keep, on blanks to be furnished by the secretary of state, a record of the names and residences of all persons to whom he shall sell or deliver firearms or any such explosive material or compound, the purpose for which the same is to be used, the date of sale, the amount paid, the date of the purchaser's permit, the name and title of the person by whom the permit was issued, and, within five days after every such sale or delivery, shall file such record thereof with the clerk of the city or town wherein the sale or delivery was made, or with the county commissioners in case of sales or deliveries within the state, but outside the limits of any organized city or town. The records thus filed shall at all times be open to the inspection of the police departments, or other public authorities. He shall also affix to the receptacle containing such explosive material or compound a label with the name of the compound, his own name and the date of sale.

[Sec. 4, possession of explosives; Sec. 5, dealer penalties; omitted]

SECT. 6. No person not a citizen of the United States or one who has legally declared his intention of becoming such a citizen shall have in his possession any firearm or firearms of whatsoever kind or description unless he has a written permit to have such possession issued and signed as hereinafter provided. Any such person desiring to possess a firearm or firearms for any lawful purpose shall first make written application to the chief of police or selectmen of the town wherein he resides, or to the county commissioners if he resides within the state but outside the limits of any organized city or town, stating the purposes for which the possession of the firearm

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or firearms is desired and a description of the firearm or firearms. The applicant shall also state his full name, occupation, place of residence, and if in a city the street and number. If such chief of police or selectmen or county commissioners are satisfied that the applicant intends to use the firearm or firearms in a lawful manner and as set forth in his application, a permit shall be issued, signed by the chief of police of the city, or selectmen of the town, or county commissioners, as the case may be, giving to the applicant the right to have in his possession such firearm or firearms. The holder of any such permit shall keep the permit on his person at all times when he has possession of the firearm or firearms as authority for such possession and shall exhibit the same when so requested by any person.

SECT. 7. Any person not a citizen of the United States or one who has legally declared his intention of becoming such a citizen, who shall procure or have in his possession any firearm or firearms of any kind without having first obtained a permit as provided in section 6, or after such permit has been revoked, as hereinafter provided, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding two years, or both.

SECT. 8. Such license or permit may be issued for a stated time, or for a single transaction. In the discretion of the officer or officers by whom it is issued, but no license or permit shall be issued to cover a longer period than one year or a transaction to be completed more than one year after the date of the license. If any person to whom such license or permit has been issued shall use, or permit any other person to use, or connive at the use of any such firearm, explosive material or compound for any unlawful purpose, such license or permit may be revoked by the officer or officers by whom it was issued or by any justice of the superior court upon petition of any citizen.

[Sec. 9, duty of enforcement; Sec. 10, military exemption; Sec. 11, effect; omitted.]

1919

Toy pistols amended. [Hathi Trust](#)

1917 licensing law amended to require dealers to record the serial number of pistols or revolvers. [Hathi Trust](#)

1923

Uniform Firearm Act, open carry decriminalized

“An act to control the possession, sale, and use of pistols and revolvers,” Ch. 118, *Laws of the State of New Hampshire*, 1923, pp. 138-141 [Hathi Trust](#)

SECTION 1. Pistol or revolver, as used in this act shall be construed as meaning any firearm with a barrel less than twelve inches in length.

SECT. 2. If any person shall commit or attempt to commit a crime when armed with a pistol or revolver, and having no permit to carry the same, he shall in addition to the punishment provided for the crime, be punished by imprisonment for not more than five years.

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SECT. 3. No unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another shall own or have in his possession or under his control a pistol or revolver, except as hereinafter provided. Violations of this section shall be punished by imprisonment for not more than two years and upon conviction the pistol or revolver shall be confiscated and destroyed.

SECT. 4. No person shall carry a pistol or revolver concealed in any vehicle or upon his person, except in his dwelling house or place of business, without a license therefor as hereinafter provided. Violations of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment not exceeding one year or by both fine and imprisonment.

SECT. 5. The provisions of the preceding sections shall not apply to marshals, sheriffs, policemen, or other duly appointed peace and other law enforcement officers, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the army, navy, or marine corps of the United States, nor to the national guard when on duty, nor to organizations by law authorized to purchase or receive such weapons, nor to duly authorized military or civil organizations when parading, or the members thereof when at or going to or from their customary places of assembly.

SECT. 6. The selectmen of towns or the mayor or chief of police of cities may, upon application of any person issue a license to such person to carry a loaded pistol or revolver in this state, for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property or for any other proper purpose, and that he is a suitable person to be licensed. The license shall be in duplicate and shall bear the name, address, description, and signature of the licensee. The original thereof shall be delivered to the licensee, the duplicate shall be preserved by the selectmen of towns and the chief of police of the cities wherein issued for a period of one year.

SECT. 7. Any person or persons who shall sell, barter, hire, lend or give to any minor under the age of twenty-one years any pistol or revolver shall be deemed guilty of a misdemeanor and shall upon conviction thereof be fined not more than one hundred dollars or be imprisoned not more than three months, or both. This section shall not apply to fathers, mothers, guardians, administrators, or executors who give to their children, wards, or heirs to an estate, a revolver.

SECT. 8. No person shall sell, deliver, or otherwise transfer a pistol or revolver to a person who is an unnaturalized foreign-born person or has been convicted of a felony against the person or property of another, except upon delivery of a written permit to purchase, signed by the selectmen of the town or the mayor or chief of police of the city. Before a delivery be made the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name, address, and nationality, the date of sale, the caliber, make, model, and manufacturer's number of the weapon. The seller shall, within seven days, sign and forward to the chief of police of the city or selectmen of the town one copy thereof and shall retain the other copy for one year. This section shall not apply to sales at wholesale. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Violations of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

SECT. 9. Whoever, without being licensed as hereinafter provided, sells, advertises, or exposes for sale, or has in his possession with intent to sell, pistols or revolvers, shall be punished by imprisonment for not more than two years.

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SECT. 10. The selectmen of towns and the chief of police of cities may grant licenses, the form of which shall be prescribed by the secretary of state, effective for not more than one year from date of issue, permitting the licensee to sell at retail pistols and revolvers subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol or revolver shall be delivered (a) to a purchaser not personally known to the seller or who does not present clear evidence of his identity; nor (b) to an unnaturalized foreign-born person or a person who has been convicted of a felony and has no permit as required by section 8 of this act.

A true record, in duplicate, shall be made of every pistol or revolver sold, said record to be made in a book kept for the purpose, the form of which shall be prescribed by the secretary of state and shall be signed by the purchaser and by the person effecting the sale, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, the name, address, and nationality of the purchaser. One copy of said record shall, within seven days, be forwarded to the selectmen of the town or the chief of police of the city and the other copy retained for one year.

SECT. 11. If any person in purchasing or otherwise securing delivery of a pistol or revolver shall give false information or offer false evidence of his identity he shall be punished by imprisonment for not more than two years.

SECT. 12. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearms upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed or obliterated the same. Violations of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or both.

SECT. 13. All licenses heretofore issued within the state permitting the carrying of pistols or revolvers upon the person shall expire at midnight of July 31, 1923.

SECT. 14. This act shall not apply to antique pistols or revolvers incapable of use as such.
[Sec. 15, repeal, omitted]

New Mexico

Constitution

1889

Proposed

The right of the people to keep and bear arms shall not be infringed.¹⁴⁸

1911

The people have the right to bear arms for their security and defense, but nothing herein shall be held to permit the carrying of concealed weapons.

Statutory History

1852

first law, cities and towns, concealed

“An act prohibiting the carrying a certain class of arms, within the settlements and balls,” *Laws of the Territory of New Mexico*, 1852, pp. 67-69 [Hathi Trust](#)

SEC. 1. That each and every person is prohibited from carrying short arms, such as pistols, daggers, knives, and other deadly weapons, about their persons concealed, within the settlements, and any person who violates the provisions of this act, shall be fined in a sum not exceeding ten dollars, nor less than two dollars, or shall be imprisoned for a term not exceeding fifteen days nor less than five days.

SEC. 2. That the Sheriffs of the different counties, and Constables of the different precincts, are hereby required to enforce the observance and compliance of the provisions of the preceding section, having power to take with them, two or more armed persons, when they are on patrol at night, in order to make themselves respected while on such duty, and it is hereby made the duty of the Probate Judges and Justices of the Peace to aid and assist said officers in the prompt discharge of their duties.

SEC 3. Any person desiring to give a Ball or Fandango, they shall apply to the probate Judge or a Justice of the Peace for a License for the same—who, after having granted such license, shall inform the applicant, that he must maintain

¹⁴⁸ Sec. 12, Article II, *The Constitution of the State of New Mexico Adopted by the Constitutional Convention Held at Santa Fe, NM, Sept. 3-21, 1889*, (New Mexican Printing Co., Santa Fe), p. 2 [Hathi Trust](#)

good order, and for this purpose he shall swear him to faithfully discharge his duties as police officer and perform said duties during such Ball or Fandango, possessing the powers of a Sheriff, and that he will not permit any person to enter said Ball or room adjoining said ball where Liquors are sold, or to remain in said balls or Fandangos with fire arms or other deadly weapons, whether they be shown or concealed upon theft persons and if any person or persons shall enter said Balls or Fandangos or ante-chamber, with deadly weapons upon their person, upon conviction for such offence before any Probate Judge or Justice of the Peace, they shall suffer the punishment prescribed in the first section of this Law.

Provided, that, in case any person desires a license for a ball or fandango, who shall not be competent. the Probate Judge or Justice of the Peace as the case may be, shall require him to present a competent person, who shall discharge the duties of a Police Officer, and shall swear him as prescribed in the foregoing section.

SEC. 4. That any person or persons giving Balls or Fandangos shall be liable to the punishments prescribed in the foregoing sections of this Law—if they permit any person or persons armed to remain in said Balls or Fandangos, they shall also be subject to the same penalties of the Police Officers who fail to discharge their duties or violate the provisions of this Law.

SEC. 5. That all fines collected by the provisions of this Law shall be applied to the use of the respective counties.

Note: Two problems the New Mexico legislators identified stand out; law enforcement not being respected when enforcing weapon bans and guns at large gatherings.

Sec. 2 indicates that resistance to law enforcement must have been a problem: "having power to take with them, two or more armed persons, when they are on patrol at night, in order to make themselves respected while on such duty."

Anyone throwing a ball or fandango (a large party) had to enforce the firearm prohibition as a peace officer, with the powers of a sheriff. This would be somewhat similar to large events or gathering having security present with metal detectors, something concert and nightclub goers would not be unfamiliar with.

1860

"An act prohibiting the carrying of weapons, concealed or otherwise," *Laws of the Territory of New Mexico*, 1859-60, pp. 94-98 [Hathi Trust](#)

SECTION 1. That, from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, of any class of pistols whatever, bowie knife (cuchillo de cinto), Arkansas toothpick, Spanish dagger, slung-shot, or any other deadly weapon, of whatever class or description they may be, no matter by what name they may be known or called, under the penalties and punishment which shall hereinafter be described.

SEC. 2. Be it further enacted: That if any person shall carry about his person, either concealed or otherwise, any deadly weapon of the class and

description mentioned in the preceding section, the person or persons who shall so offend, on conviction, which shall be by indictment in the district court, shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars, at the discretion of the court trying the cause, on the first conviction under this act; and for the second conviction, the party convicted shall be imprisoned in the county jail for a term of not less than three months, nor for more than one year, also at the discretion of the court trying the cause.

SEC. 3. Be it further enacted: That if any person shall discharge or draw any deadly weapon, of the class or description set forth in the first section of this act, in any baile [Spanish for “dance”] or fandango, or in any other public assembly whatever, the person who shall so offend, on conviction thereof, which shall be by indictment in the district court, shall be fined in any sum not less than one hundred dollars, nor more than three hundred, at the discretion of the court trying the cause, or imprisoned in the county jail for a term not less than three months nor more than one year.

SEC. 4. Be it further enacted: That if any person in any baile or fandango, or in any public assembly of whatever class or description it may be, shall fire off or discharge any firearm of the class mentioned in the first section of this act, or shall cut or wound any person with any description of deadly weapon mentioned in the first section of this act, in any baile or fandango, or in any other public assembly, and any death shall result from said cut or wound so given, the person who shall so wound or cut, on conviction, shall be considered guilty of murder in the first degree, and shall suffer the penalty of death in the said first degree.

SEC. 5. Be it further enacted: That it shall be the duty of the sheriffs, their deputies, or constables, to arrest and take all persons who shall be found with deadly weapons of the class and description mentioned in the first section of this act, and present them to some justice of the peace, or other authority, to be examined and it shall also be the duty of the judges of the district courts to cause, at the first term to be held in each county, the sheriffs and their deputies to take an oath that they will truly and faithfully comply with the provisions of this act, and that they will arrest at all times every person who shall violate any of the provisions of this act.

SEC. 6. Be it further enacted: That none of the provisions of this act shall be applied to the sheriffs, their deputies, or constables, in the execution of any process of the courts, or to conductors of the mail, or to persons when actually on trips from one town to another in this Territory; provided, that nothing in this act shall be so construed as to permit the conductors of mails, or travellers, to carry any deadly weapons, as mentioned in the first section of this act, on their persons, after they shall have arrived at the town or settlement.

SEC. 7. Be it further enacted: That it shall be the duty of the several judges of the district court to give this act specially in their charges to the grand juries at each term of the court and further, it shall be the duty of the grand juries, at each term of the court, to make a special report whether there has been any violation of the provisions of this act in their counties since the last term of the court.

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SEC. 8. That all laws or parts of laws in conflict with this act are hereby repealed, and this act shall be in force and take effect from and after its passage.

SEC. 9. That the Secretary of the Territory of New Mexico be required to have this law published in the Santa Fé Gazette, as soon as possible, for six successive weeks, for the information of the people.

[Approved February 2, 1860]

Note: the duties of the ball or fandango giver to act as a peace officer were repealed. It is unclear why this was; it could be that the duty was unpopular and was ignored by the responsible party or that the population grew enough for local officers to police the events. Carrying deadly weapons at these events was given a higher penalty than otherwise in public, indicating how much authorities sought to discourage carrying there.

Sec. 4 declared that if someone died from a wound inflicted at a *baile* or fandango, it was murder. The act of bringing a weapon to an event where it was specifically prohibited constituted the element of premeditation.

Sec. 5 is interesting because sheriffs and deputies were required to take an oath to promise to enforce the deadly weapon law, meaning there was a problem with officials enforcing the prohibition. Sec. 7, in specially charging juries, is a continuation of a theme and quite common across the states as a way to remind juries to not disregard the law and acquit.

Sec. 9 indicates that the legislators wanted the law well-publicized.

1865

“An act prohibiting the carrying of weapons, concealed or otherwise,” *Laws of the Territory of New Mexico*, 1865, pp. 406-410 [Hathi Trust](#)

SEC. 25. That, from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, or any class of pistols whatever, bowie knife (cuchillo de cinto), Arkansas toothpick, Spanish dagger, slung-shot shot, or any other deadly weapon, of whatever class or description they may be, no matter by what name they may be known or called, under the penalties and punishment which shall hereinafter be described.

SEC. 26. Be it further enacted, That if any person shall carry about his person, either concealed or otherwise, any deadly weapon of the class and description mentioned in the preceding section, the person or persons who shall so offend, on conviction, which shall be by indictment in the district court, shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars, at the discretion of the court trying the cause, on the first conviction under this act ; and for the second conviction, the party convicted shall be imprisoned in the county jail for a term of not less than three months, nor for more than one year, also at the discretion of the court trying the cause.

SEC. 27. Be it further enacted, That if any person shall discharge or draw any deadly weapon, of the class or description set forth in the first [25] section of this act, in any bailes or fandango, or in any other public assembly whatever, the person who shall so offend, on conviction thereof, which shall be by indictment in

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the district court, shall be fined in any sum not less than one hundred dollars, nor more than three hundred, at the discretion of the court trying the cause, or imprisoned in the county jail for a term not less than three months nor more than one year.

SEC. 28. Be it further enacted, That if any person in any baile or fandango, or in any public assembly of whatever class or description it may be, shall fire off or discharge any firearm of the class mentioned in the first [25] section of this act, or shall cut or wound any person with any description of deadly weapon mentioned in the first [25] section of this act, in any baile or fandango, or in any other public and any death shall result from said cut or wound so given, the person who shall so wound or cut, on conviction, shall be considered guilty of murder in the first degree, and shall suffer the penalty of death in the said first degree.

SEC. 29. Be it further enacted, That it shall be the duty of the sheriffs, their deputies, or constables, to arrest and take all persons who shall be found with deadly weapons of the class and description mentioned in the first [25] section of this act, and present them to some justice of the peace, or other authority, to be examined ; and it shall also be the duty of the judges of the district courts to cause, at the first term to be held in each county, the sheriffs and their deputies to take an oath that they will truly and faithfully comply with the provisions of this act, and that they will arrest at all times every person who shall violate any of the provisions of this act.

SEC. 30. Be it further enacted, That none of the provisions of this act shall be applied to the sheriffs, their deputies, or constables, in the execution of any process of the courts, or to conductors of the mail, or to persons when actually on trips from one town to another in this Territory; provided, that nothing in this act shall be so construed as to permit the conductors of mails, or travellers, to carry any deadly weapons, as mentioned in the first [26] section of this act, on their persons, after they shall have arrived at the town or settlement.

SEC. 31. Be it further enacted: That it shall be the duty of the several judges of the district court to give this act specially in their charges to the grand juries at each term of the court; and further, it shall be the duty of the grand juries at each term of the court, to make a special report whether there has been any violation of the provisions of this act in their counties since the last term of the court.

SEC. 32. That all laws or parts of laws in conflict with this act are hereby repealed, and this act shall be in force and take effect from and after its passage.

SEC. 33. That the Secretary of the Territory of New Mexico be required to have this law published in the Santa Fe Gazette, as soon as possible, for six successive weeks, for the information of the people.

Approved, February 2d, 1860.

1869

In settlements

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“An act prohibiting the carrying of deadly weapons, either concealed or in any other way, repealing all other laws on the same subject...etc.,” *Laws of the Territory of New Mexico*, 1868-1869, Ch. 32, pp. 72-77 [Hathi Trust](#)

SECTION 1. From and after the passage of this act it shall be unlawful for any person to carry deadly weapons, either concealed or otherwise, on or about their persons within any of the settlements of this Territory, except it be in the lawful defence of themselves, their families or their property, and the same being then and there threatened with danger, or by order of legal authority, or on their own landed property, or in the execution of an order of court.

Sec. 2. Deadly weapons, in the meaning of this act, shall be construed to mean all kinds and classes of pistols whether the same be a revolver, repeater, derringer, or any other kind or class of Pistol; any and all kinds of bowie knives, daggers, poniards, butcher knives, dirk knives, and all such weapons with which cuts can be given, or by which wounds can be inflicted by thrusting, including sword canes and such sharp pointed canes with which deadly thrusts can be given, and all kinds of slung shots, and any other kinds of deadly weapon, by whatever name it may be called, by which a dangerous wound can be inflicted.

Sec. 3. The penalty for the violation of the preceding sections of this act shall not be less than ten dollars nor more than fifty dollars for each offence, or not less than ten days imprisonment nor more than fifty days imprisonment in the county jail, or both, such fine and imprisonment in the discretion of the jury trying the case.

Sec. 4. Any person who shall draw a deadly weapon on another, or who shall handle a deadly weapon in a threatening manner at or towards another, in any part of this Territory, except in the lawful defence of himself, his family or his property, or by order of legal authority, upon conviction thereof before the proper tribunal, shall for each offence be fined in a sum not less than twenty-five dollars nor more than seventy-five dollars, or by imprisonment in the county jail for a term of not less than twenty days nor more than sixty days, or be punished by both such fine and imprisonment, in the discretion of the jury trying the cause.

Sec. 5. Any person who shall draw or use any deadly weapon in any ball, dance or other public gathering of the people, or near where any election authorized by law is being held, in any part of the Territory, except it be in the lawful defence of himself, his family or his property, or in obedience to legal authority, shall, upon conviction before the proper tribunal, be punished by a fine not less than fifty dollars nor more than one hundred dollars for each offence, or by imprisonment in the county jail for a term of not less than one month nor more than three months for each offence, or by both such fine and imprisonment, in the discretion of the jury trying the cause.

Sec. 6. Justices of the peace as well as the district court shall have jurisdiction of all offences under the preceding sections of this act, and all causes under this act shall be tried by a jury, and if the person accused of the crime pleads "guilty" to the charge the jury shall proceed to hear all the evidence in the cause in order to fix the penalty.

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Sec. 7. A conviction of any portion under this act shall not be a bar to a prosecution and conviction of the same person for an assault and battery, aggravated assault, assault with a deadly weapon, assault with intent to kill, or murder, manslaughter, or other crime, and where the words "weapons" or "deadly weapons" are used in this net, such word or words shall be construed to mean the weapons described in section two of this act.

Sec. 8. It shall not be necessary in the trial of any cause arising under the provisions of this act to prove that the person charged was not in the lawful defence of himself, his family or his property; but the accused must prove to the satisfaction of the jury that the act charged was done in the lawful defence of himself, his family or his property, before the jury can acquit.

Sec. 9. Any lawful voter of this territory may without a warrant arrest parties who may violate the preceding sections of this act, and take such persons before a justice of the peace of the county in which the offence was committed, for complaint and trial, and such trial shall be had as soon as possible, giving due time for summoning witnesses.

Sec. 10. All fines collected by virtue of the preceding sections of this act shall go one-third to the Territory, one-third to the county in which the offence was committed, and one-third to the person or attorney who, on the part of the Territory, procured the conviction.

Sec. 11. Persons traveling may be permitted to carry arms within settlements or towns of this Territory, for one hour after arriving in such settlements or town, and while going out of such towns or settlements; and sheriffs and constables of the various counties of this Territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective office, when the same may be necessary, but it shall be for the jury to decide from the evidence whether such carrying of weapons was necessary or not, and for an improper carrying or using deadly weapons by any officer mentioned in this section, he shall be punished as other persons are punished for a violation of the preceding sections of this act.

Sec. 12. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted up in a conspicuous place in his bar room or reception room, if there be no bar kept in the house, a plain notice in Spanish as also in English, to travelers to divest themselves of their weapons in accordance with section eleven of this act and the sheriffs of the various counties shall notify the keepers of hotels, boarding houses and drinking saloons in their respective counties of their duties under this law, and if after such notification any keeper of a hotel, boarding house or drinking saloon shall fail to keep notices posted as required by this act, he shall on conviction thereof before a justice of the peace be fined in the sum of five dollars to go to the county treasury.

Sec. 13. Sheriffs and their deputies and constables, shall be sworn to rigidly enforce this act, and any one of such officers who may neglect or fail to enforce this act, shall be fined in a sum not less than fifty dollars nor more than one hundred dollars for each offence, to be recovered by indictment in the district court of the proper county, and one-third of such fine shall go to the Territory, one third to the county, and one third to the acting district attorney, and such

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conviction and fine shall not be a bar to any other prosecution and conviction of such officer under other laws of this Territory.

Sec. 14. Any and every person who receives a license to give a ball, dance or fandango, shall, at the time of taking out such license, be sworn to preserve good order and enforce this law at and during such ball, dance or fandango on and about his premises, and during such time such person shall have and exercise all the powers of a sheriff in maintaining good order on and about his pre-mises, and if the officer who issues such license does not believe the applicant to be a proper person to preserve good order, then such officer shall refuse to grant such license until such applicant shall present a proper person who shall be sworn as above mentioned, and have the power and duties as above mentioned, and persons arrested by the sworn person mentioned in this section may be confined for the time being in any house or place as well as the jail, or in any secure manner that is not inhuman.

Sec. 15. If any person shall give a ball, dance or fandango where a license is required, without first being himself sworn, or having some other person sworn to preserve good order and enforce this act, he shall be fined in the sum of twenty-five dollars to be collected before any justice of the peace in the county, and one-half of said fine to go to the county and one-half to the person or attorney securing the conviction; provided, that if the applicant secure the attendance at his ball, dance or fandango, of a sheriff or his deputy or of a constable of the county, to preserve good order and enforce this law, then he shall not be fined for not being sworn, nor shall the officer issuing the license in such case require him to be sworn, nor to present a person to be sworn in his or her place; provided, that the Secretary of the Territory is required, after the passage of this act, to forward a copy to each of the probate judges of the different counties of this Territory.

Sec. 16. [repeal, omitted]

Approved January 29, 1869.

Note: This act changed application from the whole territory to just within the settlements (cities, towns, villages, etc.); presumably wherever there was enough people for the law to be practically enforced. Enforcement would be nearly impossible in the wilderness and travelers were excused anyhow.

The reduced the fines and jail sentences for a carry violation was likely due to the inability to get convictions (as juries wouldn't convict people only to see them harshly punished) or that judges were giving sentences lighter than what the statute called for.

Sec. 9 allowed any voting citizen to make a private person's arrest of violators. Under common law, they already should already have had that ability, but this section makes that power clear and is de facto encouragement of the legislators for citizens to do just that. Sec. 10 giving a third of the fines to the arresting citizen or the prosecuting attorney (and in Sec. 13, for fines against officers who failed to enforce the law) acted as rewards for those turning in violators. All are further evidence of how much the legislators wanted the CCW prohibition enforced.

Sec. 11 addresses the problem of just when a traveler can be armed. A common problem was that offenders claimed to be traveling, even though at the time they were not ending or beginning their journey, but staying in town. A notable example of this is the Gunfight at the OK Corral where Frank McLaury and Billy Clanton were to be disarmed as they were allegedly

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taking advantage of the traveler's exemption. The same section allowed juries to decide if peace officers were carrying as part of their duties or merely using their powers as an excuse to carry when otherwise prohibited.

Sec. 12 is another indication that the legislators wanted the law well-publicized; the most common gathering places (and a frequent place of violence) were saloons. Boarding houses and hotels posting the law would inform travelers and serve as a reminder to single men, who almost entirely were the ones that carried weapons illegally.

Sec. 14 re-instated the duties and powers of the ball or fandango giver to enforce the law.

1887

“An act to prohibit the unlawful carrying and use of deadly weapons,” Ch. 30, *Acts of the Legislative Assembly of the Territory of New Mexico*, 1887, pp. 55-58 [Hathi Trust](#)

SECTION 1. That any person who shall hereafter carry a deadly weapon, either concealed or otherwise, on or about the settlements of this territory, except it be in his or her residence, or on his or her landed estate, and in the lawful defense of his or her person, family or property, the same being then and there threatened with danger, or except such carrying be done by legal authority, upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than three hundred, or by imprisonment not less than sixty days, nor more than six months, or by both such fine and imprisonment, in the discretion of the court or jury trying the same.

SEC. 2. Any person who shall draw a deadly weapon on another, or who shall handle a deadly weapon in a threatening manner, at or towards another, in any part of this territory, except it be in the lawful defense of himself, his family or his property, or under legal authority, upon conviction thereof, shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment at hard labor in the county jail or territorial penitentiary not less than three months nor more than eighteen months, or by both such fine and imprisonment, in the discretion of the court or jury trying the same.

SEC. 3. Any person who shall unlawfully assault or strike at another with a deadly weapon, upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor in the county jail or territorial penitentiary, not exceeding three years, in the discretion of the court or jury trying the same.

SEC. 4. Any person who shall unlawfully draw, flourish or discharge a rifle, gun or pistol within the limits of any settlement in this territory, or within any saloon, store, public hall, dance hall or hotel, in this territory, except the same be done by lawful authority, or in the lawful defense of himself, his family or his property, upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment for a term of not more than three years, or by both such fine and imprisonment, in the discretion of the court or jury trying the same. The word "settlement," as used in this act, shall be construed to mean

any point within three hundred yards of any inhabited house, in the territory of New Mexico.

SEC. 5. Any person being armed with a deadly weapon, who shall, by words, or in any other manner, insult or assault another, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than three hundred dollars, or by imprisonment at hard labor in the county jail or territorial penitentiary for not less than three months, nor more than one year, or by both such fine and imprisonment, in the discretion of the court or jury trying the same.

SEC. 6. Justices of the peace, as well as the district courts shall have concurrent jurisdiction of all offenses committed under the first jurisdiction of this act; but of offenses committed under the remaining sections hereof, justices of the peace shall not have jurisdiction except as committing magistrates, and it is made the duty of the justices of the peace of the several counties of the territory before whom any person is brought or arraigned for the violation of any of the above sections, other than section one of this act, if reasonable grounds exist to believe such person guilty, to bind such person over in a good and sufficient bond to the district court of such county, and in default of such bond to commit to jail as in other felonies.

SEC. 7. It shall not be necessary, in the trial of any cause arising under the provisions of this act to prove that the person charged was not, at the time of violating the said provisions, in the lawful defense of himself, his family or property, or acting by lawful authority, but the accused must prove that he was, at such time, within the exception claimed.

SEC. 8. Deadly weapons, within the meaning of this act, shall be construed to mean all kinds and classes of pistols, whether the same be a revolver, repeater, derringer, or any kind or class of pistol or gun; any and all kinds of daggers, bowie knives, poniards, gun; knives, dirk knives, and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including sword canes, and any kind of sharp pointed canes; as also slung shots, bludgeons or any other deadly weapons with which dangerous wounds can be inflicted.

SEC. 9. Persons traveling may carry arms for their own protection while actually prosecuting their journey and may pass through settlements on their road without disarming; but if such travelers shall stop at any settlement for a longer time than fifteen minutes they shall remove all arms from their person or persons, and not resume the same until upon eve of departure.

SEC. 10. Sheriffs and constables of the various counties, and marshals and police of cities and towns, in this territory, and their lawfully appointed deputies, may carry weapons, in the legal discharge of the duties of their respective offices, when the same may be necessary, but it shall be for the court or the jury to decide from the evidence whether such carrying of weapons was necessary or not, and for an improper carrying or using deadly weapons by an officer, he shall be punished as other persons are punished, for the violation of the preceding sections of this act.

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SEC. 11. Every keeper of hotel, boarding house, bar room, drinking saloon or place where liquor is sold, or dance hall, in this territory, shall keep conspicuously posted up a copy of this act, in both the English and Spanish languages, and it is hereby made the duty of every such keeper of a hotel, boarding house, bar room, drinking saloon or place where liquor is sold, or dance hall, or the person in charge of the same, who shall become cognizant of any violations of the provisions of this act, in, upon or about their premises, to immediately and at once direct the attention of such violator to the provisions of this act, and upon a failure of such keeper of a hotel, boarding house, bar room, drinking saloon, or place where liquor is sold, or dance hall, or the person in charge thereof, to so do, he or they shall be liable to pay a fine of not less than \$5, nor more than \$50.

SEC. 12. It shall be the duty of the judges of the several district courts of this territory, at the charging of the grand jury of the several counties, to direct the attention of the said grand juries to the provisions of this act, and require that they make diligent inquiry as to any violation of the same.

SEC. 13. The hoards of county commissioners of the several counties of this territory are hereby directed and required to have printed in both English and Spanish a sufficient number of copies of this act for the use of and to be furnished to all persons applying for the same; and it is made the duty of the several sheriffs and collectors of said counties to furnish to each person with a license a copy of this act, in both English and Spanish.

SEC. 14. All tales and penalties accruing from the violation of the provisions of this act shall be paid into the county treasury of the county in which such violation occurs to the credit and for the benefit of the school fund of said county.

SEC. 15. This act shall have full force and effect from and after the first day of March, 1887.

Approved February 18, 1887.

Note: In contrast to the substantially similar 1869 law, there were changes to the penalties, most notably for carrying and drawing deadly weapons. Sec. 1 increased the punishment from \$10-50 and/or 10-50 days to \$50-300 and/or 60 days to six months for a basic carry violation. Sec. 2 increased the penalty for drawing a deadly weapon from \$25-75 and/or 20-60 days in jail to \$100-300 and three to 18 months in jail or prison (essentially either a felony or misdemeanor).

1891

“An act to amend an act entitled ‘An act to prohibit the unlawful carrying and use of deadly weapons...’” *Acts of the Legislative Assembly of the Territory of New Mexico*, Ch. 63, pp. 117-119 [Hathi Trust](#)

SECTION 1. That section 5 (five) of said act be and the same is hereby amended to read as follows:

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"Section 5. Any person being armed with a deadly weapon who shall by words or in any other manner insult or assault another without sufficient provocation, upon conviction thereof shall be punished by a fine of not less than one hundred dollars or more than three hundred dollars, or by imprisonment at hard labor in the county jail or Territorial Penitentiary, for not less than three months nor more than one year, or by both such fine and imprisonment, in the discretion of the court or jury trying the same."

SEC. 2. That section 7 (seven) of said act be and the same is hereby repealed in all its parts and provisions.

SEC. 3. That section 10 (ten) of said act be and the same is hereby amended to read as follows, viz:

"Section 10. Sheriffs and constables of the various counties and marshals and police of the cities and towns in this Territory and their lawfully appointed deputies, may carry weapons when in actual charge or pursuit of or search of a person charged with any offense against the laws of this Territory, in the legal discharge of the duties of their respective offices, or when such carrying may be necessary for the public safety, but not otherwise, and it shall be for the court or jury, to decide whether such carrying of weapons was necessary or not; and for an improper carrying or using of deadly weapons by an officer he shall be punished as other persons are punished for the violation of any of the provisions of the preceding sections of this act."

SEC. 4. Hereafter in all counties not having more than fifteen precincts the sheriff shall only be allowed to appoint and keep five deputies, and in counties having more than fifteen precincts the sheriff shall be authorized to appoint one additional deputy for each additional four precincts over and above fifteen, said additional deputy to be only appointed on the consent of the district judge given therefor; but all sheriffs shall at all times be considered as in the discharge of their duties and be allowed to carry on their persons arms not concealed. On the appointment of any deputy sheriff it shall be the duty of the sheriff to file a notice of such appointment in the office of the clerk of the probate court of his county; also, in the office of the clerk of the district court, and each of such deputies shall also file his oath of office with the clerk of the probate court. Any sheriff is hereby authorized at any time, without consent of the district court, to appoint any competent, respectable and orderly person a special deputy to serve any particular process, writ or order, and it shall not be necessary to file or give any notice of such special appointment, and the person so appointed shall only be authorized to serve the process, writ or order which he shall be specially appointed to serve.

[Sec. 5, sheriff not to hold office consecutively more than once, omitted]

[Sec. 6, effect, omitted].

Note: this section amended Section 5 to allow a defense of "sufficient provocation" to assault or insult, presumably to protect self-defense. Section 7, addressing a defense on self-defense grounds, was repealed entirely. Section 4 interestingly limited the number of deputy sheriffs, almost certainly from the text of the act, to discourage sheriffs from deputizing anyone to evade

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the weapons carry prohibition. Section 5 was codified as §738 in the 1897 Compiled Laws,¹⁴⁹ which was amended in 1901¹⁵⁰ to remove the cap on special deputies.

1907

“An act to define and punish certain crimes, to amend and repeal certain provisions of the compiled laws of 1897 relating to crimes...etc,” *Acts of the Legislative Assembly of the Territory of New Mexico*, p. 44 [Hathi Trust](#)

Sec. 18. Any person who shall carry a deadly weapon, either concealed or otherwise in or about the settlements of this Territory, except it be in his or her residence or on his or her landed estate, if intoxicating liquors are not sold on any such premises, or in the lawful defense of his or her person, family or property, the same being then and there threatened with danger, or except such carrying be done by legal authority, upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars or by imprisonment for a period of not less than sixty days nor more than six months, or both such fine and imprisonment in the discretion of the court; and any person violating the provisions of this section may be arrested without a warrant by any peace officer, and justices of the peace may try offenses defined in this section, and assess fines of not more than one hundred dollars or imprisonment of not more than three months in the county jail, or both, against the accused when convicted.

Note: this section prohibited persons who sold liquor on their premises from exercising the exemption to carry a weapon there.

¹⁴⁹ [Hathi Trust](#)

¹⁵⁰ “An act to amend section 738 of the compiled laws of 1897,” Ch. 5 (HB 25), *Acts of the Legislative Assembly of the Territory of New Mexico*, 1901, p. 22 [Hathi Trust](#)

New York

Statutory History

1849

“An act to prevent the manufacture, use and sale of slung shot,” Ch. 278, Laws of the State of New York, 1849, pp. 403-404 Hathi Trust

§ 1. Any person who shall, within this state, hereafter manufacture, or cause to be manufactured, or sell, or expose, or keep for sale or gift, or part with any instrument or weapon of the kind usually known as slung shot, or of any similar kinds shall be liable to indictment for misdemeanor, and on conviction, shall be punished by fine of not less than two hundred and fifty, nor over five hundred dollars, or by imprisonment in a county jail for not less than six months, nor over two years.

§ 2. Any person who shall, within this state, hereafter carry, or be found in the possession of, or use, or attempt to use, as against any other person, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, shall be liable to indictment for felony, and on conviction shall be punished by imprisonment in a state's prison for a term not less than one, nor more than five years.

1865

Proposed, not adopted

The Penal Code of the State of New York, (Weed, Parsons & Co., Albany, 1865), p. 170 Hathi Trust

§455. Every person who carries concealed about his person any description of firearms, being loaded or partly loaded, or any sharp or dangerous weapon such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

Note: I have been unable to find any evidence the provisions for firearms was adopted by the legislature. However, this language is used in the 1881 act.

1866

Non-firearms

"An act to prevent the furtive possession and use of slung-shot and other dangerous weapons," Ch. 716, Laws of the State of New York, 1866, Vol. II, pp. 1523 Hathi Trust

SECTION 1. Every person who shall within this State use, or attempt to use or with intent to use against any other person, shall knowingly and secretly conceal on his person, or with like intent shall willfully and furtively possess any instrument or weapon of the kind commonly known as slung-shot, billy, sand club or metal knuckles, and any dirk or dagger (not contained as a blade of a pocket knife), or sword cane or air gun, shall be deemed guilty of felony, and on conviction

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thereof may be punished by imprisonment in the State prison, or penitentiary or county jail, for a term not more than one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

§ 2. The having possession of any of the weapons mentioned in the first section of this act by any other than a public officer, willfully and secretly concealed on the person or knowingly and furtively carried thereon, shall be presumptive evidence of so concealing and possessing or carrying the same with the intent to use the same in violation of the provisions of this act.

§ 3. Chapter two hundred and seventy-eight of the laws of eighteen hundred and forty-nine is hereby repealed, but this repeal shall in no wise affect offenses heretofore committed under that chapter, or any proceedings now pending thereunder.

§ 4. This act shall take effect immediately.

1881

“An act to establish a penal code,” Ch. 676, Laws of the State of New York, 1881, Vol. III, pp. 102-103 Hathi Trust

§ 409. A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives or disposes of, any instrument or weapon of the kind usually known as slung-shot, billy, sand-club, or metal knuckles, is guilty of a misdemeanor.

§ 410. A person, who attempts to use against another, or who, with intent so to use, carries, concealed or possesses, any instrument or weapon of the kind commonly known as slung-shot, billy, sand-club, or metal knuckles, or a dagger, or dangerous knife, is guilty of a felony.

§ 411. The possession, by any person other than a public officer, of any of the weapons specified in the last section, concealed or furtively carried on the person, is presumptive evidence of carrying, or concealing, or possessing, with intent to use the same in violation of that section.

First law

Concealed, loaded firearms

§ 412. A person who carries concealed about his person any kind of fire-arms, being loaded or partly loaded, or any sharp or dangerous weapon such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

1883

Minors

“An act to limit the carrying and sale of pistols and other fire-arms in the cities of this state,” Ch. 375, Laws of the State of New York, 1883, pp. 556-557 Hathi Trust

SECTION 1. No person under the age of eighteen years shall have, carry or have in his possession in any public street, highway or place in any of the cities of this state, any pistol or other fire-arms of any kind, and no person shall in such cities sell or give any pistol or other fire-arms to any person under such age.

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§ 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and in all trials or examinations for said offense the appearance of the person so alleged or claimed to be under the age of eighteen years shall be evidence to the magistrate or jury as to the age of such person.

§ 3. Nothing herein contained shall apply to the regular and ordinary transportation of pistols or fire-arms as articles of merchandise in said cities, or to the carrying of a gun or rifle through a street or highway of any city, with the intent to use the same outside of said city; nor to any person under such age carrying any pistol or other fire-arms under a license given by the mayor of said cities; but no licenses so given shall be in force more than one year from its date, and all such licenses may be revoked at the pleasure of the mayor, and a full, complete and public record shall be kept by the mayor of said cities of all such licenses, and the terms and date thereof.

§ 4. This act shall take effect immediately.

Note: This act prohibited sale of firearms to minors, but only in cities (and villages in 1889). As virtually any shop selling guns would be in an incorporated community at the time, the problem here was likely to curtail the purchase of firearms by urban youths. The mayoral permit provisions were codified in the 1891s Birdseye Revised Statutes, though the 1884 and 1889 acts changed the authority to a “police magistrate.”

1884
minors

“An act to amend the Penal Code,” Ch. 46, Laws of the State of New York, 1884, pp. 46-47
Hathi Trust

§ 7. Section four hundred and nine of said act is hereby amended so as to read as follows:

§ 409. A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of, any instrument or weapon of the kind usually known as slung-shot, billy, sand-club or metal knuckles, or who, in any city in this state, without the written consent of a police magistrate, sells or gives any pistol or other fire-arm to any person under the age of eighteen years, is guilty of a misdemeanor.

§ 410. A person who attempts to use against another, or who, with intent so to use, carries, conceals or possesses any instrument or weapon of the kind commonly known as slung-shot, billy, sand-club or metal knuckles, or a dagger, dirk or dangerous knife, is guilty of a felony. Any person under the age of eighteen years who shall have, carry or have in his possession in any public street, highway or place in any city of this state, without a written license from a police magistrate of such city, any pistol or other fire-arm of any kind, shall be guilty of a misdemeanor. This section shall not apply to the regular and ordinary transportation of fire-arms as merchandise, or for use without the city limits.

Note: This amended the Penal Code to incorporate the 1883 act’s (Ch. 375) provisions.

1889
Minors

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“An act to amend sections four hundred and nine and four hundred and ten of the Penal Code of the State of New York, relating to dangerous weapons,” Ch. 140, Laws of the State of New York, 1889, p. 167 Hathi Trust

SECTION 1. Section four hundred and nine of the Penal Code of the State of New York is hereby amended to read as follows:

§ 409. A person who manufactures or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as slingshot, billy, sand-club or metal knuckles, or who, in any city or incorporated village in this State, without the written consent of a police magistrate, sells or gives any pistol or other firearm to any person under the age of eighteen years, is guilty of a misdemeanor.

§ 2. Section four hundred and ten of the Penal Code of the State of New York is hereby amended to read as follows:

§ 410. A person who attempts to use against another, or who, with intent so to use, carries, conceals or possesses any instrument or weapon of the kind commonly known as the slingshot, billy, sand-club or metal knuckles, or a dagger, dirk or dangerous knife, is guilty of a felony. Any person under the age of eighteen years, who shall have, carry or have in his possession in any public street, highway or place in any city or incorporated village in this State, without a written license from a police magistrate of such city or incorporated village, any pistol or other firearm of any kind, shall be guilty of a misdemeanor. This section shall not apply to the regular and ordinary transportation of firearms as merchandise, or for use without the city or village limits.

§ 3. This act shall take effect immediately.

Note: These sections were amended from the 1884 version to apply to minors in villages, not only cities as previously.

1905

“An act to amend the penal code, relative to the sale and possession of dangerous weapons,” Ch. 92, Laws of the State of New York, 1905, Vol. I, pp. 129-130 Hathi Trust

Section 1. Section four hundred and nine of the penal code is hereby amended to read as follows:

§ 409. Making, et cetera, dangerous weapons. —A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as a slungshot, billy, sandclub or metal knuckles, to any person or a person who offers, sells, loans, leases or gives any gun, revolver, pistol or other firearm or any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring or air or any instrument or weapon commonly known as a toy pistol or in or upon which any loaded or blank cartridges are used, or may be used, or any loaded or blank cartridges or ammunition therefor to any person under the age of sixteen years is guilty of a misdemeanor.

§ 2. Section four hundred and ten of the penal code, is hereby amended to read as follows:

§ 410. Carrying, et cetera, dangerous weapons. —A person who attempts to use against another, or who carries, or possesses any instrument or weapon of the kind commonly known as a slungshot, billy, sandclub or metal knuckles, or who with intent to use the same against another, carries or possesses a dagger, dirk or dangerous knife is guilty of a felony. Any person under the age of sixteen years, who shall have, carry or have in his possession in any public place any of

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the articles named or described in the last section which it is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor. [indentation added]

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city or village of this state, any pistol, revolver or other firearm without a written license therefor, theretofore issued to him by a police magistrate of such city or village, or in such manner as may be prescribed by ordinance of such city or village shall be guilty of a misdemeanor. No person not a citizen of the United States, shall have or carry firearms or dangerous weapons in any public place at any time. This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen or to other duly appointed peace officers, nor to duly authorized military or civil organizations when parading, nor to the members thereof when going to and from the places of meeting of their respective organizations.

§ 3. This act shall take effect June first, nineteen hundred and five.

Note: the major change here was to change the age to 16 years and add toy pistols and blank cartridges. Also, non-citizen aliens were prohibited from have firearms in public places.

1908
Aliens

“An act to amend the penal code, relative to the carrying and possession of dangerous weapons, and the issuing of licenses therefor,” Laws of the State of New York, 1908, Vol. I, Ch. 93, pp. 242-243 Hathi Trust

Section 1. Section four hundred and ten of the penal code, is hereby amended to read as follows:
§ 410. Carrying, et cetera, dangerous weapons.—A person who attempts to use against another, or who carries, or possesses any instrument or weapon of the kind commonly know as a slung-shot, billy, sandclub or metal knuckles, or who with intent to use the same against another, carries or possesses a dagger, dirk or dangerous knife is guilty of a felony.

Any person under the age of sixteen years, who shall have, carry or have in his possession in any public place any of the articles named or described in the last section which it is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village or town of this state, any pistol, revolver or other firearm without a written license therefor, theretofore issued to him by a police magistrate of such city or village or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or ton shall be guilty of a misdemeanor.

No person not a citizen of the United States, shall have or carry firearms or dangerous weapons in any public place at any time. This section shall not apply to the regular and ordinary transportation of fire-arms as merchandise, nor to sheriffs, policemen or to other duly appointed peace officers, nor to duly authorized military or civil organizations when parading, nor to the members thereof when going to and from the places of meeting of their respective organizations. [indentations added]

§ 2. This act shall take effect September first, nineteen hundred and eight.

1911

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Sullivan Act
Felony & open carry banned

“An act to amend the penal law, in relation to the sale and carrying of dangerous weapons,” Ch. 195, Laws of the State of New York, 1911, Vol. I, pp. 442-445 Hathi Trust

Section 1. Sections eighteen hundred and ninety-six, eighteen hundred and ninety-seven and eighteen hundred and ninety-nine of chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," are hereby amended to read as follows:

§ 1896. Making and disposing of dangerous weapons. A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as a blackjack, slung-shot, billy, sandclub, sandbag, bludgeon, or metal knuckles, to any person; or a person who offers, sells, loans, leases, or gives any gun, revolver, pistol or other firearm or any airgun, spring-gun or other instrument or weapon in which the propelling force is a spring or air or any instrument or weapon commonly known as a toy pistol or in or upon which any loaded or blank cartridges are used, or may be used, or any loaded or blank cartridges or ammunition therefor, to any person under the age of sixteen years, is guilty of a misdemeanor.

§ 1897. Carrying and use of dangerous weapons. A person who attempts to use against another, or who carries, or possesses, any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles or bludgeon, or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon, is guilty of a felony. Any person under the age of sixteen years, who shall have, carry, or have in his possession, any of the articles named or described in the last section, which it is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance in such city, village or town, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor, theretofore issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony.

Any person not a citizen of the United States, who shall have or carry firearms, or any dangerous or deadly weapons in any public place, at any time, shall be guilty of a felony.

This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the places of meeting of their respective organizations.

§ 1899. Destruction of dangerous weapons. The unlawful carrying of a pistol, revolver, or other firearm or of an instrument or weapon of the kind usually known as blackjack, bludgeon, slung-shot, billy, sandclub, sandbag, metal knuckles, or of a dagger, dirk, dangerous knife, or any other

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dangerous or deadly weapon, by any person save a peace officer, is a nuisance, and such weapons are hereby declared to be nuisances, and when any one or more of the above described instruments or weapons shall be taken from the possession of any person the same shall be surrendered to the sheriff of the county wherein the same shall be taken, except that in cities of the first class the same shall be surrendered to the head of the police force or department of said city. [indentations added]

The officer to whom the same may be so surrendered shall, except upon certificate of a judge of a court of record, or of the district attorney, that the non-destruction thereof is necessary or proper in the ends of justice, proceed at such time or times as he deems proper; and at least once in each year, to destroy or cause to be destroyed any and all such weapons or instruments, in such manner and to such extent that the same shall be and become wholly and entirely ineffective and useless for the purpose for which destined and harmless to human life or limb.

§ 2. Such chapter is hereby amended by adding at the end of article one hundred and seventy-two thereof a new section to be section nineteen hundred and fourteen and to read as follows:

§ 1914. Sale of pistols, revolvers and other firearms. Every person selling a pistol, revolver or other firearm of a size which may be concealed upon the person whether such seller is a retail dealer, pawnbroker or otherwise, shall keep a register in which shall be entered at the time of sale, the date of sale, name, age, occupation and residence of every purchaser of such a pistol, revolver or other firearm, together with the calibre, make, model, manufacturer's number or other mark of identification on such pistol, revolver or other firearm. [indentations added]

Such person shall also, before delivering the same to the purchaser, require such purchaser to produce a permit for possessing or carrying the same as required by law, and shall also enter in such register the date of such permit, the number thereon, if any, and the name of the magistrate or other officer by whom the same was issued.

Every person who shall fail to keep a register and to enter therein the facts required by this section, or who shall fail to exact the production of a permit to possess or carry such pistol, revolver or other firearm, if such permit is required by law, shall be guilty of a misdemeanor.

Such register shall be open at all reasonable hours for the inspection of any peace officer.

Every person becoming the lawful possessor of such a pistol, revolver or other firearm, who shall sell, give or transfer the same to another person without first notifying the police authorities, shall be guilty of a misdemeanor. This section shall not apply to wholesale dealers.

§ 3. This act shall take effect September first, nineteen hundred and eleven.

Note: The Sullivan Act (or Law) was so revolutionary because it changed carrying a concealed weapon from a misdemeanor to a felony. Formerly, the state only prohibited concealed carry. Unlicensed open carry became illegal per statute.

Note that § 1897 distinguished between "possessing" and "carrying" on the person, a misdemeanor and the latter, a felony. The former likely was aimed at open carry but "possession" could also be construed more broadly construed from simple ownership to having a pistol in a bag on the floor of an auto or wagon next to the defendant.

It also required pistol permits prior to purchasing a handgun, even if one wanted to merely keep the gun at home. The dealer was required to keep a detailed record of the sale. Little else about the law changed, keeping the structure of what had already been prohibited intact. However, the law sent a signal through New York that carrying pistols would be punished harshly.

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1913

Licensure changes

“An act to amend the penal law generally, in relation to the carrying, use and sale dangerous weapons,” Ch. 608, Laws of the State of New York, 1911, Vol. III, pp. 1627-1630 Hathi Trust

Section 1. Section eighteen hundred and ninety-seven of chapter eighty-eight of the laws of nineteen hundred and nine, entitled “An act providing for the punishment of crime, constituting chapter forty of the consolidated laws,” as amended by chapter one hundred and ninety-five of the laws of nineteen hundred and eleven, is hereby amended to read as follows:

§ 1897. Carrying and use of dangerous weapons. A person who attempts to use against another, or who carries, or possesses, any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, bludgeon, bomb or bombshell, or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon, is guilty of a felony.

Any person under the age of sixteen years, who shall have, carry, or have in his possession, any of the articles named or described in the last section, which is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him as hereinafter prescribed, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor, a issued as hereinafter prescribed and licensing such possession and concealment, shall be guilty of a felony.

Any person not a citizen of the United States, who shall have or carry firearms, or any dangerous or deadly weapons in any place, at any time, shall be guilty of a felony, unless authorized by license issued as hereinafter prescribed.

It shall be the duty of any magistrate in this state to whom an application therefor is made by a commissioner of correction of a city or by any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted of or accused of crime, or offences, or held as witnesses in criminal cases, to issue to each of such persons as may be designated in such applications, and who is in the regular employ in such institution of the state, or of any county, city, town or village therein, a license authorizing such person to have and carry concealed a pistol or revolver while such person remains in the said employ.

It shall be the duty of any magistrate in this state, upon application therefor, by any householder, merchant, storekeeper or messenger of any banking institution or express company in the state, and provided such magistrate is satisfied of the good moral character of the applicant, and provided that no other good cause exists for the denial of such application, to issue to such applicant a license to have and possess a pistol or revolver, and authorizing him (a) if a householder, to have such weapon in his dwelling, and (b) if a merchant, or storekeeper, to have such weapon in his place of business, and (c) if a messenger of a banking institution or express

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company, to have and carry such weapon concealed while in the employ of such institution or express company.

In addition, it shall be lawful for any magistrate, upon proof before him that the person applying therefor is of good moral character, and that proper cause exists for the issuance thereof, to issue to such person a license to have and carry concealed a pistol or revolver without regard to employment or place of possessing such weapon, provided, however, that no such license shall be issued to any alien, or to any person not a citizen of and usually resident in the state of New York, except by a judge or justice of a court of record in this state, who shall state in such license the particular reason for the issuance thereof, and the names of the persons certifying to the good moral character of the applicant.

Any license issued in pursuance of the provisions of this section may be limited as to the date of expiration thereof and may be vacated and cancelled at any time by the magistrate, judge or justice who issued the same or by any judge or justice of a court of record. Any license issued in pursuance of this section and not otherwise limited as to place or time or possession of such, weapon, shall be effective throughout the state of New York, notwithstanding the provisions of any local law or ordinance.

This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the place of meeting of their respective organizations.

Note: “bomb or bombshell” was added as a prohibited weapon. The major change here was to licensing. Licensure by a magistrate, justice of the peace, or by ordinance was repealed and replaced by the licensing provisions of this section. Shall-issue permits for prison/jail guards was added.

1916

Non-substantive licensing changes

“An act to amend the penal law, in relation to the possession and use of dangerous weapons, Ch. 580, Laws of the State of New York, 1917, Vol. II, pp. 1643-1645 Hathi Trust

Note: text omitted, see NYC section. This act amended the weapon laws to essentially give NYPD the ability to regulate licensure, adding “police commissioner” to the magistrates.

1936

Weapons in vehicles

“An act to amend the penal law, in relation to possession of pistols and other weapons,” Ch. 390, Laws of the State of New York, 1936, Vols. I-II, p. 1068 Hathi Trust

Section 1. The penal law is hereby amended by adding thereto a new section to follow section eighteen hundred ninety-eight thereof, to be known as section eighteen hundred ninety-eight-a and to read as follows:

§ 1898-a. Weapons in automobiles; presumption of possession. The presence in an automobile, other than a public omnibus, of any of the following weapons, instruments or appliances, viz., a

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pistol, a machine gun, a sub-machine gun, a sawed-off shotgun, a black-jack, a slingshot, billy, sandclub, sandbag, metal knuckles, bludgeon, dagger, dirk, stiletto, bomb or silencer shall be presumptive evidence of its illegal possession by all the persons found in such automobile at the time such weapon, instrument or appliance is found. Where one of the persons found in such automobile possesses with him a valid license to have and carry concealed the pistol or revolver so found, and he is not there under duress, said presumption of unlawful possession shall not attach to the other persons found in the automobile. Nothing in this section contained shall apply to a member of the state police nor to a warden, superintendent, headkeeper or deputy of any prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accuser of crime or held as witnesses in criminal cases, nor to sheriffs, police-men or other peace officers, nor to a person when on duty in the military or naval service of the United States, or of this state, or in the postal service of the United States, nor to the regular and ordinary transportation of such weapons, instruments or appliances as merchandise, nor to the driver of the automobile if he is a duly licensed driver of such automobile which he is operating for hire in the due, lawful and proper pursuit of his trade.

§ 2. This act shall take effect immediately.

NYC

New York City adopted its first pistol ordinance in 1878, including a permit provision, that was amended many times through the following decades. However, I have been unable to find text of the original ordinance as of this writing.

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South Dakota

South Dakota

Constitution

The right of the citizens to bear arms in defense of themselves and the state shall not be denied.

Statutory History

1903

The Compiled Laws 1913 South Dakota, Vol. Two. (The Hipple Printing Co., Pierre). 616 [Hathi Trust](#)

§ 469. Every person who manufactures or causes to be manufactured, or sells or offers or keeps for sale, or gives or disposes of any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a misdemeanor. § 470. Every person who carries upon his person, whether concealed or not, or uses or attempts to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

§ 471. Every person who carries concealed about his person any description of firearms, being loaded or partly loaded, or any sharp or dangerous weapon, such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

Note: these sections are unchanged from the 1865 territorial statute.

Minors

Chapter 144, Laws of 1908

Unlawful to Use Arms by Certain Persons] It shall be unlawful for any person under the age of fifteen years to carry, use or discharge any Sic, shot gun, revolver or other fire arms except with the consent and knowledge of their parents or guardians.

§ 2. a Duty of Parent or Guardian] It shall be unlawful for any parent or guardian, having the legal charge or control of any minor under the age of fifteen years, to allow or permit such minor to use or carry while loaded any of the arms mentioned in section one of this act within the platted portion or within the distance of one mile of the platted portion of any city, town or village.

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§ 3. Penalty for Violation] Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not exceeding fifty dollars.

1916

“An act entitled, an act to amend section 471 of the Revised Penal Code...etc.,” Ch. 157 (HB 124), *South Dakota Constitution and the Laws Passed at the Special Session of 1916*, pp. 208-209

§1. That section 471 of the Revised Penal Code be and the same is hereby amended to read as follows:

Section 471. Every person who carries concealed about his person any description of firearms, being loaded or partly loaded, or any sharp or dangerous weapon, such as is usually employed in attack or defense of the person shall upon conviction thereof be fined not to exceed five hundred dollars (\$500.00) or be imprisoned in the county jail not exceeding one year or be imprisoned in the State Penitentiary not exceeding one year, or by both fine and imprisonment; Provided, this section shall not apply to Sheriffs, their deputies, or police officers and other persons whose duty it is to execute process on warrant, or make arrests.

Approved Feb. 43, 1947.

1935

South Dakota passed the Uniform Firearm Act in 1935, however, I have not been able to find a public domain copy of the statute online.¹⁵¹

¹⁵¹ Chapter 208, *Laws Passed at...the Legislature of the State of South Dakota*, beginning p. 355

Tennessee

Constitution

1796

That the freemen of this State have a right to Keep and to bear Arms for their common defence.

1835

That the free white men of this State have a right to keep and to bear arms for their common defence.

1870

That the citizens of this State have a right to keep and to bear arms for their common defense; but the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime.

Statutory History

1801

Northampton/surety

§6, Ch. 22, Acts 1801 in: John Haywood and Robert L Cobbs (comps.), *The Statute Laws of the State of Tennessee*, (F. S. Heiskell, Knoxville), Vol. 1, p. 10 [Hathi Trust](#)

If any person or persons shall publicly ride, or go armed to the terror of the people or privately carry any dirk, large knife, pistol or any other dangerous weapon, to the fear or terror of any person, it shall be the duty of any judge or justice on his own view, or upon the information of any other person on oath, to bind such person or persons to their good behaviour, and if he or they fail to find securities, commit him or them to jail; and if such person or persons shall continue so to offend, he or they shall not only forfeit their recognizance, but be liable to an indictment, and be punished as for a breach of the peace, or riot at common law.

Note: this law contained elements of the Statue of Northampton and obviously contained surety elements. I am not considering this the first concealed weapon law because it does not prohibit

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any act. Rather, it authorizes judges to restrain the anti-social behavior of anyone terrorizing or intimidating another (or presumably creating a reasonable cause fear of harm). Failure to obey the direction of the court by continuing to go armed would be the offense.

1821

First law, openly and concealed

Ch. 13, Acts 1821 in: John Haywood and Robert L Cobbs (comps.), *The Statute Laws of the State of Tennessee*, (F. S. Heiskell, Knoxville), Vol. 1, p. 10 [Hathi Trust](#)

Each and every person so degrading himself by carrying a dirk, sword-cane, Spanish stiletto, belt or pocket pistols, either public or private, shall pay a fine of five dollars for every such offence, which may be recovered by warrant before any justice of the peace, in the name of the county and for its use, in which the offence may have been committed; and it shall be the duty of a justice to issue a warrant on the application, on oath, of any person applying; and it shall be the duty of every judge, justice of the peace, sheriff, coroner and constable within this state, to see that this act shall have its full effect; provided, nevertheless, that nothing herein contained shall effect any person that may be on a journey to any place out of his county or state.

1825

Ch. 19, Acts 1825 in: John Haywood and Robert L Cobbs (comps.), *The Statute Laws of the State of Tennessee*, (F. S. Heiskell, Knoxville), Vol. 1, pp. 10-11 [Hathi Trust](#)

§ 1. When any sheriff, coroner or constable, shall know, of his own knowledge, or upon the representation of any person, or if he or they shall have good reason to suspect any person of being armed with the intention of committing a riot or affray, or of wounding or killing any person, it shall be the duty of all such officers, immediately to arrest all such persons, so suspected, and return them before some justice of the peace, whose duty it shall be, upon proof being made that there was reasonable ground to suspect such person or persons for being armed, with intent to disturb or commit a breach of the peace, to bind such person or persons in a bond, with two or more good and sufficient securities, in a sum of not less than two hundred and fifty dollars, and not exceeding two thousand dollars, conditioned for his or their good behaviour and peaceable deportment for the term of twelve months thereafter.

§ 2. If any justice of the peace shall know of his own knowledge, or have reasonable cause to suspect any person or persons of being armed, with intent to commit a breach of the peace, it shall be the duty of such justice of the peace, to cause such offender or offenders to be arrested and immediately brought before him or smoother justice for examination, and upon its being satisfactorily made to appear that such person or persons was armed, or about to be armed, with intent to

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commit a breach of the peace, such justice shall bind such offender or offenders in bond and security, as specified in the first section of this act.

§ 3. The bonds by this act required to be given, shall be made payable to the chairman of the county court of the county in which the same shall be executed, and his successors in office, and shall be filed in the office of the clerk of said court, and it shall be the duty of the solicitor for the state, when he shall believe such bond to be forfeited, to issue *sciere facias* thereon against such offender and his securities, and the amount collected shall be, by the sheriff, paid to the county trustee for county purposes.

§ 4. Any justice of the peace, sheriff, coroner or constable, when acting under the provisions of this act, shall have power and authority to summon as many persons as they may think proper, to assist in arresting and securing any such offender, and any person so summoned and shall fail or refuse to assist such officer for the purposes aforesaid, shall forfeit and pay the sum of ten dollars and cost, to be recovered before any justice of the peace, for the use of the county; and it shall be the duty of such officer, when he may have summoned any person to assist as aforesaid, and such person shall fail or refuse to obey such summons, to prosecute such defaulter before some justice of the peace, for the above penalty, and give evidence of such summons and default.

§ 5. When any person shall be brought before any justice of the peace as required by the first and second sections of this act, and shall fail or refuse to give the security required, it shall be the duty of such justice to commit such offender to the nearest sufficient jail, for safe keeping, until such security is given or he shall be discharged by due course of law.

§ 6. If any sheriff, coroner or constable, shall knowingly fail or refuse to perform any of the duties required by this act, it shall be deemed a misdemeanor in office, and upon conviction thereof, shall be fined, at the discretion of the court, in a sum not exceeding fifty not less than ten dollars, and shall furthermore be removed from office and be disqualified from holding the same office for five years.

Note: this section required that officers actively enforce the law against carrying weapons and keep the peace. It indicates that they didn't hold the weapon law in the same esteem as the legislators did, so the legislature attempted to force the officers to enforce the law. If this were merely a 19th century version of "red flag" law, the punitive provisions against officers in Sec. 6 would not be present.

1838

Knives

"An act to suppress the sale and use of bowie knives and Arkansas tooth picks in this state," Ch. 137, *Acts...of the State of Tennessee*, 1837-8, pp. 25-26 [Hathi Trust](#)

SEC. 1. [Sale of bowie knives or Arkansas toothpicks prohibited; text omitted]

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SEC. 2. That if any person shall wear any Bowie knife, Arkansas tooth pick, or other knife or weapon that form, shape or size resemble a Bowie knife or Arkansas tooth pick under his clothes, or keep the same concealed about his person, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than two hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the county jail not less than three months and not more than six months.”

SEC. 3. [Drawing knife from concealment to assault, sentence enhancement; text omitted]

SEC. 4. [Same as above, but resulting in cutting or stabbing; text omitted]

SEC. 5. [Force and effect; text omitted].

Note: this section is included because, although it does not deal with firearms, is interesting because it specially separates large knives from other weapons. Sections 3 and 4 are omitted for the sake of brevity here, but they provided sentence enhancements for using these weapons in assaults and batteries beyond just carrying them. The legislature must have felt that as these knives gained popularity (Colt had just barely patented his revolver) a separate, stringent statute was needed as a greater deterrent.

1856

Minors

“An act to amend the criminal laws of this state,” Ch. 81, *Public Acts...of the State of Tennessee*, 1855-6, p. 92 [Hathi Trust](#)

SEC. 2. Be it enacted, That, hereafter, it shall be unlawful for any person to sell, loan, or give, to any minor a pistol, bowie-knife, dirk, or Arkansas tooth-pick, or hunter's knife; and whoever shall so sell, loan, or give, to any minor any such weapon, on conviction thereof, upon indictment or presentment, shall be fined not less than twenty-five dollars, and be liable to imprisonment, at the discretion of the Court: *Provided*, that this act shall not be construed so as to prevent the sale, loan, or gift, to any minor of a gun for hunting.

1869

Sensitive places

“An act to amend the criminal laws of the state,” Ch. 22, *Public Acts...of the State of Tennessee*, 1869, pp. 23-24 [Hathi Trust](#)

SEC. 2. *Be it further enacted*, That it shall not be lawful for any qualified voter or other person attending any election in this State, or for any person attending any fair, race course, or other public assembly of the people, to carry about his person, concealed or otherwise, any pistol, dirk, bowie-knife, Arkansas

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tooth-pick, or weapon in form, shape or size, resembling a bowie-knife, or Arkansas tooth-pick or other deadly or dangerous weapon.

SEC. 3. *Be it further enacted*, That all persons convicted under the second section of this Act shall be punished by fine of not less than fifty dollars, and by imprisonment, or both, at the discretion of the Court.

1870

“An act to preserve the peace and prevent homicide,” Ch, 13, *Acts...of the State of Tennessee*, 1869-70, pp. 28-29 [Hathi Trust](#)

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall not be lawful for any person to publicly or privately carry a dirk, sword-cane, Spanish sancta, belt or pocket pistol or revolver. Any person guilty of a violation of this section shall be subject to presentment or indictment, and on conviction, shall pay a fine of not less than ten nor more than fifty dollars, and be imprisoned at the discretion of the Court for a period of not less than thirty days nor more than six months, and shall give bond in a sum not exceeding one thousand dollars to keep the peace for the next six months after such conviction.

SEC. 2. *Be it further enacted*, That it shall be the duty of all peace officers in this State to see that the first section of this Act is strictly enforced, and if they know of its violation, it is hereby made their duty to report the same to the Grand Jury of their county at its next term after such violation, who shall proceed to make presentment without a prosecutor. All Sheriffs, Deputy Sheriffs, Coroners, Justices of the Peace and Constables shall be deemed peace officers under the provisions of this Act. If any of the aforesaid officers fail or refuse to perform the duties required of them by the provisions of this Act, they shall be liable to presentment or indictment, and, on conviction shall be fined not less than ten nor more than fifty dollars, and shall be dismissed from office, and shall be disqualified from holding said office for the period of their unexpired term. It shall be the duty of the Grand Juries to send for witnesses in all cases where they have good reason to believe that the provisions of this Act have been violated, and upon satisfactory evidence of its violation, they shall make presentments of the same without a prosecutor. It shall be the duty of the Circuit and criminal Judges and all other Judges whose Courts have criminal jurisdiction, to give this Act specially in charge to the Grand Jury at each term of the Court.

SEC. 3. *Be it further enacted*, That the provisions of the first section of this act shall not apply to an officer or policeman while bona fide engaged in his official duties in the execution of process, or while searching for or engaged in the arrest of criminals; nor to any person who is bona fide aiding the officers of the law or others in the legal arrest of criminals, or in turning them over to the proper authorities after arrest; nor to any person who is not* on a journey out of their county or State.

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SEC. 4. *Be it further enacted*, It shall be the duty of the several courts in this State to give this act a liberal construction, so as to carry out its true intent and meaning. This act to take effect forty days from and after its passage.
Passed June 11th, 1870.

Note: *The 1872 Code, §4757 and §4759a, read: "or on a journey to a place out of his county or State." §4759d has the following annotation: "The word 'not' in the last line of above section, which occurs in the original Act, is evidently a clerical error or misprint.¹⁵² This language was not present in the 1884 Code as the 1879 act repealed this act.

See: [Page v. State, 50 Tenn. \(3 Heisk.\) 198 \(1871\)](#)
[Andrews v. State, 50 Tenn. \(3 Heisk.\) 165, 8 Am. Rep. 8 \(1871\)](#)

Note: This act was found to be unconstitutional¹⁵³ in the respect of revolvers, as this would have made army and navy pistols illegal, this violating the "militia" clause of the Second Amendment. The 1871 act was passed as a remedy to this case, exempting said pistols and allowing open carry, provided that the weapon was held in the hand, a most impractical method of carry except for exigencies. One can imagine hand open carry would discourage someone from carrying proactively because of the misunderstandings that would ensue upon the public and officers seeing a man with a gun in his hand. This case law, and more, created a doctrine of "going armed" where certain acts were permitted, such as hunting with a pistol, while the idea of "wearing weapons" (carrying a gun for protection) was still illegal.¹⁵⁴

1871

"An act to preserve the peace and prevent homicide," Ch. 90, *Acts...of the State of Tennessee*, 1871, pp. 81-82 [Hathi Trust](#)

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall not be lawful for any person to publicly or privately carry a dirk, sword cane, Spanish stiletto, belt or pocket pistol or revolver other than an army pistol, or such as are commonly carried and used in the United States Army, and in no case shall it be lawful for any person to carry such army pistol publicly or privately about his person in any other manner than openly in his hands, and any person guilty of a violation of the provisions of this section, shall be guilty of a misdemeanor, and subject to presentment or indictment, and, on Conviction, shall pay a fine of not less than ten, nor more than fifty dollars, and may be imprisoned in the county jail not more than three months: *Provided, however*, the Court may commute the imprisonment altogether, and in lieu thereof, require the person convicted to give bond with approved security in not less than the sum of

¹⁵² Seymour D. Thompson and Thomas M. Steger (comps.), *A Compilation of the Statute Laws of the State of Tennessee*, (W. J. Gilbert, St. Louis, 1872), Vol. 3, pp. 90, 92

¹⁵³ See [Andrews v. State](#), 50 Tenn. 165, 8 Am. Rep. 8 (1871); [Robinson v. State](#), 3 Tenn. Cas. 59, 3 Shannon 59, 3 Leg. Rep., 114 (1879).

¹⁵⁴ For support, see annotation for §5536: Robert T. Shannon and William Alfred Milliken (comps.), *The Code of Tennessee (1884)*, (Marshall & Bruce, Nashville, 1884) p. 1061 [Hathi Trust](#)

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five hundred dollars, conditioned that he keep the peace for six months after such conviction.

SEC. 2. *Be it further enacted*, That it shall be the duty of all peace officers in the State, including Sheriffs, Deputy Sheriffs, Constables, Coroners, and Justices of the Peace, to see that the first section of this Act be strictly enforced, and it is hereby made their duty to report without delay any violation thereof, to the grand juries of their respective counties, and it shall be the duty of the grand juries to send for witnesses in all cases where they have good reason to believe there has been a violation thereof, and, upon satisfactory proof, to make presentment of the same without a prosecution.

SEC. 3. *Be it further enacted*, That the provisions of the first section of this Act shall not apply to any officer or policeman while engaged in the actual discharge of his official duties, nor to any person who is on a journey out of his county or State.

SEC. 4. *Be it further enacted*, That nothing in this Act shall be so construed as to operate as a pardon for any offense heretofore committed, but persons indicted or presented for carrying dangerous weapons under the laws now in force, shall be tried under said laws, and punished as therein required: *Provided*, the Courts shall have Discretionary powers in regard to the imprisonment for said offences.

[Sec. 5, effect, omitted]

Passed December 14, 1871.

Note: that this act overlapped with the 1870 act; both were present in the 1872 code compilation with the annotations indicating that the sections representing the earlier act were only chargeable until the later act took effect.¹⁵⁵ Both acts were invalidated by the repealing clause of the 1879 act.

See: [State v. Wilburn, 66 Tenn. \(7 Bax.\) 57, 32 Am. Rep. 551 \(1872\)](#)

1879

Pistol sales banned

“An act to prevent the sale of pistols,” Ch. 96, *Acts...of the State of Tennessee*, 1879, pp. 137-136
[Hathi Trust](#)

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be a misdemeanor for any person to sell, or offer to sell, or to bring into the State for the purpose of selling, giving away, or otherwise disposing of belt or pocket pistols, or revolvers, or any other kind of pistols, except army or navy pistol; *Provided* that this Act shall not be enforced against

¹⁵⁵ Seymour D. Thompson and Thomas M. Steger (comps.), *A Compilation of the Statute Laws of the State of Tennessee*, (W. J. Gilbert, St. Louis, 1872), Vol. 3, p. 92

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any persons now having license to sell such articles until the expiration of such present license.

SEC. 2. *Be it further enacted*, That any person guilty of a violation of this Act, shall be subject to presentment or indictment, and on conviction, shall pay a fine of not less than twenty-five nor more than one hundred dollars, and be imprisoned at the discretion of the court.

SEC. 3. *Be it further enacted*, That it shall be the duty of the Criminal and Circuit Judges, and other Judges whose courts have criminal jurisdiction, to give this Act specially in charge to the grand jury at each term of the court.

SEC. 4. *Be it further enacted*, That it shall be the duty of the grand juries to send for witnesses, in all cases where they have good reason to believe, that the provisions of this Act have been violated. And upon satisfactory evidence of its violation, they shall make presentments of the same without a prosecutor.

[Sec. 5, repeal, omitted; Sec. 6, effect, omitted]

Passed March 14, 1879.

“An act to amend the criminal laws of this state upon the subject of carrying concealed weapons, and amend Section 4759 of the Code,” Ch. 186, *Acts...of the State of Tennessee*, 1879, pp. 231-232 [Hathi Trust](#)

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Act of 1871, Chapter 90, be and is hereby amended, that hereafter it shall not be lawful for any person to carry, publicly or privately, any dirk, razor concealed about his person, sword cane, Spanish stiletto, belt or pocket pistol, revolver, or any kind of pistol, except the army or navy pistol, usually used in warfare, which shall be carried openly in the hand, or loaded cane, slung-shot, brass knucks; and any person guilty of a violation of this Act shall be subject to presentment or indictment, and on conviction shall be fined fifty dollars, and imprisoned in the County jail of the County where the offense was committed, the imprisonment only in the discretion of the Court; *Provided*, the defendant shall give good and sufficient security for all the costs, fine, and any jail fees that may accrue by virtue of the imprisonment of the defendant.

SEC. 2. *Be it further enacted*, That nothing in this Act be so construed as to operate as a pardon for any offense heretofore committed, but persons indicted or presented for carrying dangerous weapons under the law now in force, shall be tried under said laws, and punished as therein required.

SEC. 3. *Be it further enacted*, That the provisions of this Act shall not apply to any person employed in the army, navy, or marine service of the United States, or to any officer or policeman while bona fide engaged in his official duties in the execution of process, or while searching for or engaged in arresting criminals, nor to persons who may have been summoned by such officers or policeman in the discharge of their said duties, and in arresting criminals and transporting and turning them over to the proper authorities; and, *Provided, further*, that said persons who may be employed in the army, navy or marine service, as aforesaid, shall only carry such pistols as are prescribed by the army and navy regulations.

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SEC. 4. *Be it further enacted*, That all laws and parts of laws that come in conflict with the provisions of this Act be and the same are hereby repealed; *Provided*, that any person convicted of an offense under this Act shall not be deprived of the right of voting or holding office.

Passed March 26, 1879.

Note: this section added “loaded” cane as a weapon and modified the penalty from the 1871 act.

1883

Sale of pistol cartridges banned

“A bill to be entitled an act to prevent the sale, loan or gift of pistol cartridges in this state,” Ch. 8, *Acts of Tennessee*, 1883, p. 17 [Hathi Trust](#)

Be it enacted by the General Assembly of the State of Tennessee, That it shall be unlawful for any person or persons to buy or sell or give away any pistol cartridges in this State. *Be it further enacted*, That any person or persons violating this Act, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five or more than one hundred dollars.

Be it further enacted, That this Act shall be given in charge by the judges of the Circuit and Criminal Courts of this State, to the grand juries at each term of the Court, and that the grand juries are hereby clothed with inquisitorial powers to send for witnesses, and prefer presentments against any persons guilty of a violation of this Act; provided, however, that nothing in this Act shall be construed to interfere with the sale of cartridges for rifle guns or shot guns, or cartridges for army or navy pistol.

Note: obviously the intent was to make pistol already in the state, following the sale/import ban, useless by depriving owners of ammunition. Military issue weapons (“army or navy pistols,” were exempted so as to pay lip-service to the Second Amendment for militia use of such handguns).

Case Law

Tennessee Supreme Court in *State v. Welburne*, 7 Jere Baxter, 57.¹⁵⁶ They found that the relevant statute of that state did “not infringe the right of the citizen to keep and bear arms for the common defense.”

The court, through its numerous references to “the common defense,” implied that as per its interpretation of the Tennessee Constitution of 1834, which was added to in 1870, “[empowering] the Legislature, by law, to regulate the wearing of arms, with a view to prevent crime.” In the court's view, this gave the legislators the ability to determine what firearms were appropriate. The court wrote:

¹⁵⁶ <https://guncite.com/court/state/66tn57.html>

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"It was not intended that the keeping or using of such arms should be prohibited, but that the use thereof by wearing or carrying about the person might be so regulated by law as to prevent crime. It was crime resulting from the habit of wearing arms, or of going armed, which the Convention sought to prevent, by expressly conferring this power of the Legislature."

The court did not question why the requirement was to carry a firearm openly in the hands or its constitutionality.

Halie was built upon *Andrews v. State*,¹⁵⁷ also from Tennessee, the case responsible for the 1871 act that permitted army/navy pistols in lieu of a "pocket pistol" or revolver.

The right to bear arms for the common defense does not mean the right to bear them ordinarily or commonly, for individual defense, but has reference to the right to bear arms for the defense of the community against invasion or oppression. [...] The right to keep arms of warfare can not be prohibited by the Legislature under the permissive clause of the Constitution of 1870, allowing the Legislature to *regulate* the 'wearing' of arms. The use of such arms may be restricted as to manner, time or place, due regard being had to the right to keep and bear, for the constitutional purpose, but can not be prohibited.

Andrews builds on *Aymette v. State*¹⁵⁸

The case law out of Tennessee is unique in a way because it set the foundation for the unusual "army and navy pistol" legislation that found its way to Arkansas. Without this case law, such a law would not have been constitutional or, in a more extreme case, had a the militia provision of the right to keep and bear arms been somehow dismissed, a total ban on pistols could have been enacted.

1833's Tennessee Supreme Court decision *Simpson v. State*¹⁵⁹ supported the right to keep and bear arms. William Simpson, "arrayed in a warlike manner...to the great terror and disturbance of divers good citizens" and caused an affray, which was a violation of state law, itself based on English common law. Judge Whyte wrote:

"Our constitution has completely abrogated [English common law]; it says, 'that the freemen of this state have a right to keep and to bear arms for their common defence.' [...]"

"By this clause of the constitution, an express power is given and secured to all the free citizens of the state to keep and bear arms for their defence, without any qualification whatever as to their kind or nature; and it is conceived, that it would be going much too far, to impair by construction or abridgment a constitutional privilege which is so declared; neither, after so solemn an instrument hath said the people may carry arms, can we be permitted to impute to the acts thus licensed such a necessarily consequent operation as terror to the

¹⁵⁷ *Andrews v. State*, 50 Tenn. (3 Heisk.) 165, 8 Am. Rep. 8 (1871) [Opinion](#)

¹⁵⁸ *Aymette v. State*, 21 Tenn. (2 Hump.) 154 (1840) [Opinion](#)

¹⁵⁹ *Simpson v. State*, 13 Tenn. (5 Yer.) 356 (1833) [Opinion](#)

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people to be incurred thereby; we must attribute to the framers of it the absence of such a view."

The 1838 knife law seemed to conform to the idea that a man had the right to bear arms, but not concealed weapons. Indeed, in *Aymette v. State*¹⁶⁰ we see that concealed carry regulations were believed to be constitutional, but goes further to suggest the right to keep and bear arms was for military (militia) purposes only, largely dismissing *Simpson* regarding the constitutional right.

In *Aymette* (1840), the appellant carried a concealed Bowie knife. The court rejected the idea that the state's right to keep and bear arms article:

"gives to every man the right to arm himself in any manner he may choose, however unusual or dangerous the weapons he may employ; and thus armed, to appear wherever he may think proper, without molestation or hindrance, and that any law regulating his social conduct, by restraining the use of any weapon or regulating the manner in which it shall be carried, is beyond the legislative competency to enact, and is void."

The opinion details various tyrannies by the English crown and argues that the RKBA article was adopted in light of these abuses and as a remedy to them. To "bear arms" did not mean "wearing them about the person as part of the dress." The right was one of a "general and public nature" for the people as a whole for common defense, that is, as a militia.

Weapons carried for daily self-defense were outside the scope of the protect right, said the court because the various defensive weapons were unsuitable for military usage.

"They need not, for such a purpose, the use of those weapons which are usually employed in private broils, and which are efficient only in the hands of the robber and the assassin. These weapons would be useless in war. They could not be employed advantageously in the common defence of the citizens. The right to keep and bear them, is not, therefore, secured by the constitution. [...] The legislature, therefore, have a right to prohibit the wearing, or keeping weapons dangerous to the peace and safety of the citizens, and which are not usual in civilized warfare, or would not contribute to the common defence."

Weapons could be borne openly, because to disallow it would prevent weapons from being borne in the defense of the state, i.e. in war.

"The arms, consisting of swords, muskets, rifles, &c., must necessarily be borne openly; so that a prohibition to bear them openly, would be a denial of the right altogether. And as in their constitution, the right to bear arms in defence of themselves, is coupled with the right to bear them in defence of the State, we must understand the expressions as meaning the same thing, and as relating to public, and not private; to the common, and not the individual defence.

"But a prohibition to wear a spear concealed in a cane, would in no degree circumscribe the right to bear arms in the defence of the State; for this weapon could in no degree contribute to its defence, and would be worse than useless in

¹⁶⁰ *Aymette v. State*, 21 Tenn. (2 Hump.) 154 (1840) *Opinion*

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an army. And, if, as is above suggested, the wearing arms in defence of the citizens, is taken to mean, the common defence, the same observations apply."

In conclusion, the court found that the legislature had the ability to prohibit carrying weapons for personal defense, and thus the statute was not unconstitutional. The right to keep and bear arms in Tennessee *did not* apply to ordinary self-defense.

Andrews v. State,¹⁶¹ also from Tennessee, the case responsible for the 1871 act that permitted army/navy pistols in lieu of a "pocket pistol" or revolver. Andrews challenged a conviction of the 1870 statute.

The *Andrews* decision found the 1870 act to be constitutional. Specifically, The right to bear arms was for the "common defense," not to carry them for individual defense. It was right for the Legislature to prohibit carrying weapons for self-defense, because self-defense could be effected by other means. The intent of the law was to "banish" carrying handguns as a public good and called for the "mutual sacrifice of individual rights" as the goal was "the highest interest of every man in the land."

Yet the state could not dismiss the right entirely. The constitution allowed regulation of *wearing* pistols, and the court implied some examples of taking a gun out of the home (but not carrying habitually for self-defense) was appropriate, and suggested that the Legislature enact a law remedying the deficiency.

Thus, the 1871 act specified both hand carry, as the court said the Legislature could constitutionally prohibit "wearing," and exempted army and navy pistols, as those were weapons of modern warfare. This act was upheld by the state Supreme Court *State v. Welburne*¹⁶² (1872). They found that the 1871 statute did "not infringe the right of the citizen to keep and bear arms for the common defense." The reasoning in *Andrews* was confirmed and the right to carry weapons for self-defense was not upheld.

<https://guncite.com/journals/reytenn.html>

¹⁶¹ *Andrews v. State*, 50 Tenn. (3 Heisk.) 165, 8 Am. Rep. 8 (1871) [Opinion](#)

¹⁶² *State v. Welburne*, 7 Jere Baxter, 57 (1872) [Opinion](#)

Wyoming

Constitution

The right of the citizens to bear arms in defense of themselves and the State shall not be denied.

Statutory History

1875

Cities and towns, open and concealed

J. R. Whitehead (Comp.), “An Act to Prevent the Carrying of Fire Arms and Other Deadly Weapons,” Ch. 52, *The Compiled Laws of Wyoming*, 1876, (H. Glafcke, Leader Steam Book, Cheyenne), p. 352 [Hathi Trust](#)

SECTION. 1. That hereafter it shall be unlawful for any resident of any city, town or village, or for any one not a resident of any city, town or village, in said Territory, but a sojourner therein, to bear upon his person, concealed or openly, any fire arm or other deadly weapon, within the limits of any city, town or village.

SEC. 2. That if any person not a resident of any town, city or village of Wyoming Territory, shall, after being notified of the existence of this act by a proper peace officer, continue to carry or bear upon his person any fire arm or other deadly weapon, he or she, shall be deemed to be guilty of a violation of the provisions of this act and shall be punished accordingly.

SEC. 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty dollars, and, in the default of the payment of any fine which may be assessed against him, shall be imprisoned in the county jail for not less than five days nor more than twenty days.

[Sec. 4, effect, omitted]

Approved, December 2nd, 1875.

Note: I was unable to find public domain sources for the session laws in the years: 1874-1877, 1881, 1885-1887. This was included, and codified as Sections 980 and 981, in the 1887 *Revised Statutes* (see 1887).

1876

Intent

J. R. Whitehead (Comp.), “An Act to Prevent the Carrying of Fire Arms and Other Deadly Weapons,” Ch. 35, *The Compiled Laws of Wyoming*, 1876, (H. Glafcke, Leader Steam Book, Cheyenne), p. 273 [Hathi Trust](#)

Sec. 127. If any person or persons shall have upon him any pistol, gun knife, dirk, bludgeon or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months.

Note: A second crime, carrying with intent, was added to the law with a higher fine than merely carrying weapons. This section was cited: “C.L. 1876, ch. 35, §127 in the 1887 *Revised Statutes*, which tends to indicate the section was added by the compiler.¹⁶³

1884

Some municipalities allowed to regulate concealed weapons. [Hathi Trust](#)

1890

Concealed carry, open carry with intent

“An act defining crimes, regulating criminal procedures and for other purposes,” Ch. 73, *Session Laws of the Wyoming Territory*, 1890, p. 140 [Hathi Trust](#)

[Carrying dangerous weapons]. SEC. 96. Every person, not being a traveler, who shall wear or carry any dirk, pistol, bowie-knife, dagger, sword-in-cane or any other dangerous or deadly weapon concealed, or who shall carry or wear any such weapon openly, with the intent or avowed purpose of injuring his fellow-man, shall be fined in any sum not exceeding one hundred dollars.

[Selling weapons to minors.] SEC. 97. It shall be unlawful for any person to sell, barter or give to any other person under the age of twenty-one years any pistol, dirk or bowie-knife, slung-shot, knucks or other deadly weapon that can be worn or carried concealed upon or about the person, or to sell, barter or give to any person under the age of sixteen years any cartridges manufactured and designed for use in a pistol; and any person who shall violate any of the provisions of this section shall be fined in any sum not more than fifty, dollars.

Note: §96 prohibited open carry only when it was done with intent to injure.

¹⁶³ Blake, Van Devanter, and Caldwell (Comps.), §1027, *Revised Statutes of Wyoming*, 1887, p. 306 [Google Books](#)

1925

Aliens

“An act prohibiting persons not citizens of the United States, from possessing, wearing or carrying any dangerous or deadly weapon...etc.,” Ch. 106, *Session Laws of the State of Wyoming*, 1925, p. 110 [Hathi Trust](#)

Section 1. Every person, not being a citizen of the United States, who shall own, possess, wear or carry any dirk, pistol, shot gun, rifle, or other fire arm, bowie knife, dagger, or any other dangerous or deadly weapon, shall upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or imprisoned in the county jail not more than six months, or by both such fine and imprisonment.

Section 2. It shall be the duty of all peace officers, the State Game and Fish Commissioner or his deputies, in the State of Wyoming, to search for and take into their possession any dirk, pistol, shot gun, rifle, or other fire arm, bowie knife, dagger or any other dangerous or deadly weapon found to be owned, possessed, worn or carried by any alien not entitled to own or possess the same, and to sell the same, destroy or otherwise dispose of the same upon order of any Justice of the Peace, any District Court of the State of Wyoming or a Judge or District Court Commissioner. Provided that any moneys derived from the sale of such confiscated property collected under this section, shall when the arrests are made by the state Game Warden, his assistants or deputies, be paid over to the general fund of the State, and any moneys derived from the sale of such confiscated property collected under this section, shall when the arrests are made by the peace officers, be paid into the school fund of the county wherein said offense is committed. Provided that nothing in this Act shall be construed to apply to persons engaged in tending or herding sheep or other animals in herd or on open range when in active employment; and provided further, that nothing in this Act shall be construed to apply to persons who have procured hunting licenses as may now or at any time hereafter be provided by law.

Section 3. This Act shall take effect and be in force from and after its passage.

Approved February 25, 1925.

1933

Firearm sales

Winthrop Bosley (Comp.), *1940 Supplement to the 1931 Wyoming Revised Statutes Annotated*, (Courtright, Denver, 1930), p. 132 [Hathi Trust](#)

32-1301. Firearms register. All wholesalers, retailers, dealers and pawn brokers are hereby required to keep a record of all firearms which may come into

their possession, whether new or second hand, which record shall be known as the firearms register. Such register shall contain the following information, to-wit: The name of the manufacturer, person, persons, firm or corporation from whom the firearm was obtained, the date of its acquisition, its manufacturer's number, its color, its caliber, whether the same is new or second hand, whether it is an automatic, a revolver, a single shot pistol, a rifle, a shot gun or a machine gun, the name of the party to whom said firearm is sold in such purchaser's handwriting and the date of such sale.

32-1302. Purchaser's signature. Every person who purchases any firearm from any retailer, pawn broker or dealer, shall sign his name or make his mark properly witnessed, if he cannot write, on said firearm register, at the time of the delivery to him of any firearm so purchased.

32-1303. Register. The firearm register, herein required to be kept, shall be prepared by every wholesaler, retailer, pawn broker and dealer in firearms in the state of Wyoming within 30 days after this act shall become effective and shall thereafter be continued as herein provided. It shall be kept in the place of business of said wholesaler, retailer, pawn broker or dealer. and shall be subject to inspection by any peace officer at all reasonable times.

32-1304. Penalty. Any person, firm or corporation who shall fail or refuse to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not to exceed \$100.00, or imprisoned in the county jail for a period of not to exceed six months, or by both such fine and imprisonment.

Note: I have not been able to access public domain versions of the 1931 and 1933 legislative sessions. The Revised Statutes annotated refer to the 1933 Legislature, Ch. 101 as the source of these sections.