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## Firearm Information

### FIREARM INFORMATION

#### TITLE XII - PUBLIC SAFETY AND WELFARE

#### CHAPTER 159 - PISTOLS AND REVOLVERS

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**159:4 Carrying Without License.** – No person shall carry a loaded pistol or revolver in any vehicle or concealed upon his person, except in his dwelling, house or place of business, without a valid license therefore as hereinafter provided. A loaded pistol or revolver shall include any pistol or revolver with a magazine, cylinder, chamber or clip in which there are loaded cartridges. Whoever violates the provisions of this section shall, for the first such offense, be guilty of a misdemeanor. For the second and for each subsequent violation of the provisions of this section, such person shall be guilty of a class B felony, provided such second or subsequent violation has occurred within 7 years of the previous conviction.

**159:6 License to Carry.** – *(In Part)*

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I. The selectmen of a town or the mayor or chief of police of a city or some full-time police officer designated by them respectively, upon application of any resident of such town or city, or the director of state police, or some person designated by such director, upon application of a nonresident, shall issue a license to such applicant authorizing the applicant to carry a loaded pistol or revolver in this state for not less than 4 years from the date of issue, if it appears that the applicant has good reason to fear injury to the applicant's person or property or has any proper purpose, and that the applicant is a suitable person to be licensed. Hunting, target shooting, or self-defense shall be considered a proper purpose.

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II. No photograph or fingerprint shall be required or used as a basis to grant, deny, or renew a license to carry for a resident or nonresident, unless requested by the applicant.

**159:6-a Confidentiality of Licenses.** *(In Part)*

...all papers and records, including applications, pertaining to the issuance of licenses pursuant to RSA 159:6 and all licenses issued ... are subject to inspection only by law enforcement officials of the state or any political subdivision thereof or of the federal government ... or upon written consent, for good cause shown, of the superior court in the county where said license was issued.

#### References in the NH State Constitution, Bill of Rights

**[Art.] 2. [Natural Rights.]** All men have certain natural, essential, and inherent rights - among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property; and, in a word, of seeking and obtaining happiness. Equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex or national origin.

**[Art.] 2-a. [The Bearing of Arms.]** All persons have the right to keep and bear arms in defense of themselves, their families, their property and the state.

## Questions and Answers

**Q: Where can I and can I not carry?**

**A:** By state law (**RSA 159:19**), the only place you can't have a gun is a courthouse or courtroom. By federal law, there are two places where you can't carry.

**Here are the two federal laws (IN PART):**

**(1) Title 18, United States Code, Section 930** prohibits firearms (and also knives with blades longer than 2-1/2 inches) in federal "facilities," meaning buildings. *(Note that this includes post offices.)*

**(2) Title 18, United State Code, Section 922, paragraph (q)** is the Gun Free School Zones Act. You can't have a gun in, on the grounds of, or within 1,000 feet of the property line of, an elementary or secondary school, whether public or private. *(Note that this doesn't include colleges or universities.)*

**Q: What about private businesses/property?**

**A:** On private property (including stores, theaters, restaurants, etc.), the property owner can set a "no guns" policy. In NH a "No Firearms" sign posted on private property does not carry the weight of law but they can ask you to leave if you're carrying, and have you arrested for trespassing if you don't leave. You will not have violated NH law related to carrying a firearm but you will be violating their company policy and NH trespassing statutes if you don't leave when you are asked.

**Q: Can I carry my firearm "openly" (unconcealed)?**

**A:** The NH Attorney General's Office has stated that open carry is regarded as a "Right", and though any citizen may call the police if they observe someone carrying a gun openly, that citizen's "annoyance and alarm" does not override the "Right" to carry openly. The police are obligated to investigate the citizen's complaint, but once it is determined that there is no substance to the complaint, the citizen openly carrying should be allowed to carry on with his/her business. Obviously in the post 9/11 age if people observe you openly carrying a firearm it may cause them to be concerned and to report you to the police. Once such a report has been made you can expect to be identified and questioned to determine if there is an actual threat.

**Q: I've seen city and town parks and buildings with "no firearms" signs. What about them?**

**A:** RSA 159:26, declares that only the state (not cities or towns) may regulate firearms, and that any city or town ordinances about guns are null and void, except for zoning and hunting.

**Q: What States honor my NH Pistol/Revolver License?**

A: AK\*, AL, AZ, CO, FL, GA, ID, IN, KY, LA, MI, MO, MS, NC, ND, OK, PA, TN, UT, VT\*, WY

(\*Anyone who can legally own a firearm may carry it concealed in Vermont & Alaska with no permit/license required.)

**Q: What are the laws in New Hampshire concerning use of force?**

**RSA 627:4 Physical Force in Defense of a Person.**

**I. A person is justified in using non-deadly force** upon another person in order to defend himself or a third person from what he reasonably believes to be the imminent use of unlawful, non-deadly force by such other person, and he may use a degree of such force which he reasonably believes to be necessary for such purpose. However, such force is not justifiable if:

- ~~~~~ (a) With a purpose to cause physical harm to another person, he provoked the use of unlawful, non-deadly force by such other person; or
- ~~~~~ (b) He was the initial aggressor, unless after such aggression he withdraws from the encounter and effectively communicates to such other person his intent to do so, but the latter notwithstanding continues the use or threat of unlawful, non-deadly force; or
- ~~~~~ (c) The force involved was the product of a combat by agreement not authorized by law.

**II. A person is justified in using deadly force** upon another person when he reasonably believes that such other person:

- ~~~~~ (a) Is about to use unlawful, deadly force against the actor or a third person;
- ~~~~~ (b) Is likely to use any unlawful force against a person present while committing or attempting to commit a burglary;
- ~~~~~ (c) Is committing or about to commit kidnapping or a forcible sex offense; or
- ~~~~~ (d) Is likely to use any unlawful force in the commission of a felony against the actor within such actor's dwelling or its curtilage.

**III. A person is not justified in using deadly force** on another to defend himself or a third person from deadly force by the other if he knows that he and the third person can, **with complete safety**:

- (a) Retreat from the encounter, except that he is not required to retreat if he is within his dwelling or its curtilage and was not the initial aggressor; or
- ~~~~~ (b) Surrender property to a person asserting a claim of right thereto; or
- ~~~~~ (c) Comply with a demand that he abstain from performing an act which he is not obliged to perform; nor is the use of deadly force justifiable when, with the purpose of causing death or serious bodily harm, the actor has provoked the use of force against himself in the same encounter.
- ~~~~~ (d) If he is a law enforcement officer or a private person assisting him at his direction and was acting pursuant to **RSA 627:5**, he need not retreat.

**RSA 627:7 Use of Force in Defense of Premises.**

A person in possession or control of premises or a person who is licensed or privileged to be thereon is justified in using non-deadly force upon another when and to the extent that he reasonably believes it necessary to prevent or terminate the commission of a criminal trespass

by such other in or upon such premises, but he may use deadly force under such circumstances only in defense of a person as prescribed in **RSA 627:4** or when he reasonably believes it necessary to prevent an attempt by the trespasser to commit arson.

#### **RSA 627:8 Use of Force in Property Offenses.**

A person is justified in using force upon another when and to the extent that he reasonably believes it necessary to prevent what is or reasonably appears to be an unlawful taking of his property, or criminal mischief, or to retake his property immediately following its taking; but he may use deadly force under such circumstances only in defense of a person as prescribed in **RSA 627:4**.

#### **Resources**

Search the New Hampshire RSA's:

<http://www.gencourt.state.nh.us/rsa/html/indexes/search.html>

Online National Clearing House for State by State Firearm and Concealed Carry Laws.

<http://www.handgunlaw.us>

NRA Gun Safety Rules

<http://www.nrahq.org/education/guide.asp>

NRA Parents Guide to Gun Safety

<http://www.nrahq.org/safety/eddie/infoparents.asp>