

nition used by such firearm(s) in any place where the person knows, or reasonably should know based on the totality of the circumstances, that a minor is able to gain access to such firearm(s) and/or ammunition.

(b) All persons purchasing firearm(s) within the city, must provide written proof that he or she has successfully completed a National Rifle Association (or comparable agency) firearms safety instruction program on the proper use and storage of such firearm(s). Written proof of such training must be turned into the front desk of the South Bend Police Department within sixty (60) days from the date of said purchase.

(c) Any licensed firearm dealer doing business in the city must conspicuously post, at every purchase counter in every store, shop, or sales outlet, signs with the following warning in block letters not less than one (1) inch in height:

"IT IS A VIOLATION OF CITY OF SOUTH BEND CODE § 13-100 TO STORE OR LEAVE A FIREARM AND AMMUNITION WHERE CHILDREN UNDER THE AGE OF EIGHTEEN (18) YEARS OF AGE CAN OBTAIN ACCESS."

"ALL PERSONS PURCHASING FIREARMS ARE REQUIRED TO PROVIDE TO THE SOUTH BEND POLICE DEPARTMENT WRITTEN PROOF OF SUCCESSFULLY COMPLETING AN APPROVED FIREARMS SAFETY INSTRUCTION SESSION ON THE PROPER USE AND STORAGE OF SUCH FIREARMS WITHIN SIXTY (60) DAYS OF DATE OF PURCHASE." Such warnings shall also be distributed by such licensed firearm dealer to each firearm purchaser at the time of the sale of a firearm.

(d) This section shall not apply when:

(1) A minor's access to a firearm and its ammunition is under the supervision or control of a responsible adult for purposes of lawful hunting or instruction in firearms safety, care, handling, or marksmanship;

(2) A minor has access to a firearm and its ammunition as a result of an unlawful entry into the place in which the firearm was found;

(3) A minor obtains a firearm and its ammunition in a lawful act of self-defense or defense of another person or persons within a domicile; or

(4) A minor, without permission of the lawful possessor of a firearm and its ammunition, obtains the firearm from the possessor's body, when the possessor is unable to prevent the removal of said firearm from his or her person.

13-105. Penalties/ citations/ educational training sessions required for parents, guardians, dealers and minors found in violation.

(a) Any parent or guardian whose firearm gets in the wrongful possession of a minor shall be considered in violation of this division. Said parent or guardian shall be issued an ordinance violation citation with a fine of one hundred dollars (\$100.00) for each offense, and said firearm shall be confiscated.

(b) Any person who fails to provide written proof that he or she has successfully completed a National Rifle Association (or comparable agency) approved firearms safety instruction program on the proper and storage of such firearm(s) required by Section 13-100 [sic] shall be considered in violation of this division. An ordinance violation citation shall be issued with a fine of fifty dollars (\$50.00), and the firearm shall be confiscated. ... Firearms confiscated under this paragraph shall be returned to the owner only upon said owner showing proof that he or she is the lawful owner and that said person has since successfully completed a National Rifle Association (or comparable agency) on firearms safety instruction program addressing the proper use and storage of firearms.

(c) Any licensed firearm dealer who fails to properly display the signs required in Section 13-100 [sic] shall be considered in violation of that section. Each day and each location required to have such signage which is not in compliance with Section 13-100 [sic], shall be considered a separate offense for which a separate citation may be issued. Said licensed firearm dealer shall be issued an ordinance violation citation with fines of twenty-five dollars (\$25.00) for the first violation, and fifty dollar (\$50.00) fines for all subsequent violations. ...

(d) In addition to adult violators being issued ordinance violation citation(s), any such person

found in violation of this division shall be required to attend and successfully complete a minimum of two (2) educational seminars on firearms safety and perform a minimum of twenty (20) hours of community service for each violation. Said seminars shall be conducted by the South Bend Police Department and/or the City's duly authorized agent. All costs related to said seminars shall be paid by the violator.

(e) Any firearm, found in the possession of a minor, shall be confiscated, and the South Bend Police Department shall be immediately contacted. Said minor shall be required to attend and successfully complete a minimum of two (2) educational seminars specifically focusing on minors and safety awareness. Said seminars shall be conducted by the South Bend Police Department and/or the City's duly authorized agent. All costs related to said safety awareness seminars shall be paid by said minor's parent(s) or guardian(s). Additionally, said minor shall be required to write, in his or her own handwriting, a minimum of a two-page report on safety awareness and perform a minimum of twenty (20) hours of community service for each violation, with credit being given against the community service hours for reports deemed acceptable by the department of the City's agent. Said report must be turned into the principal of the minor's school within seventy-two (72) hours of successfully completing the last seminar. Copies of such reports with the name of the minor being held confidential, shall be sent to the Common Council's Health and Public Safety Committee on the last business day of the month when said seminar was held. Quarterly Committee reports shall be given on the progress of such youth educational safety awareness seminars.

(f) Penalties up to a total of two thousand five hundred dollars (\$2,500.00) for all citations, seminar fees and fines may be imposed upon an adult when found in violation of this division for each and every violation.

[Municipal Code of the City of South Bend codified through Ord. 9543-04 enacted Nov. 8, 2004

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Title XVI. Criminal Law and Procedure

Chapter 724. Weapons

724.1. Offensive weapons. An offensive weapon is any device or instrumentality of the following types:

1. A machine gun. A machine gun is a firearm which shoots or is designed to shoot more than one shot, without manual reloading, by a single function of the trigger.

2. A short-barreled rifle or short-barreled shotgun. A short-barreled rifle or short-barreled shotgun is a rifle with a barrel or barrels less than sixteen inches in length or a shotgun with a barrel or barrels less than eighteen inches in length, as measured from the face of the closed bolt or standing breech to the muzzle, or any rifle or shotgun with an overall length less than twenty-six inches.

3. Any weapon other than a shotgun or muzzle loading rifle, cannon, pistol, revolver or musket, which fires or can be made to fire a projectile by the explosion of a propellant charge, which has a barrel or tube with the bore of more

than six-tenths of an inch in diameter, or the ammunition or projectile there for, but not including antique weapons kept for display or lawful shooting.

4. A bomb, grenade, or mine, whether explosive, incendiary, or poison gas; any rocket having a propellant charge of more than four ounces; any missile having an explosive charge of more than one-quarter ounce; or any device similar to any of these.

5. A ballistic knife. A ballistic knife is a knife with a detachable blade which is propelled by a spring-operated mechanism, elastic material, or compressed gas.

6. Any part or combination of parts either designed or intended to be used to convert any device into an offensive weapon as described in subsections 1 to 5 of this section, or to assemble into such an offensive weapon, except magazines or other parts, ammunition, or ammunition components used in common with lawful sporting firearms or parts including but not limited to barrels suitable for refitting to sporting firearms.

7. Any bullet or projectile containing any explosive mixture or chemical compound capable

of exploding or detonating prior to or upon impact, or any shot shell or cartridge containing exothermic pyrophoric misch metal as a projectile which is designed to throw or project a flame or fireball to simulate a flame thrower.

Notwithstanding section 724.2, no person is authorized to possess in this state a shot shell or cartridge intended to project a flame or fireball of the type described in this section.

8. Any mechanical device specifically constructed and designed so that when attached to a firearm silences, muffles or suppresses the sound when fired. However, this subsection does not apply to a mechanical device possessed and used by a person solely for the purpose of shooting a deer pursuant to an approved city special deer population control plan if the person has a valid federal permit to possess and use the mechanical device.

9. An offensive weapon or part or combination of parts therefore shall not include the following:

a. An antique firearm. An antique firearm is any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898

or any firearm which is a replica of such a firearm if such replica is not designed or redesigned for using conventional rimfire or centerfire ammunition or which uses only rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

b. A collector's item. A collector's item is any firearm other than a machine gun that by reason of its date of manufacture, value, design, and other characteristics is not likely to be used as a weapon. The commissioner of public safety shall designate by rule firearms which the commissioner determines to be collector's items and shall revise or update the list of firearms at least annually.

c. Any device which is not designed or redesigned for use as a weapon; any device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; or any firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition.

724.2. Authority to possess offensive weapons. Any of the following is authorized to possess an offensive weapon when the person's duties or lawful activities require or permit such possession:

1. Any peace officer.
2. Any member of the armed forces of the United States or of the national guard.
3. Any person in the service of the United States.
4. A correctional officer, serving in an institution under the authority of the Iowa department of corrections.
5. Any person who under the laws of this state and the United States, is lawfully engaged in the business of supplying those authorized to possess such devices.
6. Any person, firm or corporation who under the laws of this state and the United States is lawfully engaged in the improvement, invention or manufacture of firearms.
7. Any museum or similar place which possesses, solely as relics, offensive weapons which are rendered permanently unfit for use.
8. A resident of this state who possesses an offensive weapon which is a curio or relic firearm under the federal Firearms Act, 18 U.S.C. ch. 44, solely for use in the official functions of a historical reenactment organization of which the person is a member, if the offensive weapon has been permanently rendered unfit for the firing of live ammunition. The offensive weapon may, however, be adapted for the firing of blank ammunition.
9. A nonresident who possesses an offensive weapon which is a curio or relic firearm under the federal Firearms Act, 18 U.S.C. ch. 44, solely for use in official functions in this state of a historical reenactment organization of which the person is a member, if the offensive weapon is legally possessed by the person in the person's state of residence and the offensive weapon is at all times while in this state rendered incapable of firing live ammunition. A nonresident who possesses an offensive weapon under this subsection while in this state shall not have in the person's possession live ammunition. The offensive weapon may, however, be adapted for the firing of blank ammunition.

724.3. Unauthorized possession of offensive weapons. Any person, other than a person authorized herein, who knowingly possesses an offensive weapon commits a class "D" felony.

724.4A. Weapons free zones - enhanced penalties.

1. As used in this section, "weapons free zone" means the area in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park. A weapons free zone shall not include that portion of a public park designated as a hunting area under section 461A.42.

2. Notwithstanding sections 902.9 and 903.1, a person who commits a public offense involving a firearm or offensive weapon, within a weapons free zone, in violation of this or any other chapter shall be subject to a fine of twice the maximum amount which may otherwise be imposed for the public offense.

724.4B. Carrying weapons on school grounds - penalty - exceptions.

1. A person who goes armed with, carries, or transports a firearm of any kind, whether concealed or not, on the grounds of a school commits a class "D" felony. For the purposes of this section, "school" means a public or non-public school as defined in section 280.2.

2. Subsection 1 does not apply to the following:

- a. A person listed under section 724.4, subsection 4, paragraphs "b" through "f" or "j".
- b. A person who has been specifically authorized by the school to go armed, carry, or transport a firearm on the school grounds, including for purposes of conducting an instructional program regarding firearms.

724.5. Duty to carry permit to carry weapons. A person armed with a revolver, pistol, or pocket billy concealed upon the person shall have in the person's immediate possession the permit provided for in section 724.4, subsection 4, paragraph "i", and shall produce the permit for inspection at the request of a peace officer. Failure to so produce a permit is a simple misdemeanor.

724.8. Persons eligible for permit to carry weapons. No person shall be issued a professional or nonprofessional permit to carry weapons unless:

1. The person is eighteen years of age or older.
2. The person has never been convicted of a felony.
3. The person is not addicted to the use of alcohol or any controlled substance.
4. The person has no history of repeated acts of violence.
5. The issuing officer reasonably determines that the applicant does not constitute a danger to any person.
6. The person has never been convicted of any crime defined in chapter 708, except "assault" as defined in section 708.1 and "harassment" as defined in section 708.7.

724.10. Application for permit to carry weapons - criminal history check required. A person shall not be issued a permit to carry weapons unless the person has completed and signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall state the full name, driver's license or nonoperator's identification card number, residence, and age of the applicant, and shall state whether the applicant has ever been convicted of a felony, whether the person is addicted to the use of alcohol or any controlled substance, and whether the person has any history of mental illness or repeated acts of violence. The applicant shall also display an identification card that bears a distinguishing

number assigned to the card holder, the full name, date of birth, sex, residence address, and a brief description and colored photograph of the card holder. The sheriff shall conduct immediately a criminal history check concerning each applicant by obtaining criminal history data from the department of public safety. A person who knowingly makes a false statement of material fact on the application commits a class "D" felony.

724.15. Annual permit to acquire pistols or revolvers.

1. Any person who acquires ownership of any pistol or revolver shall first obtain an annual permit. An annual permit shall not be issued to any person unless:

- a. The person is twenty-one years of age or older.
- b. The person has never been convicted of a felony.
- c. The person is not addicted to the use of alcohol or a controlled substance.
- d. The person has no history of repeated acts of violence.

e. The person has never been convicted of a crime defined in chapter 708, except "assault" as defined in section 708.1 and "harassment" as defined in section 708.7.

f. The person has never been adjudged mentally incompetent.

2. Any person who acquires ownership of a pistol or revolver shall not be required to obtain an annual permit if:

- a. The person transferring the pistol or revolver and the person acquiring the pistol or revolver are licensed firearms dealers under federal law;
- b. The pistol or revolver acquired is an antique firearm, a collector's item, a device which is not designed or redesigned for use as a weapon a device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device, or a firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition; or

c. The person acquiring the pistol or revolver is authorized to do so on behalf of a law enforcement agency.

d. The person has obtained a valid permit to carry weapons, as provided in section 724.11.

e. The person transferring the pistol or revolver and the person acquiring the pistol or revolver are related to one another within the second degree of consanguinity or affinity unless the person transferring the pistol or revolver knows that the person acquiring the pistol or revolver would be ineligible to obtain a permit.

3. The annual permit to acquire pistols or revolvers shall authorize the permit holder to acquire one or more pistols or revolvers during the period that the permit remains valid. If the issuing officer determines that the applicant has become disqualified under the provisions of subsection 1, the issuing officer may immediately invalidate the permit.

724.16. Annual permit to acquire required - transfer prohibited.

1. Except as otherwise provided in section 724.15, subsection 2, a person who acquires ownership of a pistol or revolver without a valid annual permit to acquire pistols or revolvers or a person who transfers ownership of a pistol or revolver to a person who does not have in the person's possession a valid annual permit to acquire pistols or revolvers is guilty of an aggravated misdemeanor.

2. A person who transfers ownership of a pistol or revolver to a person that the transferor

knows is prohibited by section 724.15 from acquiring ownership of a pistol or revolver commits a class "D" felony.

724.16A. Trafficking in stolen weapons. A person who knowingly transfers or acquires possession, or who facilitates the transfer, of a stolen firearm commits a class "D" felony for a first offense and a class "C" felony for second and subsequent offenses or if the weapon is used in the commission of a public offense. However, this section shall not apply to a person purchasing stolen firearms through a buy-back program sponsored by a law enforcement agency if the firearms are returned to their rightful owners or destroyed.

724.17. Application for annual permit to acquire - criminal history check required. The application for an annual permit to acquire pistols or revolvers may be made to the sheriff of the county of the applicant's residence and shall be on a form prescribed and published by the commissioner of public safety. The application shall state the full name of the applicant, the driver's license or nonoperator's identification card number of the applicant, the residence of the applicant, and the age of the applicant. The applicant shall also display an identification card that bears a distinguishing number assigned to the cardholder, the full name, date of birth, sex, residence address, and brief description and colored photograph of the card-holder, or other identification as specified by rule of the department of public safety. The sheriff shall conduct a criminal history check concerning each applicant by obtaining criminal history data from the department of public safety. A person who knowingly makes a false statement of material fact on the application commits a class "D" felony.

724.18. Procedure for making application for annual permit to acquire. A person may personally request the sheriff to mail an application for an annual permit to acquire pistols or revolvers, and the sheriff shall immediately forward to such person an application for an annual permit to acquire pistols or revolvers. A person shall upon completion of the application personally deliver such application to the sheriff who shall note the period of validity on the application and shall immediately issue the annual permit to acquire pistols or revolvers to the applicant. For the purposes of this section the date of application shall be the date on which the sheriff received the completed application.

724.19. Issuance of annual permit to acquire. The annual permit to acquire pistols or revolvers shall be issued to the applicant immediately upon completion of the application unless the applicant is disqualified under the provisions of section 724.15 and shall be on a form prescribed and published by the commissioner of public safety. The permit shall contain the name of the permittee, the residence of the permittee, and the effective date of the permit.

724.20. Validity of annual permit to acquire pistols or revolvers. The permit shall be valid throughout the state and shall be valid three days after the date of application and shall be invalid one year after the date of application.

724.21. Giving false information when acquiring weapon. A person who gives a false

name or presents false identification, or otherwise knowingly gives false material information to one from whom the person seeks to acquire a pistol or revolver, commits a class "D" felony.

724.22. Persons under twenty-one - sale, loan, gift, making available - possession.

1. Except as provided in subsection 3, a person who sells, loans, gives, or makes available a rifle or shotgun or ammunition for a rifle or shotgun to a minor commits a serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

2. Except as provided in subsections 4 and 5, a person who sells, loans, gives, or makes available a pistol or revolver or ammunition for a pistol or revolver to a person below the age of twenty-one commits a serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

3. A parent, guardian, spouse who is eighteen years of age or older, or another with the express consent of the minor's parent or guardian or spouse who is eighteen years of age or older may allow a minor to possess a rifle or shotgun or the ammunition therefor which may be lawfully used.

4. A person eighteen, nineteen, or twenty years of age may possess a firearm and the ammunition therefor while on military duty or while a peace officer, security guard or correctional officer, when such duty requires the possession of such a weapon or while the person receives instruction in the proper use thereof from an instructor who is twenty-one years of age or older.

5. A parent or guardian or spouse who is twenty-one years of age or older, of a person fourteen years of age but less than twenty-one may allow the person to possess a pistol or revolver or the ammunition therefor for any lawful purpose while under the direct supervision of the parent or guardian or spouse who is twenty-one years of age or older, or while the person receives instruction in the proper use thereof from an instructor twenty-one years of age or older, with the consent of such parent, guardian or spouse.

6. For the purposes of this section, caliber .22 rimfire ammunition shall be deemed to be rifle ammunition.

7. Access to loaded firearms by children restricted - penalty. It shall be unlawful for any person to store or leave a loaded firearm which is not secured by a trigger lock mechanism, placed in a securely locked box or container, or placed in some other location which a reasonable person would believe to be secure from a minor under the age of fourteen years, if such person knows or has reason to believe that a minor under the age of fourteen years is likely to gain access to the firearm without the lawful permission of the minor's parent, guardian, or person having charge of the minor, the minor lawfully gains access to the firearm without the consent of the minor's parent, guardian, or person having charge of the minor, and the minor exhibits the firearm in a public place in an unlawful manner, or uses the firearm unlawfully to cause injury or death to a person. This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person. A viola-

tion of this subsection is punishable as a serious misdemeanor.

724.25. Felony and antique firearm defined.

1. As used in sections 724.8, subsection 2, and 724.26, the word "felony" means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year, but does not include any offense, other than an offense involving a firearm or explosive, classified as a misdemeanor under the laws of the state and punishable by a term of imprisonment of two years or less.

2. As used in this chapter an "antique firearm" means any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898. An antique firearm also means a replica of a firearm so described if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or if the replica uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

724.26. Possession, Receipt, transportation, and dominion or control of firearms and offensive weapons by felons. A person who is convicted of a felony in a state or federal court, or who is adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult, and who knowingly has under the person's dominion and control, or possession, or receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a class "D" felony.

724.27. Offenders' rights restored. The provisions of sections 724.8, subsection 2, 724.15, subsection 1, paragraphs "b" and "e", and 724.26 shall not apply to a person who is eligible to have the person's civil rights regarding firearms restored under section 914.7 and who is pardoned or has had the person's civil rights restored by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices.

724.28. Prohibition of regulation by political subdivisions. A political subdivision of the state shall not enact an ordinance regulating the ownership, possession, legal transfer, lawful transportation, registration, or licensing of firearms when the ownership, possession, transfer, or transportation is otherwise lawful under the laws of this state. An ordinance regulating firearms in violation of this section existing on or after April 5, 1990, is void.

724.29. Firearm devices. A person who sells or offers for sale a manual or power-driven trigger activating device constructed and designed so that when attached to a firearm increases the rate of fire of the firearm is guilty of an aggravated misdemeanor.

[Current through 2004 Regular & Special Sessions]