

VERMONT GUN LAWS:

PLACE AND AGE RESTRICTIONS:

- No open or concealed weapons with the intent to injure someone OR on any state property without permission. 13 VSA § 4003.
- No possession in a school bus, school building, or school property. 13 VSA § 4004.
- No carrying or possessing gun in court, knowingly or not, unless authorized. 13 VSA § 4016.
- No possessing a loaded rifle or shotgun while in or on a mechanically propelled vehicle within the right of way of a public highway unless you are police officer or a paraplegic licensed hunter. 10 VSA § 4705 (same law that prohibits hunting from cars).
- No furnishing guns or ammunition to kids under 16. 13 VSA § 4007.
- No one under 16 shall possess a pistol or revolver without parents' consent. 13 VSA § 4008.

TYPES OF GUNS AND EQUIPMENT PROHIBITED:

- No selling, using, or possessing gun silencers unless for law enforcement job. 13 VSA § 4010.
- No possessing or selling "zip guns" or switchblade knives. 13 VSA § 4013.

NON-RESIDENTS AND COMPLIANCE WITH OTHER LAWS:

- Vermonters may purchase rifles and shotguns in another state if they comply with the Gun Control Act and the applicable law of that state; same for non-residents purchasing guns here. 13 VSA § 4014-4015.

RECORD KEEPING:

- Pawnbrokers and gun retailers must record sales of revolvers and pistols, as well as the pawnbroker or retailer's purchase of secondhand revolvers and pistols. The records shall note the date of the transaction, manufacturer, caliber, model, number on the gun, and the name, address, and physical description of the purchaser or seller. 13 VSA § 4006.

OTHER:

- No intentionally aiming guns at others, except self defense or discharge of duty. 13 VSA § 4011.
- No carrying a gun while committing a felony. 13 VSA § 4005.
- No carelessly or negligently wounding another with a gun. 13 VSA § 4009.

ARTICLE 16, RIGHT TO BEAR ARMS, VT CONSTITUTION: That the people have a right to bear arms for the defense of themselves and the State--and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to and governed by the civil power.

Rosenthal, 75 Vt. 295 (1903): Rutland ordinance banning open or concealed carry of a number of weapons, including pistols, under any circumstances without consent of the mayor or police violates the right to bear arms in the VT Constitution.

Duranleau, 128 Vt. 206 (1969): The right to bear arms under the VT Constitution is not unlimited; banning loaded guns in cars is ok. (VT right to bear arms is subject to reasonable restrictions.)

CERTAIN FEDERAL LAWS:

SECOND AMENDMENT: 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.

Heller (2008, the DC ban on hand guns case): Does the 2nd Amnd prevent an outright ban on the possession hand guns, including possession of hand guns in the home? Yes. The Second Amendment protects the right to keep and bear arms for the purpose of self-defense.

McDonald (2010, the Chicago ban on hand guns case): Does Heller apply to states? Yes.

RELEVANT FEDERAL GUN LAWS:

Generally, the following people cannot possess guns or ammunition under federal law, 18 U.S.C. § 922:

- Felons [*conviction of a state or federal crime punishable by over a year, this includes some VT misdemeanants*];
- Fugitives;
- Unlawful users of or addicts to a controlled substance [*federal definition not entirely clear*];
- Persons who have been "adjudicated a mental defective" or who have been involuntary committed to a mental institution;
 - o *45 states appear to restrict possession of fire arms by mentally ill*
- Illegal aliens and non-immigrant aliens;
- Persons dishonorably discharged from the armed forces;
- Persons who have renounced their U.S. citizenship;
- Persons who are the subject of a qualifying domestic protection order; and
- Persons convicted of a misdemeanor crime of domestic violence.

THE BRADY ACT: Requires law enforcement to conduct background checks before someone can purchase a handgun from a gun dealer. Licensed dealers cannot sell a handgun to an unlicensed individual unless they comply with the Brady Act and waiting period (5 days). 18 U.S.C. §§ 922, 924.

NICS: National Instant Criminal Background Check System established by AG under 18 U.S.C. § 922(t), operated by FBI. Licensed sellers shall not sell a firearm to anyone without a federal license unless the seller contacts NICS and the system provides the licensee a unique identifier OR three days pass and the system does not notify the licensee that receipt of the firearm would violate federal law.

- **VERMONT DOES NOT CURRENTLY REPORT MENTAL DISQUALIFICATION INFORMATION TO NICS, and we do not appear to report other information, like pending abuse prevention orders or drug abuse information, as well.**
- **17 states have laws mandating the report of mental health disqualification information to NICS (AL; CO; DE; FL; GA; ID; IN; KS; ME; MS; NE; NV; NY; NC; ND; PA; TN; TX; WV)**
- **Current VT law, 18 V.S.A. § 7103, generally restricts disclosure of information related to mental health treatment and would need to be amended to permit reporting to NICS.**