

Home Firearm FOID

Scenario

- Person has a firearm in own house.
- Person does not have a FOID.
- Person has an Illinois identification card, and a resident of Illinois with a Chicago residential address. Name check is clear.
- Firearm was purchased out of state and has purchasing documentation.
- Person moved to Chicago and has not left the house with the firearm.

Question

- Do they need a FOID to possess a firearm in the house?

Comments

- Though the Second Amendment gives us the right to bear arms, but consider the Home Rule (see Home Rule).
 - Constitution of the State of Illinois, Article VII, Section 6 Powers of Home Rule Units
 - A County which has a chief executive officer elected by the electors of the county and any municipality which has a population of more than 25,000 are home rule units. Other municipalities may elect by referendum to become home rule units. Except as limited by this Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt.
- 430 ILCS 65 Firearm Owners Identification Card Act
 - 430 ILCS 65/2 Firearm Owner's Identification Card required; exceptions
 - (a)(1) No person may acquire or possess any firearm, stun gun, or taser within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name by the Illinois State Police under the provisions of this Act.
 - (d) Any person who becomes a resident of this State, who is not otherwise prohibited from obtaining, possessing, or using a firearm or firearm ammunition, shall not be required to have a Firearm Owner's Identification Card to possess firearms or firearms ammunition until 60 calendar days after he or she obtains an Illinois driver's license or Illinois Identification Card.
- Applicable case, but has not become case law yet, vacated and remanded.
 - People v. Brown 2020 IL, Docket: 124100
 - Illinois FOID licensing law for firearms possession cannot be applied to peaceable possession of a lawful gun on one's own property by a person who is not prohibited from owning guns.
 - People v. Vivian Claudine Brown 2022 IL, Docket: 127201
 - The government cannot criminalize the simple keeping of an ordinary long gun in the home by a person who is not prohibited from possessing firearms.
- Possible Arrest Charges
 - UUW - Possess Firearm Without Valid FOID Card / Eligibility
 - 430 ILCS 65.0/2-A-1 Misdemeanor

- in that he/she knowingly possessed/acquired a firearm, (describe), without having in his/her possession a firearm owner's identification card previously issued in his/her name by the Department of State Police under the provisions of the firearms and ammunition act.
- Possible solution without arrest: Seize and inventory firearm for safekeeping
 - Weapon return criteria will require the owner to obtain a FOID before the firearm is returned.
 - Case Report: Unlawful Possession of Handgun without an FOID card Possession Firearm/Ammo - No FOID Card
 - IUCR 1460
 - Inventory, hold for investigation

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