

FIREARMS INDUSTRY CONSULTING GROUP

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April 19, 2014

R. Douglas Sherman, Esquire
PA Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106

RE: Section 465a.13 Determination

Dear Attorney Sherman,

I am writing in relation to 50 Pa. Code. § 465a.13 and its current validity, given 18 Pa.C.S. §§ 6109(m.3) and 6111(i). In the alternative, I am requesting, pursuant to Section 465a.13, an exemption permitting me to possess a weapon in a licensed facility.

It appears that the Board implemented Section 465a.13 on October 10, 2008 with an effective date of October 11, 2008. Section 465a.13 provides:

(a) Individuals, including security department personnel, are prohibited from possessing any deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions), stun gun or other device designed to injure or incapacitate a person within a licensed facility without the express written approval of the Board.

(b) The prohibition in subsection (a) does not apply to:

(1) Pennsylvania State Police assigned to its Gaming Enforcement Office.

(2) An on-duty officer or agent of any local, State or Federal law enforcement agency when the officer or agent is acting in an official capacity.

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(c) To obtain approval for the possession of a deadly weapon, stun gun or other device designed to injure or incapacitate a person within a licensed facility, an individual shall be required to submit a written request to the Board which includes:

(1) An explanation of the compelling need for the possession of the deadly weapon, stun gun or device designed to injure or incapacitate a person within the licensed facility.

(2) If the request is for possession of a firearm as defined in 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), proof that the individual holds a valid license to possess the firearm.

(d) A slot machine licensee shall post in a conspicuous location at each entrance to the licensed facility signs that may be easily read stating the following: The possession of a deadly weapon, stun gun or other device designed to injure or incapacitate a person by any person within this licensed facility without the express written permission of the Pennsylvania Gaming Control Board is prohibited.

After the enactment of Section 465a.13, on June 28, 2011, the Pennsylvania Legislature passed P.L. 48, commonly referred to as HB 40 or our Stand Your Ground Doctrine. In passing HB 40, the Legislature added Section 6109(m.3) to the Crimes Code. 18 Pa.C.S. § 6109(m.3) provides:

Nothing in this section shall be construed to...(2) Authorize any Commonwealth agency to regulate the possession of firearms in any manner inconsistent with the provisions of this title.

As I am sure you are aware, pursuant to Pennsylvania's Uniform Firearms Act (UFA), 18 Pa.C.S. § 6101, et seq., there is nothing that prohibits the concealed carrying of a firearm in a casino or "licensed facility," provided the individual has a valid license to carry firearms, issued pursuant to 18 Pa.C.S. § 6109. Furthermore, except with regards to the City of Philadelphia (see 18 Pa.C.S. § 6108), there is nothing in the UFA that prohibits the open carrying of firearms in a casino or licensed facility, even absent a valid license to carry firearms. See, Commonwealth v. Hawkins, 547 Pa. 652, 657 fn 4 (1997)(holding that "In all parts of Pennsylvania, persons who are licensed may carry concealed firearms. 18 Pa.C.S. § 6108. Except in Philadelphia, firearms may be carried openly without a license. See Ortiz v. Commonwealth, 545 Pa. 279, 283, 681 A.2d 152, 155 (1996) (only in Philadelphia must a person obtain a license for carrying a firearm whether it is unconcealed or concealed; in other parts of the Commonwealth, unconcealed firearms do not require a license)).

Accordingly, Section 465a.13 is in direct violation with 18 Pa.C.S. § 6109(m.3), as it is

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undisputed that the Pennsylvania Gaming Control Board is an agency of the Commonwealth, which is regulating the possession of firearms inconsistently with the provisions of the Uniform Firearms Act.

Furthermore, pursuant to Section 6111(i), all license to carry firearms applicant information is confidential and not subject to required disclosure. 18 Pa.C.S. § 6111(i) provides in pertinent part:

All information provided by the ... applicant, including, but not limited to, the ... applicant's name or identity, furnished by ... any applicant for a license to carry a firearm as provided by section 6109 shall be confidential and not subject to public disclosure. In addition to any other sanction or penalty imposed by this chapter, any person, licensed dealer, State or local governmental agency or department that violates this subsection shall be liable in civil damages in the amount of \$1,000 per occurrence or three times the actual damages incurred as a result of the violation, whichever is greater, as well as reasonable attorney fees."

Clearly, Section 465a.13(c)(2)'s requirement that an individual provide proof of a valid license to carry firearms is in violation of Section 6111(i). Moreover, Section 465a.13's required disclosure is also a violation of Section 6109(m.3), as the Pennsylvania Gaming Control Board is regulating the possession of firearms directly contrary to the UFA, specifically, Section 6111(i). I note in passing that a violation of Section 6109(m.3) and 6111(i), in addition to the civil penalties, is also a misdemeanor of the first degree, pursuant to 18 Pa.C.S. § 6119.

Therefore, I am respectfully requesting a determination that Section 465a.13 is unlawful and will be rescinded immediately.

In the alternative, in the event you determine that Section 465a.13 is not unlawful pursuant to Sections 6109(m.3) and 6111(i), without waiving any right to appeal your determination to the court of common pleas or filing suit pursuant to Section 6111(i), I am respectfully requesting exemption pursuant to Section 465a.13(c) to be in the possession of any form of weapon prohibited by Section 465a.13. In support thereof, I aver as follows:

1. I am an attorney in good standing and admitted to the following courts: Pennsylvania Supreme Court, U.S. Supreme Court, Third Circuit Court of Appeal, Eastern District of Pennsylvania, Middle District of Pennsylvania, Western District of Pennsylvania and District of Colorado.
2. I am Chief Counsel of the Firearms Industry Consulting Group, a division of Prince Law Offices, P.C.
3. I actively represent individuals and Federal Firearms Licensees (FFLs) throughout Pennsylvania in relation to state firearms law issues and represent FFLs across the United

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States in relation to federal firearms matters.

4. In enacting HB 40, the General Assembly found:
 - a. "It is proper for law-abiding people to protect themselves, their families and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others."
 - b. "Section 21 of Article I of the Constitution of Pennsylvania guarantees that the 'right of the citizens to bear arms in defense of themselves and the State shall not be questioned'."
 - c. "No person should be required to surrender his or her personal safety to a criminal, nor should a person be required to needlessly retreat in the face of intrusion or attack outside the person's home or vehicle."
5. There exists an inalienable right to defend one's self. See, The Inalienable Right to Stand Your Ground, by Joshua Prince, Esq. and Allen Thompson, Esq., to be published in the Fall 2014 St. Thomas Criminal Law Review, currently *available at* <http://princelaw.files.wordpress.com/2014/03/the-inalienable-right-to-stand-your-ground-v6.pdf>.
6. One only needs to perform a quick Google search to find numerous occasions, even limited to Pennsylvania, of law abiding individuals being assaulted and robbed at casinos. See e.g. <http://www.wtae.com/news/local/allegHENY/police-probe-robberies-involving-rivers-casino-patrons/23854214>, http://www.mainlinemedianews.com/articles/2014/03/19/king_of_prussia_courier/news/doc53286819ba73f808095867.txt, <http://bensalem.patch.com/groups/police-and-fire/p/video-police-search-for-suspects-in-multiple-robberie8d787203d4>, http://articles.philly.com/2011-04-14/news/29417842_1_levittown-man-parx-casino-bensalem-police.
7. I have occasion to meet with clients at casino locations throughout the Commonwealth, especially when there are local gun shows that bring FFLs from distant locations in the Commonwealth. Such an example is the Eagle Arms Production, Oaks Gun Show in Phoenixville, Pennsylvania, where many of the FFLs stay at Valley Forge Casino Resort and desire for us to meet there.

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8. My compelling reason is that I am a law-abiding resident of the Commonwealth, who does not desire to be a victim of crime, which is established to occur throughout the Commonwealth including at casino or "licensed facility" locations, and based upon the General Assembly's determination that I have the lawful right to use force to protect myself, my family and other non-related individuals.
8. I am licensed pursuant to 18 Pa.C.S. § 6109.

Therefore, in the alternative, I am respectfully requesting exemption from Section 465a.13's preclusion of weapons in licensed facilities.

If you have any questions, please do not hesitate to contact me. Until such time, I remain

Yours truly,
Prince Law Offices, P.C.,

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That Try Men's Souls