

C.R.S. 18-12-105

Copy Citation

Statutes current through Chapter 220 of the 2021 Regular Session and effective as of June 10, 2021. The inclusion of the 2021 legislation is not final. It will be final later in 2021 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

- [Colorado Revised Statutes Annotated](#)
- [Title 18. Criminal Code \(Arts. 1 — 26\)](#)
- [Article 12. Offenses Relating to Firearms and Weapons \(Pts. 1 — 5\)](#)
- [Part 1. Firearms and Weapons - General \(§§ 18-12-101 — 18-12-114\)](#)

18-12-105. Unlawfully carrying a concealed weapon - unlawful possession of weapons

(1) A person commits a class 2 misdemeanor if such person knowingly and unlawfully:

(a) Carries a knife concealed on or about his or her person; or

(b) Carries a firearm concealed on or about his or her person; or

(c) Without legal authority, carries, brings, or has in such person's possession a firearm or any explosive, incendiary, or other dangerous device on the property of or within any building in which the chambers, galleries, or offices of the general assembly, or either house thereof, are located, or in which a legislative hearing or meeting is being or is to be conducted, or in which the official office of any member, officer, or employee of the general assembly is located.

(d) (Deleted by amendment, L. 93, p. 964, § 1, effective July 1, 1993.)

(2) It shall not be an offense if the defendant was:

(a) A person in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying; or

(b) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of such person's or another's person or property while traveling; or

(c) A person who, at the time of carrying a concealed weapon, held a valid written permit to carry a concealed weapon issued pursuant to section 18-12-105.1, as it existed prior to its repeal, or, if the weapon involved was a handgun, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to part 2 of this article; except that it shall be an offense under this section if the person was carrying a concealed handgun in violation of the provisions of section 18-12-214; or

(d) A peace officer, as described in section 16-2.5-101, C.R.S., when carrying a weapon in conformance with the policy of the employing agency as provided in section 16-2.5-101 (2), C.R.S.; or

(e) (Deleted by amendment, L. 2003, p. 1624, § 46, effective August 6, 2003.)

(f) A United States probation officer or a United States pretrial services officer while on duty and serving in the state of Colorado under the authority of rules and regulations promulgated by the judicial conference of the United States.

History

Source: L. 71: R&RE, p. 482, § 1. **C.R.S. 1963:** § 40-12-105. **L. 73:** P. 683, § 3. **L. 77:** (2)(c) amended and (2)(d) added, p. 976, § 8, effective July 1. **L. 81:** (2)(c) amended, p. 1437, § 3, effective June 8. **L. 86:** (2)(d) amended and (2)(e) added, p. 774, § 2, effective July 1. **L. 89:** (1)(d) added, p. 911, § 1, effective April 15. **L. 93:** Entire section amended, p. 964, § 1, effective July 1. **L. 94:** (2)(e) amended and (2)(f) added, p. 647, § 1, effective July 1. **L. 2000:** IP(2) amended, p. 1009, § 1, effective August 2. **L. 2003:** (2)(c) amended, p. 648, § 3, effective May 17; (2)(d) and (2)(e) amended, p. 1624, § 46,

effective August 6.

▼ Annotations

State Notes

ANNOTATION

Recognition of § 13 of art. II, Colo. Const.Section 13 of art. II, Colo. Const., has limiting language dealing with defense of home, person, and property. These limitations have been recognized by the general assembly in the enactment of this section, which restricts the right to bear arms in certain circumstances, while permitting in other circumstances the carrying of a concealed weapon in defense of home, person, and property, and also when specifically authorized by written permit. *People v. Blue*, 190 Colo. 95, 544 P.2d 385.

Statute is not unconstitutionally vague regarding knives.Because a person must carry a knife unlawfully for the statute to apply, it does not invite arbitrary or discriminatory enforcement. *People in Interest of L.C.*, 2017 COA 82, — P.3d —.

The words “about the person”means sufficiently close to the person to be readily accessible for immediate use. *People in Interest of R.J.A.*, 38 Colo. App. 346, 556 P.2d 491 (1976).

“Concealed” means placed out of sight so as not to be discernible or apparent by ordinary observation.*People ex rel. O.R.*, 220 P.3d 949 (Colo. App. 2008).

The scope of subsection (2)(b) is clarified in § 18-12-105.6, which indicates the general assembly’s intent that local ordinances on carrying weapons in private vehicles be preempted only insofar as they conflict with the provisions of § 18-12-105.6.*Trinen v. City & County of Denver*, 53 P.3d 754 (Colo. App. 2002).

The local ordinance concerning carrying a weapon in a private vehicle is not preempted since it can be harmonized with subsection (2)(b).*Trinen v. City & County of Denver*, 53 P.3d 754 (Colo. App. 2002).

Pistol tucked under edge of car seat.Where uncontested evidence established that pistol was tucked under the edge of a car seat on which petitioner was sitting, where it was within his easy reach, these circumstances constitute carrying a “firearm concealed on or about his person”. *People in Interest of R.J.A.*, 38 Colo. App. 346, 556 P.2d 491 (1976).

Question of whether weapon is concealed is question of fact for the jurywhich should not be summarily determined by the trial judge at the time that he rules on the defendant’s motion to suppress. *People v. Vincent*, 628 P.2d 107 (Colo. 1981).

Former subsection (2)(c) did not confer power to issue permits for carrying concealed weaponsto police chiefs and sheriffs. *Douglass v. Kelton*, 199 Colo. 446, 610 P.2d 1067 (1980).

Person receiving permit to carry concealed weapon cannot be convicted.Once a person receives a permit to carry a concealed weapon in a county or city, he may not be convicted under subsection (2)(c). *Douglass v. Kelton*, 199 Colo. 446, 610 P.2d 1067 (1980).

Statute as basis for jurisdiction.See *People v. Pickett*, 194 Colo. 178, 571 P.2d 1078 (1977).

Defendant could not be convicted of carrying a concealed weapon without the prosecution proving that defendant intended to use this short-bladed knife as a weapon. While the characteristics of an instrument may be an important factor in determining the intended purpose of an instrument, the language of the concealed weapons statute and established precedent establishes that a knife's design does not, by itself, prove that the person carrying it intended to use it as a weapon. *A.P.E. v. People*, 20 P.3d 1179 (Colo. 2001).

Applied in

People v. Velasquez, 641 P.2d 943 (Colo. 1982); *People v. Deschamp*, 662 P.2d 171 (Colo. 1983).

Research References & Practice Aids

Cross references:

For affirmative defenses generally, see §§ 18-1-407, 18-1-710, and 18-1-805.