



Sheriffs' Association of the Commonwealth of Pennsylvania

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1. Introduction, welcome and thanks

Chairman Kauffman, Chairman Briggs, Chairwoman Rapp, Chairman Frankel and committee members, I am Sheriff Tim Chamberlain. I have been a member of the law enforcement community for 30 years and am proud to have served as the Sheriff of Columbia county for the past 15 years. I am also the 1st Vice-President of the Pennsylvania Sheriffs' Association. I very much appreciate the invitation from these committees to present written and in person remarks relating to the effect of the potential legalization of recreational marijuana on the issuing of License to Carry (LTC) permits within the Commonwealth.

2. History of Sheriffs and permits.

As I am sure you are all aware that the respective Sheriffs Offices within the Commonwealth have been charged with the issuance of LTC permits. (In Philadelphia County, these are issued by the Philadelphia Police Department). Sheriffs work professionally and closely with various related groups within the Pennsylvania State Police (PSP) on a daily basis in order to assure that only those who fully meet the guidelines outlined in the LTC regulations are in fact issued a permit.

3. Current related law/regulations.

Below please find the pertinent and current state and federal statutes relating to the issues under discussion.

PA State Law

18 Pa.C.S. 6105 Persons not to possess, use, manufacture, control, sell or transfer firearms.

(c) Other persons.--In addition to any person who has been convicted of any offense listed under subsection (b), the following persons shall be subject to the prohibition of subsection (a):

(2) A person who has been convicted of an offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or any equivalent Federal statute or equivalent statute of any other state, that may be punishable by a term of imprisonment exceeding two years.

U.S. Federal Law

18 U.S. Code 922 Unlawful Acts

(g) It shall be unlawful for any [person](#)—

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the [Controlled Substances Act \(21 U.S.C. 802\)](#));

4. Current procedures.

The below information is from the PSP public website and provides their current policy relating to the holding of a Medical Marijuana Card and the obtaining of a PA LTC permit.

- It is legal under Pennsylvania law for the holder of a validly issued patient Medical Marijuana Card to possess approved forms of medical marijuana. However, as per the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE), the possession of medical marijuana remains a violation of federal law, and possession of a valid Medical Marijuana Card and/or the use of medical marijuana makes you an “unlawful user of or addicted to any controlled substance” who is prohibited by federal law from the purchase or acquisition, possession, or control of a firearm pursuant to 18 U.S.C. § 922(g)(3), and 27 C.F.R. § 478.32(a)(3).
- The BATFE’s position is set forth in its September 21, 2011, Open Letter to all Federal Firearms Licensees, which states in part that “[t]herefore, any person who uses or is addicted to marijuana, regardless of whether his or her State has passed legislation authorizing marijuana use for medicinal purposes, is an unlawful user of or addicted to a controlled substance, and is prohibited by Federal law from possessing firearms or ammunition.” Likewise, the mere possession of a Medical Marijuana Card will give rise to an inference that you are an “unlawful user of or addicted to” a controlled substance, pursuant to 27 C.F.R. § 478.11.
- Therefore, it is also unlawful for you to apply for, possess or renew a Pennsylvania License to Carry Firearm (LTC), because you are “[a]n individual who is prohibited from possessing or acquiring a firearm under the statutes of the United States.” (Pennsylvania Consolidated Statutes Chapter 18, Section 6109(e)(1)(xiv).

5. Possible effect of legalization on current LTC laws.

The overall effect of legalization on the issuing of LTC permits will be profoundly affected by current and future federal marijuana law. The actual PA law that would include legalization would hopefully include language that would provide guidance relating to this potential conflict.

About PSA - The Pennsylvania Sheriffs’ Association (PSA) represents the 67 county Sheriffs in the Commonwealth of Pennsylvania, with the support of the almost 2,300 Deputies and a general membership of more than 16,000. The PSA is a non-profit organization as defined under 501(c)(6). The PSA is dedicated to promoting a better knowledge of the rights and duties of Sheriffs, promoting cooperation and efficiency for all Sheriffs, along with raising the level of professionalism among sheriffs and their deputies.

Since 1923, the PSA has served as an information clearinghouse for the Office of Sheriff.