

CRIMINAL LAW:

WEAPONS, CONCEALED:

Any person, except a manufacturer or wholesaler of weapons to or from a wholesale or retail dealer therein, capable of being concealed upon the person, shall, before selling, lending, or delivering such weapon to another, first receive from such person a permit issued by the Circuit Clerk of the County in which such person resides authorizing such person to receive such weapon.

November 30, 1950

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Honorable Lane Harlan
Prosecuting Attorney
Cooper County,
Boonville, Missouri



Dear Sir:

Your recent request for an official opinion has been assigned to me. You thus state your request:

"Re: Section 4826, R. S. Mo., 1939

"Recently I have received inquiries regarding the interpretation of the above section. From my examination of the annotated statutes I note that there has never been an appellate case interpreting this section.

"In Cooper County, some of the retail dealers abide by this section, while others have on occasion sold firearms without requesting the permit. This, of course, places the dealer who is complying with the law at a distinct disadvantage.

"I would appreciate an opinion from your office regarding an interpretation of this section and also, whether or not there is any federal law which would in any way abrogate the enforcement of this section."

Section 4826, Revised Statutes of Missouri, 1939, states:

"No person, other than a manufacturer or wholesaler thereof to or from a wholesale or retail dealer therein,

for the purposes of commerce, shall directly or indirectly buy, sell, borrow, loan, give away, trade, barter, deliver or receive, in this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, unless the buyer, borrower or person receiving such weapon shall first obtain and deliver to, and the same be demanded and received by, the seller, loaner, or person delivering such weapon, within thirty days after the issuance thereof, a permit authorizing such person to acquire such weapon. Such permit shall be issued by the circuit clerk of the county in which the applicant for a permit resides in this state, if the sheriff be satisfied that the person applying for the same is of good moral character and of lawful age, and that the granting of the same will not endanger the public safety. The permit shall recite the date of the issuance thereof and that the same is invalid after thirty days after the said date, the name and address of the person to whom granted and of the person from whom such weapon is to be acquired, the nature of the transaction, and a full description of such weapon, and shall be countersigned by the person to whom granted in the presence of the circuit clerk. The circuit clerk shall receive therefor a fee of fifty cents. If the permit be used, the person receiving the same shall return it to the circuit clerk within thirty days after its expiration, with a notation thereon showing the date and manner of the disposition of such weapon. The circuit clerk shall keep a record of all application for such permits and his action thereon, and shall preserve all returned permits. No person shall in any manner transfer, alter or change any such permit or make

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a false notation thereon or obtain the same upon any false representation to the circuit clerk granting the same, or use or attempt to use a permit granted to another."

A careful examination of Section 4826, Revised Statutes of Missouri, 1939, indicates that the requirements of the above section are plain and clear. The requirement is that no person, other than a manufacturer or wholesaler of weapons capable of concealment upon the person to or from a wholesale or retail dealer therein, shall sell, loan or deliver such a weapon without first obtaining, within thirty days after the issuance thereof, a permit issued by the circuit clerk of the county in which the applicant for a permit resides, authorizing such person to acquire such weapon. The section makes no exception to this rule except the exceptions stated by us.

A thorough search by us fails to reveal any Federal law which would in any way abrogate the enforcement of this section.

CONCLUSION

Any person, except a manufacturer or wholesaler of weapons to or from a wholesale or retail dealer therein, capable of being concealed upon the person, shall, before selling, lending, or delivering such weapon to another, first receive from such person a permit issued by the circuit clerk of the county in which such persons resides authorizing such person to receive such weapon.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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