

IF YOU'RE STOPPED

- Be polite. Be respectful. **Never** lie to a law enforcement officer.
- Ask if you're being detained. If not, ask if you're free to leave.
- If you are detained, the officer has the right to disarm you during the course of the investigation (Del. §1903).
- If, after a maximum of two hours, the investigation does not result in your arrest, the officer must return your firearm and release you (Del. §1902 & §1903).
- It may be wise for you to invoke your Fifth Amendment right to remain silent and inform the officer that, absent your attorney, you do not wish to answer his questions.
- If you're not sure if a search or seizure is lawful, inform the officer that you will not resist, but you do not consent to any search.
- Keep the name and number of a Delaware firearms attorney with you in the event that you are detained or arrested.

When carrying, remember...

- Use common sense and always be aware of your surroundings.
- Be polite and courteous to others. Attempt to answer questions or concerns they might express.



YOUR DELAWARE FIREARMS RIGHTS

THIS PAMPHLET WAS DESIGNED TO GIVE CITIZENS THE INFORMATION THEY NEED TO CARRY A FIREARM OPENLY OR CONCEALED IN THE STATE OF DELAWARE.

DUE TO THE LIMITED SPACE THIS FORMAT OFFERS, THE CONTENT HAS BEEN CONDENSED.

FOR DETAILED INFORMATION, DISCUSSION AND QUESTIONS, PLEASE VISIT THE DELAWARE OPEN CARRY WEBSITE AT [HTTP://WWW.DELOC.ORG/](http://www.deloc.org/)

CAUTION: Firearm laws are subject to change and court interpretation. This summary is not intended as legal advice nor restatement of law. This summary does not include federal laws, nor a comprehensive listing of local laws, ordinances or regulations. For any particular situation, a licensed location attorney must be consulted for an accurate interpretation. **YOU MUST ABIDE WITH ALL LAWS: STATE, FEDERAL AND LOCAL.**

Delaware Open Carry is not, in any way, affiliated with the National Rifle Association nor the State of Delaware, nor are we acting under the endorsement thereof.

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CARRYING OPENLY AND
CONCEALED IN THE FIRST
STATE

DELAWARE FIREARMS LAWS



AND YOUR RIGHTS!

"Under current Delaware law, virtually anyone, excepting felons, may strap on a holster and carry a gun in plain view."

~Charles M. Oberly, III, Former Delaware
Attorney General

Delaware Open Carry: <http://deloc.org/>
NRA Legislative Action: <http://www.nraila.org/>

DELAWARE FIREARMS LAWS AS OF APRIL 2008

STATE CONSTITUTIONAL PROVISION

“A person has the right to keep and bear arms for the defense of self, family, home and state, and for hunting and recreation use.” (Del. Con. Article I, §20.)

CARRYING

It is unlawful for any person, except law enforcement, to **conceal** any loaded or unloaded firearm on or about his person without a license. Delaware residents would require a Delaware CCDW (Carry Concealed Deadly Weapon) License and non-residents would require a license from a state with which Delaware holds a reciprocity agreement.

Handguns may be carried in an open view without a license (see Possession): in a holster on their person, or in an area in plain view while travelling in a vehicle, such as the dashboard or on the passenger seat.

Handguns may also be stored in an inaccessible area of a vehicle, such as a trunk. Rifles and shotguns **must** be unloaded while being carried in or on any vehicle, farm machinery, or motorboat or sailboat while under power.

As always, owners or agents of owners of any property or business have the right to demand you leave their property. If you do not comply you are guilty of **Criminal Trespass** (Del. §821).

There is no “brandishing” law in Delaware. However, anyone who shows or indicates that they have a firearm with the intent to intimidate or harm another person will be charged with various forms of assault, including Terroristic Threatening (Del. §621) or Menacing (Del. §602).

Open carry of a firearm, absent threatening behavior or verbal threat, is not assault. An anonymous tip without corroboration of criminal behavior is not justification for a stop and frisk (Florida v. J.L., 529 U.S. 266 (2000)). Detainment without reasonable articulable suspicion of criminal activity is illegal (Terry v. Ohio, 392 U.S. 1 (1968)).

POSSESSION

There is no state licensing requirement for the possession of a rifle, shotgun or handgun. The following persons are prohibited from purchasing or possessing any firearm:

- Convicted felons.
- Those convicted of a crime of violence involving bodily injury to another, including misdemeanors, but the prohibition shall not apply after five years from the date of conviction of misdemeanors.
- Those convicted of an offense involving a narcotic, dangerous drug or controlled substance.
- Those who have ever been committed to a mental institution, sanitarium or hospital for mental disorder and do not possess a certificate of rehabilitation.
- Children under the age of 16, unless under the direct supervision of an adult.
- A person adjudicated as delinquent for conduct which, if committed by an adult, would constitute a felony, unless and until that person has reached age 25.
- The subject of a protection from abuse order.

It is a felony to give a firearm to a person prohibited from possessing a firearm or purchase a firearm on behalf of a person prohibited from possessing a firearm.

PROHIBITED PLACES

It is illegal to carry in the following locations:

- Courthouses, police stations, prisons and other ‘detention facilities’ (Del. Code §1256 & §1258).
- State/National Forest (Del. Regulation 3.400.8.0).
- Wildlife Management Areas (Del. Regulation 8.4.3.1).
- State Parks (Del. Regulation 24.3, enforced by §4704(4)).
- New Castle County Parks (NCC 24.01.014). This ordinance is illegal and not prosecutable¹. Carry at your risk.
- City of Newark Parks (Newark Sec. 2-71(j)). This ordinance is illegal and not prosecutable¹. Carry at your own risk.
- The City of Dover requires a CCDW or license with Delaware reciprocity to carry openly or concealed (Dover 14-5).
- Delaware’s slot casinos may have a regulation barring possession; however, a cite has not been found.

1: These ordinances violate Del. Code §111 and §330 which bans the regulating of firearms possession and allows only for the regulation of their discharge.