

DEPARTMENT OF ARKANSAS STATE POLICE
PROPOSED ARKANSAS CONCEALED HANDGUN CARRY LICENSE RULES 2017
PUBLIC COMMENT REPORT

This report contains a summary of all written and oral data, views, and arguments received by the Department of Arkansas State Police regarding the proposed Arkansas Concealed Handgun Carry (“CHCL”) License Rules 2017 during the 30-day public comment period, from October 11, 2017 to November 10, 2017.

1. Name of Commenter: Jim McKnight

Comment: Once enhanced licenses become available, will new CHCL applicants be notified of the changes? Will the enhanced CHCL completely revise the entire Arkansas CHCL program? If so, all current CHCL holders will need to attend classes to upgrade the license, which will really increase the number of applicants.

Response:

- Instructions related to the application process will continue to be posted on the ASP website. Also, new CHCL applicants should receive much of the information related to changes in the law and Rules from their CHCL instructor.
- No. The enhanced CHCL is merely an endorsement to the basic CHCL. It is not required.

2. Name of Commenter: Dan Hall

Comment: The live-fire requirements for the enhanced license look like the standard annual live-fire course required for active law enforcement officers. Retired law enforcement officers who wish to carry concealed must also have a current firearms certification. Would that certification satisfy the live-fire portion of an instructor’s training requirement?

Response: There is not a live-fire training requirement to become certified as an instructor to teach enhanced training. If an instructor is applying for an enhanced CHCL, the instructor may substitute his or her current, valid enhanced training instructor registration for the training requirement. See revised Rule 13.3(e).

3. Name of Commenter: Phil McCraw

Comment: There should be exceptions to the live-fire proficiency requirement contained in Rule 13.3(d) for applicants who have extensive defensive handgun training. If such an exception is allowed, applicants who qualify should receive enhanced training at a reduced price when the range is not required.

Response:

- There will be no exceptions to the live-fire proficiency requirement in Rule 13.3(d), except for instructors as provided in Rule 13.3(e). The live-fire proficiency requirement is not designed to train the applicant in defensive handgun use. Instead, the qualification requirement is designed for the applicant to demonstrate to the Department’s satisfaction that he or she is proficient with a handgun at the time the application for enhanced license is submitted.
- Because there will not be any exceptions to the requirement and because ASP does not set the cost of the enhanced training, ASP will not implement reduced prices for training.

4. Name of Commenter: Brian Luetschwager

Comment: Is the enhanced class going to be a separate course, or will the enhanced class become the new standard taught at all CHCL classes? The Rules draft makes it sound like it will be the new standard taught by all CHCL instructors in the future. When will registration become available for current instructors to teach the new class?

Response:

- The enhanced class is a separate course from the basic CHCL class. The standard training is described in proposed Rule 13.0, whereas the enhanced training course is detailed in Proposed Rule 13.3.
- ASP cannot certify any instructors to teach enhanced training until the proposed rules have been approved – anticipated January 2018.

5. Name of Commenter: Kevin McCloud

Comment: Instructors have limited access to ranges. If instructors are required to train applicants on the live-fire proficiency requirement, they should have access to proper facilities. This will be very expensive for the instructors and students. ASP should offer free training to the instructors because the instructors license the students and create revenue for ASP. Will instructors be allowed to re-test if they do not pass the exam the first time?

Response:

- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. Any current instructor should have access to a facility at which live-fire can take place. Specialized facilities are not necessary to conduct the proposed live-fire proficiency requirement contained in Rule 13.3(d).
- ASP is not offering any training for applicants or instructors, whether free or at a cost. Instructors receive the registration from ASP to teach CHCL applicants at no cost and are compensated by their students for the cost of teaching.
- Yes. Instructors will be given subsequent opportunities to take the exam to become certified to teach enhanced training if they do not pass on the first try.

6. Name of Commenter: Larry Combs

Comment: Failure of a certified instructor to take and pass the enhanced course exam within the first 90 days of 2018 will cause the instructor to lose his or her current certification; or if they fail the exam, they will lose their certification?

Response: Instructors must take and pass the enhanced training exam within 3 months of implementation (i.e. when the Department is able to begin giving the exam). An instructor registration will be revoked if the instructor cannot pass or refuses to take the exam within that time period.

7. Name of Commenter: Sammy Cullum

Comment: Regarding Rule 13.1(b), if an instructor is allowed to substitute his or her training instructor registration for the renewal training requirement, he or she should be permitted to provide his or her own training certification for renewal. Rule 13.3(d) does not specify the target size(s) and scoring ring dimensions to be used at the required distances. These should be specified so that all instructors are using the same requirements. Regarding Rule 14.3(a), it is impractical to require enhanced training to be taught at all CHCL courses. Instructors need to be

free to teach “basic” CHCL apart from “enhanced” CHCL classes. Rule 14.3(a) should be amended to require the enhanced training test only for instructors who desire to teach enhanced training. In light of the fact that CHCL instructors are not even required to hold a CHCL, it seems unduly restrictive to require every CHCL instructor to complete training for an enhanced CHCL. The 3-month time frame is too short. CHCL instructors are CHCL salesmen and eliminating instructors who cannot or will not teach the enhanced training will reduce the CHCL sales force. This will reduce revenue and make it harder for people seeking a basic CHCL to find a nearby instructor.

Response:

- Rule 13.1(b) has been re-written, but the impact remains the same. An instructor still may not certify that he taught himself renewal training, as he would be required to do for a typical CHCL applicant. However, instructors may still substitute a valid, current firearms safety training instructor registration for the renewal training requirement.
- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.
- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP interprets this provision to mean that every instructor/business that offers basic CHCL classes must also offer an enhanced CHCL class, but instructors are not required to obtain an enhanced CHCL or teach an enhanced CHCL class every time they teach the basic CHCL class. Revised Rule 14.3(a) attempts to clarify this provision in the law, which proved confusing to many instructors.
- The Department will ensure that each instructor has ample opportunity to prepare for and successfully pass the certification exam required to teach enhanced CHCL classes. Retakes will be permitted. However, it is imperative that each instructor has adequate knowledge of the current laws and rules pertaining to carrying of firearms in the state of Arkansas before he or she is permitted to teach applicants for an enhanced CHCL.

8. Name of Commenter: Justin Goggans

Comment: There is too much overlap in what is currently covered in the standard CHCL permit class and the enhanced as far as training and prohibited places. The document should be reorganized to more clearly differentiate between the two and provide more details about training. It is not clear whether the CHCL class is separate from the Enhancement class, and whether an applicant has to take them separately. The description of prohibited places for the enhanced permit should only list the differences from the standard CHCL. The prohibited places sections are too similar and too difficult to differentiate. Provide clarification about the training required for renewing a CHCL, especially for licensees renewing an enhanced permit and whether they will be required to shoot the qualification course each time they renew.

Response:

- There are numerous locations where both basic CHCL holders and enhanced CHCL holders are prohibited from carrying a firearm, and therefore, overlap between the prohibited places for each is a necessary result.
- The basic CHCL class is separate from the enhanced CHCL class. Revised Rules 13.3(b) and 14.3(a) attempt to clarify this issue, which proved confusing to many commenters. ASP will clarify any such confusion in the final version of the Rules.

- Renewal training is established by the Department and provided to the instructors. Revised Rule 13.1 includes a description of renewal training. Enhanced training is not required to be renewed per A.C.A. § 5-73-322(g)(2)(A)(i), however, all license holders will still be required to undergo basic CHCL renewal training every five (5) years to renew the CHCL.

9. Name of Commenter: George Brooks

Comment: The suggestion that extra training for “active shooter” would deter a mass shooting such as the recent incident in Las Vegas is ridiculous. There needs to be more training in marksmanship, currently. The proposed training requirements for marksmanship are fine if they are followed. People should not be permitted to mix guns and alcohol. The primary reason against the enhanced permit is campus carry. Allow police and campus officials to handle this. The legislation was passed without any help or advice from ASP. ASP should have been involved in the enhanced permit legislation. We do not need more guns in schools, bars, or concerts in Arkansas.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

10. Name of Commenter: David Hardacker

Comment: As a retired law enforcement officer with a federal authorization to carry a concealed firearm, how will the changes in Arkansas law affect when and where I may carry my weapon in the state?

Response: The current rule-making process relates solely to the rules for CHCL holders. Retired law enforcement officers are exempt from the laws governing CHCL holders.

11. Name of Commenter: Jody Callahan

Comment: It appears that current instructors must pass a written exam or their registration will be revoked and they will no longer be able to train people for the basic CHCL. Also, current instructors will not be able to certify themselves for the enhanced training requirement. Where do instructors go to get training and who will be doing it? What happens if an instructor fails the test? When will the test be given and in what manner? Will there be any study materials? Is a basic CHCL holder still able to carry in a school parking lot as long as the firearm stays in a locked motor vehicle?

Response:

- Yes. Current instructors are required to pass a written exam on the enhanced training or their registration to teach CHCL classes will be revoked.
- Instructors may not certify that they taught themselves enhanced training. An instructor who wishes to obtain an enhanced license may substitute his enhanced training instructor registration for the enhanced training requirement. See revised Rule 13.3(e).
- Instructors will be given a reasonable opportunity to take the exam, including one or more re-tests. The registration will only be revoked if the instructor is unable to pass or refuses to take the test within 3 months.
- Testing locations/manner is TBD, but the information will be disseminated as soon as possible after the proposed Rules have been approved.

- There will be an example Syllabus for Enhanced Training available for instructors to study, but mostly instructors should rely on the laws referenced in the Rules and the Rules themselves.
- The rules revisions do not change the ability of a basic CHCL holder to carry in a school parking lot. This is covered in A.C.A. § 5-73-119(e)(12).

12. Name of Commenter: W. Brockfield

Comment: The enhanced license is a great idea for protection of self and others. The more places a licensee is allowed to carry, the greater the chance a licensee could stop a mass shooting. Gun free zones attract criminals who would harm innocent people. Law abiding citizens should not be restricted as to where they can carry. More gun restrictions enable a criminal to know more people will be defenseless. Additional training will allow a licensee to expand his or her willingness to serve the community and assist law enforcement in a bad situation. This is very helpful and a great opportunity.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

13. Name of Commenter: Mary Cantrell

Comment: When will a sample curriculum be made available to instructors? It appears that all training instructors are required to offer enhanced training and cannot teach without being an enhanced training instructor? Will January 1 be the soonest to register to take the exam?

Response:

- The sample curriculum will be available after the proposed Rules have been approved – anticipated January 2018.
- Yes – all instructors must offer enhanced training.
- Instructors may begin signing up for the exam as soon as the proposed Rules have been approved and exam dates have been scheduled.

14. Name of Commenter: Kevin Davis

Comment: Rule 13.3(d) should include the type of target used for qualification and guidance as to how to score the target.

Response: The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.

15. Name of Commenter: Jody Callahan

Comment: The enhanced training exam should be offered to instructors online or at multiple locations throughout the state to ensure equal access and reduce any burden on the instructors and ASP staff.

Response: ASP intends to offer the exam at multiple locations. Depending on how many instructors need re-takes, subsequent exams may only be offered at headquarters in Little Rock.

16. Name of Commenter: Wayne Evans

Comment: The wording in Rule 14.3(a) which states that “all instructors shall offer the new Enhanced training and at all training courses” is confusing. Only instructors who want to teach Enhanced training should be required to complete the exam and offer Enhanced training.

Response: The wording in this proposed Rule comes from A.C.A. § 5-73-322(g)(2)(A)(iii) which requires enhanced training to “be offered by all training instructors and at all concealed carry training courses.” Based on this provision of the law, ASP does not have the discretion to limit enhanced training to only those instructors who want to teach it.

17. Name of Commenter: George Brooks

Comment: Enhanced training could increase the costs of permits for ASP, instructors, and applicants. Please try to keep costs down for working families.

Response: ASP does not charge instructors for their instructor registration. There will be no cost to take the enhanced training exam, and no additional cost for a new applicant who wants to obtain an enhanced CHCL as his or her first CHCL. The only cost will be to a current CHCL holder who wants to upgrade to an enhanced CHCL. The licensee will have to pay \$15 for a replacement license to obtain a license that reflects the enhancement.

18. Name of Commenter: Michael Collett

Comment: There are several gaps in the enhanced concealed carry class. It does not set a standardized set of rules for passing and failing. The enhanced permit goes against the 2nd Amendment rights of Arkansas residents. It could affect Act 746 and Arkansas constitutional carry. Legislators are trying to create laws to fix something that is not broken. What exactly does the CHCL rule revision entail? Is the licensing fee going to be raised? If so, by how much?

Response:

- The commenter did not identify the “gaps” he was referring to. ASP relies on the instructor to determine whether the applicant sufficiently learned and understood the material to certify that he or she completed the training. There is a specific standard set for the live-fire proficiency requirement in proposed Rule 13.3(d).
- The complaints and concerns about Act 746, constitutional carry, and constitutional rights apply to the legislation, rather than the proposed Rules, and as such, no response is required.
- A link to the proposed Rules was provided to the commenter.
- There will be no additional cost for a new applicant who wants to obtain an enhanced CHCL as his or her first CHCL. The only cost will be to a current CHCL holder who wants to upgrade to an enhanced CHCL. The licensee will have to pay \$15 for a replacement license to obtain a license that reflects the enhancement.

19. Name of Commenter: Steven Slaughter

Comment: Can current instructors opt out of teaching enhanced training? I don’t have the facilities and my classes are small. If I don’t offer the enhanced training, can I continue to teach basic CHCL and renewal classes? Will there be a fee to upgrade to the enhanced CHCL?

Response:

- No. A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP interprets this provision to mean that every instructor/business that offers basic CHCL classes must offer an enhanced CHCL class, but instructors are not required to teach an enhanced CHCL class every time they teach the basic CHCL class.
- The licensee will have to pay \$15 for a replacement license to obtain a license that reflects the enhancement.

20. Name of Commenter: George Brooks

Comment: Who will train the instructors to teach the enhanced training? Many students are opposed to the Enhanced permit. The main problem is allowing guns in bars and ASP needs to try to stop it. Guns and alcohol do not mix.

Response:

- Instructors are not required to obtain an enhanced permit, unless they want to. To pass the exam, instructors need to study the topics in proposed Rule 14.3(a). Once the Rules have been approved, the Department will disseminate an example Syllabus for Enhanced Training to assist in preparation.
- These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

21. Name of Commenter: Brandon Grimes

Comment: Current instructors should not have to take a new test on the updated topics and law. Instructors are already required to know more than the students. Instructors are not provided any instruction on the required exams, and are only provided the study material. Instructors should be given the option as to whether they want to teach enhanced training. Some instructors may feel uncomfortable teaching it, and terminating their registration is unfair. If the State is not requiring current licensees to upgrade to the enhancement, so why are the instructors required to teach it? Current instructors should be given a concealed carry handgun license for free or at a reduced price because the instructors have done more than the students by taking the test and completing firearms instructor training.

Response:

- To become an instructor, applicants were required to complete a firearms instructor's course recognized by the Department and pass an examination to demonstrate their qualifications. Typically, the required courses are offered by national organizations, such as the NRA, or local or federal law enforcement agencies. Arkansas law relating to CHCL changed dramatically in the last session, and the CHCL Rules are undergoing a significant revision. It is imperative that current instructors get up to date on the current state of Arkansas law relating to carrying a firearm and the CHCL Rules. Before current instructors are certified to instruct enhanced training, the Department needs some assurance that instructors have kept abreast of changes in the law. Based on the comments and questions received throughout the public comment period, many of the instructors need to reacquaint themselves with the law and the Rules and get up to date.
- Instructors should have access to and keep up with the changes in the law as they occur. Updated versions of the CHCL chapter and these Rules are available on the ASP website. Instructors will also be provided with an example Syllabus for Enhanced Training once these Rules have been approved.
- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP does not have the discretion to allow some instructors not to teach enhanced training.
- The cost of a CHCL is statutorily mandated (A.C.A. § 5-73-311(a)(2)) and ASP does not have the authority or discretion to waive fees to certain individuals based on their status.

22. Name of Commenter: Ronald L. Everhart

Comment: If all instructors are required to provide enhanced training, then the state may lose half of its present instructors, or more. There are not enough benefits to the enhanced license to warrant the trouble and expense of getting it.

Response: A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP does not have the discretion to allow some instructors not to teach enhanced training.

23. Name of Commenter: C. Stafford

Comment: There should be a brief summary of what the enhanced license allows for. There are more prohibited places listed in Rule 7.2 than in Rule 7.3 for Enhanced licenses. That makes it difficult to understand at a glance without significant study. The average citizen may have difficulty reading and quickly grasping exactly what the enhanced license does for the holder. In Rule 1.7, ASP should exempt “Active and Retired Federal Law Enforcement Officers and Military Investigative Federal Law Enforcement Officers” from the live-fire requirement. There is no mention of retired law enforcement officers in the rules. They should not be excluded from the benefits of enhanced carry.

Response:

- ASP has revised Rule 7.3 to provide more detail about enhanced licenses.
- Rule 7.2 applies to a basic CHCL, so there will necessarily be more prohibited places in that section than in the section that applies to enhanced CHCL holders, who can carry in more places. The laws and Rules regarding prohibited places are complicated – with exceptions to exceptions. All instructors and licensees should devote significant time to understanding the precise prohibitions and corresponding exceptions. These Rules provide as detailed a summary as possible, while directing licensees to the corresponding statutes for full details.
- Active and retired law enforcement officers are exempt from the CHCL laws and Rules per A.C.A. § 5-73-304. Because these Rules do not apply to those individuals, there are no exemptions from the live-fire requirement and no mention of them in the Rules. If a law enforcement officer or retired law enforcement officer chooses to obtain an enhanced CHCL, he or she would be entitled to the same benefits as any other enhanced licensee.

24. Name of Commenter: Mike Cariker

Comment: Many instructors are upset because it appears that if they do not complete the enhanced training exam, they will not be able to teach the basic CHCL. What will be the process if instructors choose not to do the enhanced course? Is it a yearly renewal for instructors?

Response:

- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP interprets this provision to mean that every instructor/business that offers basic CHCL classes must also offer an enhanced CHCL class, but instructors are not required to obtain an enhanced CHCL or teach an enhanced CHCL class every time they teach the basic CHCL class. If an instructor refuses to offer enhanced carry, they are not compliant with the law, and ASP will have to revoke the registration.
- There is no renewal. Once an instructor passes the enhanced test, they will be certified to teach enhanced courses and may continue on with their registration.

25. Name of Commenter: Wade Cothran

Comment: Suggested revisions to the existing rules: Rule 3.1 requires a licensee to carry his or her license at all times while Rule 3.2 allows an electronic copy to be presented to the officer while carrying a firearm. The license doesn't have to be presented if not carrying at the time of the police encounter. 4.1(f) should require all applicants to go to the ASP website to complete an electronic application. The applicant should be required to download, read, and check a box that they read the CHCL rules prior to advancing to the application. Rule 4.1(h) should only have 2 choices – handguns and enhanced handguns. The unrestricted license is confusing. All CHCL should include instruction for semi-auto and revolvers. Sections (b) and (c) should be deleted from Rule 4.3 because the FBI records include all criminal violations that prohibit an applicant from receiving a CHCL. Rule 4.4(b) discriminates against elderly and diabetic applicants whose prints are sometimes more difficult to read. The person who is taking the prints could be at fault. The applicant should be able to submit an unlimited number of cards. Rule 4.6 – computer technology allows for background checks to be completed in a timely manner. FBI background checks are required for employees who work in SIDA areas of an airport. The airport trusted agent receives the results of the FBI background check within 24 hours at cost of \$30. 7 days is an adequate time to complete the background check and issue the license. The application cost should be reduced to \$50. Rule 7.1 – the license should be to carry a handgun only, eliminate the unrestricted/restricted provisions. Rule 7.2 needs to be concisely worded to state which public buildings are prohibited places and that private owners can post a no carry sign. Also state that firearms are allowed in a locked auto in the parking lot except in the following prohibited parking lot. Many of the prohibited places are duplicated due to “public owned or leased” building. This is one of the most important areas of the regulations and should be very simple to follow. Rule 7.2(h) – firearms should be allowed by licensees in the parking lot and adjacent buildings. Private property owners should not lose the right to carry due to the proximity of the ASP. The ASP must be protected but other methods can be utilized. Rule 7.3 is too similar to Rule 7.2 and does not appear to allow for additional locations to carry. This area is too wordy and can be greatly enhanced by concise wording. The section should describe the additional benefit of the enhanced carry. Rule 7.5 should allow a licensee to lock a firearm in a safe. Rule 10.0 – the state should be responsible for the burden of proof. Rule 12.1 – The CHCL should be on the DL like in other states. A renewal of CHCL should be completed by documenting the training required for renewal and the criminal background disqualification should occur at the time of conviction and prior to license renewal. Rule 13.3 – Justification of deadly force should be well defined in the regulations. Civil liability should be prohibited if the deadly force is justified by the State of Arkansas. Civil liability should only result if the CHCL is convicted of a felony as the result of deadly force. Rule 14.3 – current CHCL instructors should be grandfathered as enhanced instructors without the requirement to pass another exam. 3 months is not enough time to pass the exam due to the large number of instructors. The exam should be online, and instructors should be able to download it, complete it, and email it to ASP. Unlimited attempts should be allowed. Passing another exam does not improve an instructors ability to teach an excellent class. Instructors should be allowed to instruct regular CHCL without being required to teach enhanced classes. Rule 16.1(b) – the burden of proof should be placed on the State of Arkansas. Rule 7.3 does not prohibit enhanced CHCL holders from carrying in an airport terminal, but firearms are not allowed through the checkpoint by TSA. Will firearms be allowed in the public terminal?

Response:

- Rule 3.1 has been revised to add “or an electronic copy in acceptable electronic format.”
- All applicants do not have free and consistent internet access, so ASP allows many applicants to use paper applications. On both forms of the application, applicants are already required to answer affirmatively that they have been furnished with a copy of the CHCL law and are acquainted with the truth and understanding of that subchapter per A.C.A. § 5-73-310(5).
- Current law (A.C.A. § 5-73-310(8)) requires ASP to make a distinction between “unrestricted” and “restricted” licenses.
- A.C.A. § 5-73-311(b)(2) requires the Department to carry out the actions listed in proposed Rule 4.3(b).
- Federal background checks conducted through the FBI are frequently incomplete – in that the record does not always contain all criminal history (sealed/expunged offenses are excluded although such offenses may still result in CHCL disqualification) and many offenses have not been updated with a final disposition. The Department must often rely on the applicant to retrieve additional information about his or her criminal history, and Rule 4.3(c) sets out the process by which this is handled.
- The FBI will only allow two (2) fingerprint cards to be submitted on the same payment.
- The Department cannot be limited to processing CHCL applications within 7 days of submission. State and federal background checks can be quickly completed for a small number of people who do not have any criminal records, but the Department processes 1000s of applications and background checks per year. Many of these individuals have some type of criminal history, which must be reviewed by an actual person. If the criminal history is incomplete, as often happens – mentioned above, Department personnel and the applicant must research the incomplete entry to determine whether it may be disqualifying. There are other requirements set forth in A.C.A. § 5-73-309 that are not reflected in a background check. Based on the applicant’s answers, more investigation may be required. Accordingly, A.C.A. 5-73-308(b)(2) gives the Department 120 days to complete this process. However, most applicants receive their licenses within 2 weeks.
- A.C.A. § 5-73-311(2) statutorily mandates a fee for the CHCL as \$100.
- Proposed Rule 7.2 and revised Rule 7.4 set out the general categories of prohibited places. These Rules provide as detailed a summary as possible to give notice of the prohibited places under the law, while directing licensees to the corresponding statutes for full details as it regards any particular location. Each instructor and/or licensee is responsible for determining whether the particular buildings in their neighborhood/town/region where they wish to carry a firearm fall into one of the prohibited areas. Because there are numerous statutes prohibiting carry of a firearm into certain areas (and corresponding exceptions to each prohibition), there will be several areas of overlap.
- Rule 7.2(h) repeats the prohibition on carrying in the Arkansas State Highway and Transportation Department or adjacent grounds contained in A.C.A. § 5-73-306(3). Adjacent buildings are not prohibited places, and there is no indication in the law or rule that this prohibition applies to private property. The Rule clearly carves out the exception for parking lots by referring to A.C.A. § 5-73-306(3)(B). The commenter seems to think

that AHTD is the same entity as ASP, but the areas referenced in Rule 7.2(h) do not apply to ASP.

- Rule 7.3 states that the enhanced carry license expands the areas in which a licensee may carry a concealed handgun. The Rule has been revised to list those locations.
- The endorsement allows a licensee to carry a firearm in certain expanded locations, but there are express prohibitions on storing the firearm, whether in a safe or otherwise. See A.C.A. § 5-73-322(d).
- Regarding the comments on proposed Rule 10.0 and 16.1(b) that the ASP should bear the burden of proving an applicant is not qualified to receive a CHCL or instructor registration – this is contrary to Arkansas law. The Arkansas Supreme Court has held that “[o]ne who seeks a license has the burden of proving eligibility to the satisfaction of the licensing agency,” *Arkansas Health Planning and Development Agency v. Hot Spring County Memorial Hospital*, 291 Ark. 186, 188, 723 S.W.2d 363, 365 (1987).
- ASP’s system is not set up to reflect the CHCL on the actual DL, however, whenever law enforcement performs a DL query, the status of the individual’s CHCL will be reflected.
- The renewal process already proceeds essentially as suggested by the commenter. There were no additional suggestions or complaints identified.
- Justification of deadly force is statutorily defined elsewhere in the code (A.C.A. § 5-2-607) and is based on a reasonable person’s belief under the circumstances then existing at the time. Instructors are expected to discuss and analyze this statute with their students.
- The comments on civil liability and use of a firearm are governed by legislation. ASP has no discretion or authority over the laws related to civil liability in the state, so no response is necessary.
- To become an instructor, applicants were required to complete a firearms instructor’s course recognized by the Department and pass an examination to demonstrate their qualifications. Typically, the required courses are offered by national organizations, such as the NRA, or local or federal law enforcement agencies. Arkansas law relating to CHCL changed dramatically in the last session, and the CHCL Rules are undergoing a significant revision. It is imperative that current instructors get up to date on the current state of Arkansas law relating to carrying a firearm and the CHCL Rules. Before current instructors are certified to instruct enhanced training, the Department needs some assurance that instructors have kept abreast of changes in the law. Based on the comments and questions received throughout the public comment period, many of the instructors need to reacquaint themselves with the law and the Rules and get up to date.
- Allowing a take home test and unlimited attempts would defeat the purpose of the exam.
- Three (3) months should be a sufficient amount of time to permit all instructors a reasonable opportunity to successfully complete the enhanced training exam.
- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. If an instructor refuses to offer enhanced carry, they are not compliant with the law, and ASP will have to revoke the registration.
- Enhanced licensees are exempt from the prohibition on carrying a passenger terminal of an airport per A.C.A. § 5-73-322(h)(2). However, they are still prohibited from carrying anywhere prohibited by federal law, which is why the passenger terminal of an airport is defined in proposed Rule 1.2(r) as only the areas that are not prohibited by federal law.

26. Name of Commenter: Unsigned letter dated October 23, 2017

Comment: Law enforcement officers are prepared to respond to mass shootings, whereas the average CHCL holder is not. Many of the licensees have not fired a weapon since they obtained their license. It would be a mistake to give these people an Enhanced License, especially if they do not have to renew their training. People get older and forget, and they do not shoot on a regular basis. Civilians should not engage active shooters – that is law enforcement’s job. Enhanced carry should be an option to teach, not mandatory. People should not be allowed to carry into some of the expanded areas.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

27. Name of Commenter: John Phillips

Comment: The Enhanced training should be set up as a separate, advanced training course, and the basic CHCL course should remain as is. Instructors should not be required to teach enhanced training.

Response:

- ASP intends the enhanced training to be a separate course from the basic CHCL course. Rules 13.3(b) and 14.3(a) have been revised to clarify any confusion regarding this issue. A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses.
- If an instructor refuses to offer enhanced carry, they are not compliant with the law, and ASP will have to revoke the registration.

28. Name of Commenter: Jimmy R. Holloway

Comment: In Rule 1.2(f), the definition of “committed” would apply to any overnight stay in a hospital for a medical problem. Rules 1.2(g) and 1.2(k) are unconstitutional because ASP cannot consider any offenses that are sealed or expunged without a court order. Rule 3.2 is null and void due to the passage of Act 746 of 2015 and Act 486 of 2017.

Response:

- The commenter’s assessment of the definition of “committed” is correct, however, a licensee or applicant would only be disqualified for a commitment if provided for under the law – commitments for abuse of controlled substances (A.C.A. § 5-73-309(7)(B)), as an alcoholic (A.C.A. § 5-73-309(8)(B)), or for voluntary or involuntary mental health treatment (A.C.A. § 5-73-309(11)).
- This assessment is incorrect. The Department may consider sealed and expunged offenses based on the definition of “convicted” in A.C.A. § 5-73-301(3) to include a guilty or nolo contendere plea in addition to a guilty finding. See *Landers v. Arkansas Department of Education*, 2010 Ark.App. 312, 374 S.W.3d 795 (2010). Other provisions of the law include this same language, such as A.C.A. § 5-73-312(b) and (c). Also, some sealed or expunged felonies would still render an individual ineligible to receive a CHCL. See A.C.A. § 5-73-309(5)(B). And, a sealed misdemeanor crime of domestic violence could render an individual ineligible to possess a firearm under federal law.
- Rule 3.2 requires licensees in possession of a concealed handgun to notify law enforcement of that fact, ID themselves, and present the CHCL to the officer when asked for identification by the officer. It is unclear why the commenter believes Act 746 of

2015 and Act 486 of 2017 render the rule requiring ID and notification in contact with law enforcement null and void.

29. Name of Commenter: Rick Nitschke

Comment: The shooting drills are specific, but there are not any specifics on the scoring method or reference to a standardized target. These items should be added to the rules, as well as a standardized start position.

Response: The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.

30. Name of Commenter: Lynn Yandell

Comment: Can the enhanced course only be given to existing CHCL holders? It seems as though we have to offer the 8 hour enhanced course every time we host a CHCL course. Many current CHCL holders only need the enhanced course.

Response: The enhanced course can and should be offered as a stand-alone class, particularly for current licensees. A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP interprets this provision to mean that every instructor/business that offers basic CHCL classes must also offer an enhanced CHCL class, but instructors are not required to obtain an enhanced CHCL or teach an enhanced CHCL class every time they teach the basic CHCL class.

31. Name of Commenter: Mark Stypinski

Comment: Will instructors be taught the enhanced CHCL requirements by ASP or will they be required to seek out their own training and develop their own plans? Is there a list of authorized instructors who can give the training? It seems like instructors would need to learn from a police department to fully understand active shooter training.

Response:

- The topics covered in enhanced CHCL training are reflected in proposed Rule 13.3 and proposed Rule 14.3. Once the Rules have been approved, instructors will be provided with an example Syllabus for Enhanced Training from ASP upon which to base their training.
- Law enforcement agencies learn and teach active shooter response training. Enhanced license holders are under no duty or obligation to respond to an active shooter, and may be a hindrance to law enforcement if they attempt to do so. Accordingly, there will be no need for instructors to learn or develop active shooter response tactics from law enforcement agencies.

32. Name of Commenter: Kevin Dugan

Comment: Will instructors be permitted to teach the 8-hour enhanced class only and qualify students for a basic license along with the enhanced license? Or are they required to teach two separate classes? Is the exam available for instructors to review and include in current CHCL classes?

Response:

- New applicants will be required to take both the basic CHCL class and the enhanced CHCL class, separately. The enhanced class is separate from the basic class.

- The exam will not be available until the Rules have been finalized and approved.

33. Name of Commenter: Austin Eubanks

Comment: Will all instructors be required to pass another exam by a deadline? Will the exam only be offered at headquarters in Little Rock? Can the exam be given at various locations around the state?

Response: Yes, all instructors will be given three (3) months from implementation of the enhanced license to pass an exam over the required material. The exam will initially be offered at locations around the state, but re-tests will most likely take place in Little Rock.

34. Name of Commenter: sixpt1@yahoo.com

Comment: What if a student does not want an enhanced license?

Response: The enhanced class must be offered by all instructors and at all courses, but that does not mean that the student is required to accept it. Only students who wish to obtain an enhanced license are required to undergo enhanced training.

35. Name of Commenter: Wayne Sandusky

Comment: Are instructors required to obtain their Firearms Instructor Certificate on their own, or does ASP assist in this? Does the certification have to be obtained by January 1, 2018? I will be attending ALETA after the first of the year to become a certified firearms instructor for a law enforcement agency. Will I still be able to be an enhanced instructor if I don't get my certificate until after January 1? I have tried to obtain via internet searches many of the state statutes mentioned in the proposed Rules, but I have been unable to. I am glad to see that students will be required to be proficient with a firearm.

Response:

- Rule 15.3(c) requires all instructors to maintain a current and valid Firearms Instructor Certificate. This refers to whatever certificate was submitted with the initial application for registration. ASP does not assist with this process.
- All instructors will be allowed to take the enhanced training exam, even if they do not have a current certificate with the Department. Subsequently, action may be taken against the registration if the certificate is not updated.
- Instructors are expected to know and keep up to date with all the relevant laws and regulations. Various websites (arkleg.state.ar.us; law.justia.com/Arkansas/; and asl.lib.ar.us) can provide some of the necessary information. The CHCL subchapter is kept up to date and available on the ASP website. ASP also issues a summary of relevant CHCL laws that are passed in each session.

36. Name of Commenter: Lee Watson

Comment: It appears that ASP's hands are tied with respect to requiring all instructors and courses to offer enhanced training. That was not the intent of the House of Representatives in passing Act 562. ASP will likely lose 95% of the instructors and new licenses, resulting in a reduction of revenue.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

37. Name of Commenter: Tony Hankins

Comment: There should probably be a similar live-fire requirement for the basic CHCL course as the Enhanced training course. The words “at all concealed training courses” is confusing – as to when and to whom Enhanced Training must be taught. Not all CHCL holders or applicants are capable of taking the Enhanced Training class. There may need to be more emphasis in 14.0(c) on allowing instructors to refuse to instruct certain applicants based on their inability to safely complete the training.

Response:

- The purpose of the basic CHCL live-fire requirement is to demonstrate proficiency with the use of the handgun in loading, unloading, firing, and general safety. This is to ensure, as Rule 14.0(a) states, that the applicant meets a basic level of practical operation for safe handling of a handgun. The proficiency requirement for an enhanced license is designed to demonstrate some level of skill above a “basic level.”
- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP interprets this provision to mean that every instructor/business that offers basic CHCL classes must also offer an enhanced CHCL class, but instructors are not required to obtain an enhanced CHCL or teach an enhanced CHCL class every time they teach the basic CHCL class.
- While instructors are required to offer enhanced training, each instructor retains his or her right, based upon his or her experience and discretion, to refuse to provide enhanced training to a person the instructor believes is incapable of successfully completing the required standards of training. Rule 14.0(c) has been revised to reflect that this right also applies to enhanced training.

38. Name of Commenter: Scott Moody

Comment: Will all training be transitioned to enhanced training? If so, what about people who do not want the enhanced license? What are the new regulations for renewal of current CHCL holders? Are there standardized targets and scoring used to complete the course of live fire? Is the proposed syllabus available for public viewing yet? I believe this process will drive more people to obtain an out-of-state license or carrying under Act 746. I agree with the course of live-fire and some of the new enhanced topics, but I am concerned that this could lead to substandard training or no training at all.

Response:

- The enhanced training course is a separate course from the basic CHCL course. Only students who wish to obtain an enhanced license are required to undergo enhanced training.
- There are no new regulations for renewal of current CHCLs. A current CHCL holder will be required to take the enhanced training if he or she wants to upgrade to an enhanced license.
- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.
- The proposed syllabus will not be available until the Rules have been finalized and approved.
- The remaining comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

39. Name of Commenter: Tammy Dougan

Comment: After reading the proposed Rules, it appears that instructors can still teach a basic CHCL class. But, if a new applicant wants to obtain an enhanced license, they have to attend an extra 8 hour course for the enhancement. If an existing CHCL holder wants to obtain the enhancement, they just need to attend the 8 hour course. Before instructors can provide the training, they must test on the new guidelines before March, thus receiving their own enhancement.

Response: Yes, this is correct, although the test must be taken within three (3) months of implementation, which may be later than March. And, an instructor is not automatically granted a CHCL upon completion of the exam. They have to submit a separate application.

40. Name of Commenter: Edgar Mahan

Comment: It appears from the proposed rules that, as a current instructor, I must re-test over the new rules to maintain my registration.

Response: This is correct.

41. Name of Commenter: Paul Hacker

Comment: Arkansas should allow out-of-state license holders to try out for the enhanced concealed handgun carry license.

Response: The law does not provide for out-of-state license holders to obtain an enhanced CHCL. A.C.A. § 5-73-322(g)(3) states that the enhancement is an “endorsement...on his or her license to carry a concealed handgun.” In Arkansas, to obtain a license to carry a concealed handgun, a person must be a resident of the state. See A.C.A. § 5-73-309(2).

42. Name of Commenter: Fred Sanders

Comment: Will ALETA training police firearms instructors/concealed instructors be required to take the exam to teach the enhanced training?

Response: Yes.

43. Name of Commenter: Nathan House

Comment: Act 562 absolutely requires all instructors and all courses to offer enhanced training. ASP has done an excellent job with the changes – including early publication and the period of public comment. ASP is rolling this out in a good way by taking partners, which represents excellence in serving the public. Consider defining “live-fire” in the Definitions section of the rules. Including disorderly conduct in the definition of crime of violence could be interpreted as overly inclusive, i.e. covering behavior that is not at all violent. Remove the section in Rule 4.1(f) requiring a student to say they have reviewed Arkansas CHCL law when filling out the application. Many students complete the application prior to coming to class, when they are not yet familiar with the laws. Maybe include wording that encourages students to complete the online application in Rule 2.1. Rule 13.3 does not contain a target size or scoring specifications. Why were some definitions removed? Will there be any state fees associated with obtaining the enhancement? Will the enhanced license be easily distinguishable from a basic license? Will there be a specific application for the enhancement?

Response:

- The initial comments relate to Act 562, over which ASP has no control or discretion, and to the process, which the commenter believes has been handled positively. No response is necessary.
- Live-fire is more appropriately defined in the definitions section. See revised Rule 1.2(q).
- The inclusion of disorderly conduct in the definition of “crime of violence” is designed to make licensees aware of the types of offenses that could be classified as crimes of violence. Non-violent disorderly conduct offenses would not otherwise fall within the definition of causing or threatening to cause physical injury, but there is a section of the disorderly conduct offense (A.C.A. § 5-71-207(a)(1)) that describes violent conduct. The definition is not being used to disqualify an individual, but to educate the individual as to what might be disqualifying.
- A.C.A. § 5-73-310 requires the applicant to attest that he or she is acquainted with the truth and understanding of the law on the application.
- Online applications save money for the applicant and the Department. See revised Rule 2.1..
- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.
- Definitions already contained in the law at A.C.A. § 5-73-301 were removed if no additional clarification was included. See revised Rule 1.2.
- There will be no additional cost for a new applicant who wants to obtain an enhanced CHCL as his or her first CHCL. The only cost will be to a current CHCL holder who wants to upgrade to an enhanced CHCL. The licensee will have to pay \$15 for a replacement license to obtain a license that reflects the enhancement.
- The enhanced license will look different from a basic license.
- There will be new forms for the enhanced license.

44. Name of Commenter: Ron Garratt

Comment: It was not the intent of the legislature to replace the regular course and CHCL permit with the Enhanced Training. Doing that will push people to get out of state licenses and they will not learn any Arkansas law or get any range time.

Response: The basic CHCL course is not being replaced by the enhanced course. A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP interprets this provision to mean that every instructor/business that offers basic CHCL classes must also offer an enhanced CHCL class, but applicants are not required to attend enhanced training or obtain an enhanced CHCL.

45. Name of Commenter: W. Oliver Williams, Jr.

Comment: Limiting revocation of a license to when a weapon has been used in a crime is too restrictive. A license should also be revoked when a person carries a firearm in a restricted area. Live-fire training is inconsistent and not standardized. Current licensees who received inadequate training should be required to take a test of their existing knowledge and if they do not pass it, they should not be permitted to renew or receive the additional training. ASP should be more proactive in discovering applicants or licensees with drug, alcohol, and mental health issues, rather than relying on self-reporting.

Response:

- There are numerous bases throughout the law and Rules for revocation of a license, including when a person carries a firearm into a prohibited place. Proposed Rule 7.2 and revised Rule 7.4 list locations where a licensee may not carry his or her firearm and Rule 7.0 permits the Department to revoke a license for violations of Rule and law.
- Instructors are charged with ensuring that all applicants meet a basic level of knowledge, understanding, and practical operation for safe handling of a handgun under Rule 14.0(a). If ASP is notified that instructors do not meet this standard in their classes, an investigation can be undertaken and an instructor's license may be revoked or suspended. Instructors have the authority under Rule 14.0(c) to evaluate an applicant's capabilities and refuse to teach enhanced training.
- There is no publicly available information about drug, alcohol, or mental health issues, other than what is reflected in an applicant's criminal history. ASP processes 1000s of applications annually. Without some information provided by the applicant regarding a history of substance abuse or inpatient mental health treatment, the Department is unable to perform the necessary research that might uncover such information. There are criminal and civil penalties for false statement on the application under A.C.A. § 5-73-305.

46. Name of Commenter: Mark Ferren

Comment: The committee has gone overboard with the requirements to possess an enhanced carry permit. This is an infringement and 90% will never use it, or it will be nullified by a "no firearms" sign. This will raise significant money for ASP, but it is ridiculous for instructors to be required to teach it, or require any Arkansas citizen to possess a concealed carry, to have to spend more money and take more training that will never be used. It should be optional and not mandatory.

Response:

- The commenter did not point to any specific requirement in the Rules as "overboard" or an "infringement." Due to lack of specificity, the Department is unable to respond.
- There will be no additional cost for a new applicant who wants to obtain an enhanced CHCL as his or her first CHCL. The only cost will be to a current CHCL holder who wants to upgrade to an enhanced CHCL. The licensee will have to pay \$15 for a replacement license to obtain a license that reflects the enhancement.
- The remaining comments relate to legislation, over which ASP has no authority or discretion. Accordingly, no response is required.

47. Name of Commenter: Carolyn Witherspoon & Mary Buckley

Comment: Add "airport meeting rooms or office spaces not regularly open to the public, airport designated restrictive access areas" to the excluded locations in the "passenger terminal of an airport" definition.

Response: The suggestion is contrary to the law. A.C.A. § 5-73-322(h)(2) exempts an enhanced licensee from the prohibition on carrying a concealed handgun in the passenger terminal of an airport, as listed in A.C.A. § 5-73-306(14). The only other prohibition on carrying a firearm in an airport is that enhanced licensees are still prohibited from carrying in locations where the carrying of a firearm is prohibited by federal law. See A.C.A. § 5-73-306(16). The additional areas suggested by the commenters are not covered by federal law, rather, they are locations where the general public is not normally allowed. Accordingly, the prohibition is not on carrying

a firearm in that location, but that the licensee himself would be barred from the location. Such a prohibition is not within the scope or authority of concealed carry licensing, but may be allowed under other laws in the state of Arkansas.

48. Name of Commenter: Angie Maxwell

Comment: The term “immediate vicinity” should be more clearly defined in the rules. What types of conduct with the firearm – in terms of possessing it in a dorm room, purse, backpack; leaving it unattended to walk about a classroom, etc. – is permitted? Why was concealed removed from the list of definitions? Regarding proposed Rule 7.5 - How is inadvertent exposure defined? What is careless behavior? How many times is “repeatedly”? Who decides that?

Response:

- A parenthetical “(within arm’s reach)” has been added to provide a layman’s definition of “immediate vicinity.”
- “Storage” and “possession” must be considered together to arrive at appropriate conduct for an enhanced licensee. Act 562 gives an enhanced licensee the right to “carry” a firearm in certain places, but not to store it (which is defined as leaving it unattended for future use or safekeeping). To “possess” a handgun, it must be on or about the person, or otherwise readily available for use. To determine whether a licensee abides by this definition, the totality of the circumstances then existing must be considered. A licensee is responsible for anticipating such situations and preparing accordingly. The proposed definitions are intended to give licensees some reasonable parameters with which to conform their conduct.
- “Concealed” was removed from the definitions because it was already in the law at A.C.A. § 5-73-301(2).
- Again, the proposed Rule is intended to give licensees reasonable parameters with which to conform their conduct. Any violation must be determined by considering the totality of the circumstances then existing. ASP is the authority over licensees, but law enforcement may also determine whether conduct by a licensee indicates intent to “unlawfully employ” the handgun and justifies a charge of carrying a weapon under A.C.A. § 5-73-120. Reports from campus security that one individual allowed his or her weapon to be exposed on numerous occasions could give rise to the presumption that the exposure is not inadvertent but careless behavior justifying suspension or revocation.

49. Name of Commenter: George Holt

Comment: Is my motorhome my residence? Why does a person have to be a resident of Arkansas for 90 days before applying for an initial permit, but may immediately apply for a transfer when moving from another state? The time constraints on the live-fire proficiency requirement for enhanced training are too harsh and unreasonable. There should not be a time limit. These restrictions might infringe on a person’s right to self defense wherever he or she travels which could violate the 2nd amendment. Will the instructor exam be administered in several locations? Instructors would like a time-stamped list of prohibited places that is subject to change. There is no mention of some places where you can’t carry, such as a package liquor store, under A.C.A. § 3-4-403(21). ASP’s goal should be to help law abiding folks stay out of trouble, not provide a hard to decipher hodge podge list of statutes.

Response:

- If a motorhome is being used on public highways or is capable of such use and is found in a place not regularly used for residential purposes, it can be considered an automobile rather than a residence for law enforcement purposes. See *California v. Carney*, 471 U.S. 386, 105 S.Ct. 2066 (1985).
- The time periods for application and transfer are governed by the law – A.C.A. § 5-73-309(2) and A.C.A. § 5-73-319(a).
- The live-fire proficiency requirement for enhanced training is derived from the standard to obtain a Texas carry permit. The time requirements are identical to that program. The enhanced license live-fire requirement is not designed to prepare applicants for shooting in a real self-defense situation, but rather for the applicant to demonstrate to the Department’s satisfaction that he or she is proficient with a handgun at the time the application for enhanced license is submitted.
- The instructor exam will initially be administered in several locations throughout the state. Re-tests will likely take place at headquarters in Little Rock.
- Proposed Rule 7.2 and revised Rule 7.4 set out the general categories of prohibited places. These Rules provide as detailed a summary as possible to notify instructors/licensees of prohibited places, while directing licensees to the corresponding statutes for full details as it regards any particular location. Each instructor and/or licensee is responsible for determining whether the particular buildings in their neighborhood/town/region where they wish to carry a firearm fall into one of the prohibited areas. Because there are numerous statutes prohibiting carry of a firearm into certain areas (and corresponding exceptions to each prohibition), there will be several areas of overlap.
- A.C.A. § 3-4-403(21) sets out a limitation on a private business – that it cannot permit people to carry firearms except under certain circumstances – not on a licensee. This prohibition would fall under A.C.A. 5-73-306(18).

50. Name of Commenter: Scott Vaughn

Comment: Rule 1.6 (a) states that the criminal penalty for false response or document is a class A misdemeanor, but A.C.A. § 5-73-305 says it is a class B misdemeanor. Rule 3.1 should allow for the licensee to carry the actual license or an electronic copy. The process for determining eligibility for the applicant when fingerprints cannot be taken is not clear in Rule 4.4. The definition of committed has been changed. The last sentence of Rule 3.2(a) is redundant to the first sentence and should be removed. There are prohibited places included in Rule 7.2 that are not in A.C.A. § 5-73-306. In Rule 13.3, what would keep a person from going to another instructor if they fail to pass the live-fire proficiency? Why should they have to wait 6 months? If they can’t pass the first time, they should have to wait 30 days.

Response:

- This is correct. Rule 1.6(a) has been revised.
- Rule 3.1 has been revised to include “or an electronic copy in acceptable electronic format.”
- The FBI requires new payment after the submission of two (2) fingerprint cards. Additionally, fingerprints are necessary to issuance of the CHCL so that the licensee’s identity can be traced by the Automated Fingerprint Identification System in the event of subsequent arrests. Therefore, the Rule provides for the procedure in the event a legible set of fingerprints cannot be obtained on the first try.

- Previously, there was not a definition of committed in the Rules. The Department has been using the definition reflected in proposed Rule 1.2(f) internally, and determined that it should be included in the Rules to give notice to licensees and applicants. The definition still only applies to individuals who were committed for the purpose of mental health treatment or drug or alcohol treatment.
- The first sentence of proposed Rule 3.2(a) notifies a licensee that, when asked for ID by a law enforcement officer while possession of a concealed handgun, he or she must present his or her CHCL for inspection together with his or her ID. The second sentence notifies the licensee that he must also tell the officer that he or she has a CHCL and has a firearm in his or her possession. Mere presentation of the CHCL should be coupled with verbal notification.
- The comment indicates some confusion regarding the force and effect of other laws criminalizing the carry of firearms (A.C.A. § 5-73-119 and A.C.A. § 5-73-122) considered with A.C.A. § 5-73-306. These provisions do not conflict and must be read harmoniously so that each provision is given effect. A CHCL holder may not carry a weapon in areas designated prohibited by A.C.A. § 5-73-306, but he or she must also refrain from carrying a weapon in additional locations designated by other statutes unless a corresponding exception applies. For example, A.C.A. § 5-73-119 prohibits carry of a firearm on the developed property of a school (not covered by A.C.A. § 5-73-306), but there are exceptions for CHCL holders listed in A.C.A. § 5-73-119(e)(11) and (12). Proposed Rule 7.2 and revised Rule 7.4 are intended to give instructors/licensees/applicants notice of all the general areas where carrying a firearm may be prohibited, and include the corresponding statutes for further details for each individual and specific location.
- It would be difficult or impossible to police an applicant from going to multiple instructors in an attempt to pass the live-fire proficiency requirement for enhanced training. An inability to pass the live-fire proficiency requirement in 3 tries indicates a need for additional firearms training that should be acquired over a period of time.

51. Name of Commenter: Anna Jarrett

Comment: Every building on a college campus with students should have two (2) people with CHCL permits and access to a secured weapon present at all times in case of a shooter. This policy should not be advertised to the public. The University of Fayetteville should put intercom systems in every building in case there is a shooter because RazAlert is too slow.

Response: These comments relate to security precautions suggested for colleges and universities. ASP does not have the authority or discretion to mandate the security policy of a public university or college.

52. Name of Commenter: Michael Wallace

Comment: There should be a protocol established for Enhanced Licensees in engaging law enforcement in an active shooter scenario. It should be standardized and not left to the individual instructor.

Response: The example Syllabus for Enhanced Training covers suggested appropriate behavior for interaction with law enforcement during an active threat scenario.

53. Name of Commenter: Tim McDaniel

Comment: Some of the rules are contrary to the rules already in place. Specifically, it sounds like an Enhanced Licensee are required to carry it with them on campus, but this conflicts with the guns in trunks law. There should be more interpretation from the ASP regarding the law. The rules are too vague.

Response:

- Proposed Rule 7.2(a) and (r) and revised Rule 7.4(a) and (n) prohibit carry on school campuses, but also specifically refer to the statutory exceptions for public parking lots. A licensee remains authorized to carry a concealed handgun in his or her motor vehicle or in his or her locked and unattended motor vehicle in a publicly owned and maintained parking lot. If the firearm is not in a vehicle as described in the exceptions, the enhanced licensee is required to have the firearm in his or her possession while on campus.
- The example Syllabus for Enhanced Training will provide some additional explanation and analysis, however, the commenter did not point to any other specific laws that needed interpretation or rules he believed were vague.

54. Name of Commenter: George Holt

Comment: ASP should define what a “nominal fee” is.

Response: A.C.A. 5-73-322(g)(2)(A)(iv) mandates that enhanced training shall cost no more than a nominal amount. ASP does not provide the enhanced training – it is provided by the instructors. The Department presumes that, with more than 1100 instructors state-wide, market forces will operate to establish a reasonable range of fees to be charged for enhanced training, based in part on the current prices of basic CHCL training. Any instructor who significantly overprices the enhanced training to the extent it is unaffordable by any citizen would risk violating the requirement under subsection (iii) that the training be offered by all training instructors. However, an attempt by the Department to establish a set “nominal fee” may work an undue hardship on instructors who could not afford to offer training below a certain price.

55. Name of Commenter: Kevin Buch

Comment: The live-fire proficiency requirement has applicants shooting from the 15-yard line. This requirement seems to be contrary to the legal duty to retreat if you can with safety before using deadly force.

Response: The enhanced license live-fire requirement is not designed to prepare applicants for shooting in a real self-defense situation, but rather for the applicant to demonstrate to the Department’s satisfaction that the applicant is proficient with a handgun at the time the application for enhanced license is submitted.

56. Name of Commenter: Tom Dupriest

Comment: The requirement in Rule 13.3 that the class last 8 hours is impractical. The range course is very specific, and it seems like it would be impossible to stretch it to 2 hours in certain situations. The instructors should be given discretion to go up to 8 hours. There is no mention of the required target in the live-fire proficiency requirement. The live-fire proficiency requirement would be difficult to perform with a revolver or small capacity magazine. It could pose security concerns in large classes.

Response:

- A.C.A. § 5-73-322(g)(2)(A)(ii) requires the course to last up to eight (8) hours. Allowing instructors to set their own timeframe might result in much shorter classes. A required

standard must be set to ensure that each instructor covers the necessary topics in detail. However, the range qualification should be set to “maximum 2 hours.” If it takes less time for the students to complete the live-fire proficiency requirement, there is no need for range time to continue. Rule 13.3 has been revised accordingly.

- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.
- Applicants should be permitted to reload as necessary between shooting exercises, which will enable applicants using a revolver to easily complete the live-fire proficiency requirement.

57. Name of Commenter: Ed Monk

Comment: Rules 7.2 and 7.3 include places that are not listed in the prohibited places statute A.C.A. § 5-73-306. There should be a reference to the law for each prohibited place, and every prohibited place should be re-stated exactly in the law. The class should not be mandated at 8 hours. Instructors should have more flexibility. Nominal fee should be defined, and the instructors should be given more information on enhanced training.

Response:

- The comment indicates some confusion regarding the force and effect of other laws criminalizing the carry of firearms (A.C.A. § 5-73-119 and A.C.A. § 5-73-122) considered with A.C.A. § 5-73-306. These provisions do not conflict and must be read harmoniously so that each provision is given effect. A CHCL holder may not carry a weapon in areas designated prohibited by A.C.A. § 5-73-306, but he or she must also refrain from carrying a weapon in additional locations designated by other statutes unless a corresponding exception applies. For example, A.C.A. § 5-73-119 prohibits carry of a firearm on the developed property of a school (not covered by A.C.A. § 5-73-306), but there are exceptions for CHCL holders listed in A.C.A. § 5-73-119(e)(11) and (12). Proposed Rule 7.2 and revised Rule 7.4 are intended to give instructors/licenseses/applicants notice of all the general areas where carrying a firearm may be prohibited, and already include the corresponding statutes for further details for each individual and specific location. The commenter asks that ASP reprint every prohibited place exactly as stated in the law, which would include numerous exceptions and cross-references to other statutes. Contrary to this request, ASP has received several comments that the prohibited places section should be simplified and “less wordy.” Copies of the law are available on the ASP website and instructors should provide copies to students so that a full and complete analysis can be performed by the instructor during the class.
- A.C.A. § 5-73-322(g)(2)(A)(ii) requires the course to last up to eight (8) hours. Allowing instructors to set their own timeframe might result in much shorter classes. A required standard must be set to ensure that each instructor covers the necessary topics in detail. However, the range qualification should be set to “maximum 2 hours.” If it takes less time for the students to complete the live-fire proficiency requirement, there is no need for range time to continue. Rule 13.3 has been revised accordingly.
- A.C.A. 5-73-322(g)(2)(A)(iv) mandates that enhanced training shall cost no more than a nominal amount. ASP does not provide the enhanced training – it is provided by the instructors. The Department presumes that, with more than 1100 instructors state-wide, market forces will operate to establish a reasonable range of fees to be charged for

enhanced training, based in part on the current prices of basic CHCL training. Any instructor who significantly overprices the enhanced training to the extent it is unaffordable by any citizen would risk violating the requirement under subsection (iii) that the training be offered by all training instructors. However, an attempt by the Department to establish a set “nominal fee” may work an undue hardship on instructors who could not afford to offer training below a certain price.

- An example Syllabus for Enhanced Training will be distributed to instructors when the Rules have been finalized and approved.

58. Name of Commenter: Kelvin Johnson

Comment: The law eliminates instructors who don’t own facilities, and that is not fair.

Response: The commenter did not elaborate upon why he would not be able to continue training students in the facility he currently uses. Any location adapted for the purpose of live-fire, which is currently required in basic CHCL training, should be capable of being used for the enhanced live-fire proficiency requirement.

59. Name of Commenter: Nathan House

Comment: Instructors need clarification on Rule 15.3(a). They should be able to include their instructor number on a social media page to meet this requirement, and not have to put it in each individual post.

Response: Rule 15.3(a) has been revised to address this concern.

60. Name of Commenter: Richard Green

Comment: The mandated time constraints on the enhanced training program are too strict. ASP should develop and distribute a standard program of instruction.

Response:

- A.C.A. § 5-73-322(g)(2)(A)(ii) requires the course to last up to eight (8) hours. Allowing instructors to set their own timeframe might result in much shorter classes. A required standard must be set to ensure that each instructor covers the necessary topics in detail. However, the range qualification should be set to “maximum 2 hours.” If it takes less time for the students to complete the live-fire proficiency requirement, there is no need for range time to continue. Rule 13.3 has been revised accordingly.
- An enhanced Syllabus will be distributed to instructors to be used as a guide once the Rules have been finalized and approved.

61. Name of Commenter: Jan Morgan

Comment: ASP should do an undercover audit of registered firearm instructors to ensure they are all teaching the required material.

Response: Any time the Department receives notification that an instructor is violating the Rules or otherwise failing to teach the required material, Department personnel perform a random audit of the instructor’s students to verify whether the instructor has complied with the law and the Rules and whether the required topics (including live-fire) were covered. Otherwise, there are more than 1100 instructors and limited Department personnel to investigate unless there is reason to believe an instructor is violating the law. To perform an undercover audit of an instructor, the Department would be required to pay the fee for a Department employee unknown to the instructor to attend the instructor’s 5-hour class. This would expend considerable resources

in both the fees required for the classes, but also in taking the Department employee away from his or her regular duties. The commenter indicated that she had asked ASP to perform these undercover audits on numerous occasions. ASP found no record of such requests. A follow-up inquiry was sent to the commenter to determine who she had contacted and when about undercover audits, but ASP received no response.

62. Name of Commenter: Robin Doyle

Comment: Assign a specific size target for the live-fire proficiency requirement, suggested B-27, and establish a scoring system. The shooting position should also be specified and applicants should be required to shoot both right and left handed. People with a CHCL should not be penalized for open carrying a firearm.

Response:

- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.
- Revised Rule 13.3(d)(4) specifies that shooting should be from the “ready” position.
- It is not necessary for applicants to demonstrate shooting with both hands as they are not being asked to demonstrate combat or tactical skills.
- There are no proposed or current Rules that operate as a denial, suspension, or revocation solely for possession of a firearm if such possession is not in violation of a criminal offense or A.C.A. § 5-73-306. The commenter did not specify which Rules he believed would result in a penalty.

63. Name of Commenter: Thomas Gage

Comment: CHCL training should be standardized across instructors. Law enforcement is likely to shoot an enhanced license holder if they are in possession of a firearm and the LEO is responding to an active shooter.

Response: The Example Syllabus for Enhanced Training covers suggested appropriate behavior for interaction with law enforcement during an active threat scenario.

64. Name of Commenter: Lexie France

Comment: College campuses are a place of high emotions and the beginning of mental illness for many. It is not a safe place to allow guns. Even if “good people” bring guns to campus, in a crisis situation, someone may take it from the good people and use it for harm. Guns do not belong on campus.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

65. Name of Commenter: Jenna Cambria

Comment: It would be good if members of the public could ask ASP questions about enhanced carry any time. A student at Kansas University left a firearm in a bathroom stall. How can this be prevented at UofA? Information about problems at KU has been limited within the KU community. What will be the system for disseminating information about these types of problems?

Response:

- Comments and questions regarding concealed handgun carry licensing can always be submitted to ASP at CHCLinfo@asp.arkansas.gov. The public comment period for the proposed Rules ends on November 10 because there is a deadline for promulgation of the Rules.
- Enhanced licensees are subject to the laws and regulations applicable to all CHCL holders. Additional restrictions on enhanced licensees are contained in proposed Rule 7.5. If the Department receives reports of rule violations, a license could be suspended or revoked.
- Any questions about a university or college's communication with students should be directed to the university officials. ASP does not have any authority over the university and how it chooses to respond or communicate regarding issues related to enhanced carry.

66. Name of Commenter: Todd Stovall

Comment: The classroom portion of the classes should be taught online – same instruction for everyone. Then a completion certificate could be brought to an instructor who could do the range portion. Most instructors are not qualified to teach active shooter/crowd response engagement involving a firearm. The 70% passing score for the live-fire proficiency requirement is too low. It should be 80% for enhanced.

Response:

- Online instruction will not be permitted. It is difficult/impossible to verify the identity of a person purportedly “attending” an online class, or whether the person listens/pays attention to the content. Additionally, online instruction would defeat the purpose of Rule 14.0(a) and the role of the instructor in ensuring that the person meets a basic level of knowledge and understanding.
- Enhanced training does not include training on “active shooter/crowd response engagement” involving a firearm. Response and engagement are the purview of law enforcement, not enhanced licensees.
- The commenter did not provide a reason why he believes 70% is too low. Because enhanced licensees are not expected to perform the duties and obligations of law enforcement officers or commission security officers, they are likewise not expected to meet the same level of live-fire proficiency (80%).

67. Name of Commenter: Christy K. Pollock

Comment: I thought enhanced licensees were required to receive “at least 8 hours” of training, but the Campus Safety Webpage said “up to 8 hours.” Did the language change? Why are enhanced licensees not required to attend a full day of training? Will the least amount of time required be announced to the campus community?

Response:

- A.C.A. § 5-73-322(g)(2)(A)(ii) states that the training must be “up to eight (8) hours” which ASP interprets as a course lasting no longer than eight (8) hours. The proposed Rules require that the training must consist of approximately eight (8) hours.
- Whether more clarification or communication is provided to the campus community is a question that must be answered by university officials. ASP has no authority or discretion over the policies and guidance issued by the university.

68. Name of Commenter: MJ Rogers

Comment: There are increasing numbers of gun injuries and deaths in the State of Arkansas. Common sense should dictate more restrictions on guns, not allowing guns on school campuses. Homeowners should be allowed a gun to protect their homes and families. Hunters should be allowed a limited number of guns. Designated school personnel should be allowed to carry in an emergency. But the new law will cause more deaths and injuries.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

69. Name of Commenter: Robert Brewer

Comment: This is the stupidest law ever. There are not enough regulations to protect the students and faculty. There should be legislation criminalizing brandishing and accidental discharge of a firearm, to include jail time. Guns should not be on college campuses. If a person is too afraid to leave their home without a gun, they should stay home. The rest of the community will be happier and safer.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

70. Name of Commenter: Michael Jones

Comment: There should be a qualifying target for the live-fire proficiency requirement – suggested NRA B-16 Slow Fire Pistol Target. A 70% score and focus grouping is easier to tally. The black center bull is also a smaller kill zone which is needed in honing skills and more accurate shot placement. Re: Act 746 – because AG Rutledge misunderstood the law, there are citizens illegally open carrying handguns and law enforcement is not uniform on this issue. A line should be added requiring a handgun to be concealed while carrying on a journey under A.C.A. § 5-73-119(e)(7). Also, a person who is carrying a firearm on a journey may not park in public parking, campus parking, or school grounds because parking that close to the school means parking on campus. The journey law needs work. Re: Rule 13.3(a)(4) – if the Department has suggestions for “weapons retention” they should be part of the course in detail and not left up to the instructors. Re: the purpose of the instruction and allowing the instructor to evaluate the level of competence of the students (Chapter 14.0) – the students should be required to take a test, as that is the best indicator of what the student retained. Re: Rule 13.3 training – should include whether the student begins firing from the ready position. There should be shooting conducted from a kneeling or lying position. Lethal encounters should be taught using cover when possible, or changing the angle. In 5-73-120(b)(2) the definition should contain “not full automatic.”

Response:

- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.
- The comments regarding Act 746 and “journey” law are directed at legislation. ASP has no discretion or control over the legislation, so no response is necessary.
- The example Syllabus for Enhanced Training may contain some suggestions regarding weapons retention.
- At this time, ASP does not intend to require applicants for a CHCL or enhanced CHCL to take a test.

- Rule 13.3(d)(4) has been revised to specify that shooting is from the “ready” position.
- 8 hours is an insufficient amount of time to prepare a civilian for tactical response to and engagement with an active shooter. Minimal training in these areas is more likely to give a licensee a false sense of confidence regarding his or her abilities than anything else.
- The comment regarding A.C.A. § 5-73-120(b)(2) is directed at legislation, over which ASP has no discretion or control.

71. Name of Commenter: Kevin McCloud

Comment: Instructors need a standardized course on DVD or power point provided by ASP. There should not be a timed requirement for the shooting course because not everyone owns a semi-automatic with high capacity magazines. This will be difficult for people to complete with revolvers or low capacity magazines. Accuracy should be required, but not time. Not all instructors have access to ranges that are adequate to use for this shooting requirement, and it isn't fair to instructors who are not wealthy range owners. The mandatory class times should be modified to read up to 8 hours, not minimum 8 hours due to varying class sizes. ASP should furnish instructors with a study guide or booklet that can be studied for the test, such as the one printed for the DL and CDL test.

Response:

- An example Syllabus for Enhanced Training will be distributed to instructors once the Rules have been finalized and approved.
- The live-fire proficiency requirement does not require applicants to shoot more than five (5) shots at a time. Applicants should be permitted to reload as necessary between shooting exercises, which will enable applicants using a revolver to easily complete the live-fire proficiency requirement.
- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. Any current instructor should have access to a facility at which live-fire can take place. Specialized facilities are not necessary to conduct the proposed live-fire proficiency requirement contained in Rule 13.3(d).
- A.C.A. § 5-73-322(g)(2)(A)(ii) requires the course to last up to eight (8) hours. Allowing instructors to set their own timeframe might result in much shorter classes. A required standard must be set to ensure that each instructor covers the necessary topics in detail. However, the range qualification should be set to “maximum 2 hours.” If it takes less time for the students to complete the live-fire proficiency requirement, there is no need for range time to continue. Rule 13.3 has been revised accordingly.

72. Name of Commenter: Philip Sherlin

Comment: Enhanced carry license holders need to know how to communicate with the police. People should not have firearms in bars while drinking. While it is noble to think you can come to the aid of people in an active shooter situation, the world changes quickly when people are shooting at you. There should be a very well defined limit as to what role a person can take. The limit should be set to only protect/evacuate people and not actively pursue the shooter.

Response:

- The Example Syllabus for Enhanced Training covers suggested appropriate behavior for interaction with law enforcement during an active threat scenario.

- The comments regarding firearms in bars and active shooter situations relate to the legislation, over which ASP has no discretion or control. No response is necessary.
- Enhanced training addresses lawful, appropriate conduct with a firearm in the expanded locations.

73. Name of Commenter: Paul Stowe

Comment: Are instructors required to obtain an enhanced license? If instructors want an enhanced license, are they required to take the class or may they substitute other training?

Response: No. Once an instructor passes the enhanced training exam, he or she may apply for an enhanced CHCL and use the enhanced instructor certification as the enhanced CHCL training certificate. See revised Rule 13.3(e). No other substitutions are permitted.

74. Name of Commenter: Edgar Collins, Jr.

Comment: There should not be a time requirement for the live-fire training requirements. The 15-yard distance might encourage enhanced permit holders to engage an active shooter. Instructors should not be required to recertify on any material other than the new material that has relevance to enhanced carry law and regulations. It is not fair to require instructors to teach the enhanced permit training – not all instructors have available facilities to do the required shooting requirements. Some instructors will not physically be able to teach the shooting required. They should not lose their certification if unable to do so.

Response:

- The applicant is required to fire 1-5 shots at a time in three (3) stages at successive distances. To demonstrate proficiency in firing multiple shots at a time, there must be a time requirement for each exercise to ensure multiple shots are fired at a time and not spaced apart.
- The enhanced license live-fire requirement is not designed to prepare applicants for shooting in a real self-defense situation, but rather for the applicant to demonstrate to the Department's satisfaction that the applicant is proficient with a handgun at the time the application for enhanced license is submitted.
- New material relating to enhanced carry law and corresponding Rules is interrelated to the law and Rules that were unchanged. Based on the comments and questions received throughout the public comment period, many of the instructors need to reacquaint themselves with the status of all Arkansas laws relating to weapons and the Rules.
- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. Any current instructor should have access to a facility at which live-fire can take place. Specialized facilities are not necessary to conduct the proposed live-fire proficiency requirement contained in Rule 13.3(d).
- The only shooting required is to stand at the ready position and fire at a target from various distances. If an instructor is physically unable to teach this requirement, he or she is likely to be physically unable to teach any live-fire, which is a requirement of the basic CHCL course.

75. Name of Commenter: George Brooks

Comment: No one but the legislature or the Governor want enhanced carry. Law enforcement thinks it is a bad idea for more people to have guns in an active shooter scenario. 21 year olds are

not capable of having guns and drinking on campus or in bars, it could result in a bad situation. There is no problem with the marksmanship training. Arkansas is open carry, so why would anyone want a CHCL. Enhanced licenses will cause a decline in permit applications. No training has been decided on yet. Put an end to the enhanced licenses.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

76. Name of Commenter: Maggie Haase

Comment: What if an instructor has a class and none of the students want an enhanced permit, is the instructor still required to teach the enhanced class? Basic CHCL classes run 6-7 hours and the enhanced training is supposed to be 8 hours. Does this require a 2-day class or can it all be combined to one day?

Response:

- Instructors are only required to offer the course, no applicant is required to accept it. The enhanced course should not be taught unless an applicant specifically signs up for it.
- The two courses cannot be combined for a shorter time. Any new applicant for a CHCL who wishes to obtain an enhanced license must complete the 5-hour basic course as well as the 8-hour enhanced course. Current licensees must only complete the 8-hour enhanced course. See revised Rules 13.3(b) and 14.3(a).

77. Name of Commenter: James Bush

Comment: There should be a written training program for concealed carry and enhanced concealed carry. All firearms instructors should be required to attend the training and become certified before instructing the program. Citizens licensed to carry firearms should all be taught the same. It should be standardized across the state, written and approved by the state. Many people on the range have very little knowledge about handling a firearm. There should be more hands on firearm training.

Response:

- The topics instructors are required to teach in training are covered in proposed Rule 13.3. Before they are permitted to teach enhanced training, instructors must pass an exam on the material as stated in proposed Rule 14.3.
- An Instructor Training Manual is available to all instructors for use in teaching basic CHCL classes. An example Syllabus for Enhanced Training will be distributed to instructors to use as a guide when teaching enhanced training.
- A basic CHCL requires a basic skill level in terms of handling a firearm. The enhanced requires a higher level of proficiency. The course time limits and variable skills of each instructor do not afford all instructors the ability to give students intensive “hands on” firearm training. Students who are unable to complete the enhanced live-fire proficiency requirement should obtain firearms skill training outside of the enhanced class.

78. Name of Commenter: Richard Beckner

Comment: Instructors should be allowed to teach classes less than the required 8 hours, based on the knowledge of the students and the size of the class. The target for the shooting course should be defined – suggesting an 8 inch round paper plate. The staging is too complicated and will promote the use of not typically carried handguns in favor of longer barreled guns. It is not revolver friendly. Instead, a shortened form of the practical pistol course with distances not to

exceed 10 yards is proposed. An active shooters course should be given to the instructors to facilitate training of the students. If an applicant fails his 3rd attempt on the range to pass the live-fire proficiency, how will another instructor know that? It does not take 6 months to become proficient once the applicant understands what is required. All state statutes should be added to the rules. It is difficult to find these statutes.

Response:

- A.C.A. § 5-73-322(g)(2)(A)(ii) requires the course to last up to eight (8) hours. Allowing instructors to set their own timeframe might result in much shorter classes. A required standard must be set to ensure that each instructor covers the necessary topics in detail. However, the range qualification should be set to “maximum 2 hours.” If it takes less time for the students to complete the live-fire proficiency requirement, there is no need for range time to continue. Rule 13.3 has been revised accordingly.
- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.
- The Department disagrees with the comment that the staging is too complicated. Applicants are only required to shoot 1-5 shot sequences from distances of 3, 7, and 15 yards. The live-fire proficiency requirement does not require applicants to shoot more than five (5) shots at a time. Applicants should be permitted to reload as necessary between shooting exercises, which will enable applicants using a revolver to easily complete the live-fire proficiency requirement.
- Very few law enforcement officers (SWAT, Emergency Response Team, etc.) actually receive active shooter training. 8 hours is an insufficient amount of time to prepare a civilian for tactical response to and engagement with an active shooter. Minimal training in these areas is more likely to give a licensee a false sense of confidence regarding his or her abilities than anything else.
- There is no system to track attendance of potential applicants at various instruction courses. Instructors will have to rely on self-reporting by students.
- Instructors are expected to know and keep up to date with all the relevant laws and regulations. Various websites (arkleg.state.ar.us; law.justia.com/Arkansas/; and asl.lib.ar.us) can provide some of the necessary information. The CHCL subchapter is kept up to date and available on the ASP website. ASP also issues a summary of relevant CHCL laws that are passed in each session.

79. Name of Commenter: Brian Stone

Comment: When will instructors be able to take the enhanced training exam? What will be the cost? Can the 8 hours required for enhanced training incorporate the training previously given for the basic CHCL? Can new applicants just take the 8 hour course and qualify for either a basic or enhanced CHCL?

Response:

- The instructor exam will likely be available in January 2018.
- ASP does not charge instructors for their instructor registration. There will be no cost to take the enhanced training exam, and no additional cost for a new applicant who wants to obtain an enhanced CHCL as his or her first CHCL. The only cost will be to a current CHCL holder who wants to upgrade to an enhanced CHCL. The licensee will have to pay \$15 for a replacement license to obtain a license that reflects the enhancement.

- The 8-hour course is separate from the basic 5-hour CHCL course. New applicants who want an enhanced license will be required to take both courses. Current CHCL holders who want to upgrade will be required to take the full 8-hour enhanced course. See revised Rules 13.3(b) and 14.3(a) for clarification on this issue.

80. Name of Commenter: Albert Murphy

Comment: Do you have to have a basic CHCL before applying for an enhanced permit? Why can't existing instructors have the option of being certified to teach enhanced or just teaching the basic course? Will the ASP training class for current instructors be detailed enough for them to understand what is actually needed to be taught? Some of the rules are not clear and unambiguous. For example, what target is to be used and what position do you begin firing from?

Response:

- A new applicant for a CHCL will be required to take both courses if he or she wants to obtain an enhanced CHCL, but he or she may do so all at once.
- A.C.A. § 5-73-322(g)(2)(A)(iii) requires enhanced training to be offered by all training instructors and at all concealed carry training courses. ASP interprets this provision to mean that every instructor/business that offers basic CHCL classes must also offer an enhanced CHCL class, but instructors are not required to obtain an enhanced CHCL or teach an enhanced CHCL class every time they teach the basic CHCL class.
- There will not be an ASP training class for current instructors. Instructors are expected to be familiar with the topics in proposed Rule 13.3 and 14.3, together with the example Syllabus for Enhanced Training to be distributed by the Department, to cover the material that is required in the class.
- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring. All shooting is from the "ready position." See revised Rule 13.3(d)(4). The commenter did not respond to further inquiry as to what other rules he found unclear and ambiguous.

81. Name of Commenter: George Markham

Comment: The Rules should be run through the Microsoft Grammar and Reading Ability check to ensure that they can be understood by the average citizen. The definition of the word "committed" deviates from Arkansas' relevant mental health laws. The fact that someone has self-admitted to a treatment program is not sufficient evidence of a drug or alcohol addiction. Requiring an officer to confiscate the CHCL under Rule 8.1 might encourage licensees to carry the electronic version of the license, rather than the actual license. Rule 8.2 is abusive – the Director should not have the authority to suspend the license summarily, unless mandated by law. Allowing the Department to suspend a license when the licensee is under criminal investigation under Rule 9 could lead to abuse. Colleges and universities might designate entire campuses as firearm-sensitive, which will lead to more confusion. There should be a prohibition against over broad designations of firearm-sensitive areas. The public should be notified of any firearm-sensitive designation lasting more than 72 hours and public comments should be accepted before approval. Serial re-designations should be prohibited, and any long-lasting ones should be limited in scope.

Response:

- The Department attempted to clarify all specific proposed Rules that appeared to cause confusion based on the comments received.
- The commenter did not specify what mental health statutes contain a deviation of the term “committed.” A.C.A. § 5-73-309 uses the term “committed” in the context of both voluntary and involuntary admissions for mental health, drug, and alcohol treatment. To give guidance and clarification to applicants, the Department found it necessary to craft a definition of committed that could apply to voluntary and involuntary admissions, regardless of whether this definition correlates to the usage of the term “committed” in the mental health profession.
- A.C.A. § 5-73-309(7) and (8) contain a presumption that admission for substance abuse treatment constitutes a disqualifying event. ASP has no control over the legislation.
- A.C.A. § 5-73-312(a)(2)(A) requires law enforcement to confiscate a license when arresting a licensee for certain violations.
- Any suspension is accompanied by appeal rights under the Arkansas Administrative Procedures Act, including the right to judicial review by a Circuit Court.
- A license may be denied when an applicant is under criminal investigation according to A.C.A. § 5-73-308(b)(1).
- The definitions relating to “firearm-sensitive areas” and “collegiate athletic events” are contained in Act 859. So long as the request meets the definitions in the law, ASP does not have discretion to deny or restrict approval of the request.
- The Department simply does not have available resources or personnel to engage in the type of public review and comment period suggested for every request received to designate an area as firearm-sensitive.
- There is no authority in Act 859 to prevent an entity with a qualifying “collegiate athletic event” from re-designating that event as firearm sensitive or maintaining it as such for a long period of time.

82. Name of Commenter: Julee Jaegar

Comment: The live-fire proficiency requirement qualification score should be increased from 70% to 90%. If permit-holders will be supplementing law enforcement, they should receive de-escalation training. Applicants who fail live-fire should not be able to retake the test with any instructor for six months. There should be clarification as to the “possession” requirement and what it means for a firearm to be “on or about” one’s person. It would be preferable if ASP could require firearms to be in a Level 1 holster. There are numerous concerns about enhanced carry licensees on campus and in student housing – what counts as storage? What would constitute a violation? There should be a vision test requirement every 4 years. There should be an automatic system in place to revoke permits for domestic abuse, medical cannabis certification, loss of vision, loss of mental capacity, felony charge or conviction, firearms negligence. Trainees should receive information on criminal firearms negligence and photos of the victims of gun negligence.

Response:

- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or

commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.

- Enhanced licensees will not be used as supplemental law enforcement. Civilians have a duty to retreat under certain circumstances prior to using deadly physical force in self-defense. However, training in de-escalation could encourage enhanced licensees to unnecessarily involve themselves in a dangerous situation and is contrary to the duty to retreat.
- It would be difficult or impossible to police an applicant from going to multiple instructors in an attempt to pass the live-fire proficiency requirement for enhanced training. There is no system to track attendance of potential applicants at various instruction courses.
- The definition of possession at proposed Rule 1.2(s) states that the firearm must be on or about one's person, in a vehicle occupied by him or her, or otherwise readily available for use. A firearm is on one's person if it is in some way affixed to the person's body, such as being tucked into pockets or a holster. A firearm is about one's person if it is located in a purse or bag belonging to the person and located in the person's immediate vicinity, clarified as "within arm's reach." To determine whether a licensee abides by this definition, the totality of the circumstances then existing must be considered.
- The proposed requirement to carry the firearm in a carry a firearm in a Level 1 holster is an unnecessary limitation that could deny licensees the ability to carry in a purse or bag or otherwise carry the firearm in the manner the licensee finds most comfortable.
- Storage is defined in proposed Rule 1.2(v) and further elaborated upon in proposed Rule 7.5 which delineates the parameters of possession allowed by an enhanced license. If a licensee is not in "possession" of the firearm as defined by proposed Rule 1.2(s) and 7.5, then the firearm is being stored, which is prohibited.
- Licensees are required to complete renewal training every five (5) years which includes "live-fire" training. See Rule 5.0(a)(4). Vision problems that prevent a licensee from safely and accurately firing their handgun should be detected by the instructor upon renewal training, and the instructor should refuse to certify that the renewal applicant completed the training.
- When a licensee is arrested for any disqualifying offense, including those for domestic abuse, drugs, and felonies, both law enforcement and the licensee are required to notify the Department per A.C.A. § 5-73-312(a)(2)(A) and Rule 8.0(a). Failure by the licensee to comply with this Rule is justification for revocation. Otherwise, background checks are conducted upon renewal and will disclose the existence of any disqualifying arrest or conviction. The Department must currently rely on self-reporting or reports from law enforcement regarding the mental capacity and Medical Marijuana card registration of a licensee, but both of these events could also result in revocation.
- Enhanced trainees will receive training on criminal and civil firearms negligence. It is within an instructor's discretion to determine how to impart this information in an impactful way to the students and whether the use of photos of victims of gun negligence would prove useful.

83. Names of Commenters: Erin Galbraith, Jessica Scott, Catherine Snyder, Laura Hardy, Stephannie Baker, Mary Critz, Shelley Adams, Eleanor Wheeler, Christy Thomas, Julia Henslee,

Kelly Olson, Julie Nikel-Butler, Cathy Jellenik, Doug Holmes, Kassidy Cramblett, Johanna Marie Thomas, Donna Drury, Belinda Blevins-Knabe, Ellen Weintraut

Comment: The live-fire proficiency requirement qualification score should be increased from 70% to 90%. If permit-holders will be supplementing law enforcement, they should receive de-escalation training. Applicants who fail live-fire should not be able to retake the test with any instructor for six months. There should be clarification as to the “possession” requirement and what it means for a firearm to be “on or about” one’s person. It would be preferable if ASP could require firearms to be in a Level 1 holster. There are numerous concerns about enhanced carry licensees on campus and in student housing – what counts as storage? What would constitute a violation?

Response:

- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.
- Enhanced licensees will not be used as supplemental law enforcement. Civilians have a duty to retreat under certain circumstances prior to using deadly physical force in self-defense. However, training in de-escalation could encourage enhanced licensees to unnecessarily involve themselves in a dangerous situation and is contrary to the duty to retreat.
- It would be difficult or impossible to police an applicant from going to multiple instructors in an attempt to pass the live-fire proficiency requirement for enhanced training. There is no system to track attendance of potential applicants at various instruction courses.
- The definition of possession at proposed Rule 1.2(s) states that the firearm must be on or about one’s person, in a vehicle occupied by him or her, or otherwise readily available for use. A firearm is on one’s person if it is in some way affixed to the person’s body, such as being tucked into pockets or a holster. A firearm is about one’s person if it is located in a purse or bag belonging to the person and located in the person’s immediate vicinity, clarified as “within arm’s reach.” To determine whether a licensee abides by this definition, the totality of the circumstances then existing must be considered.
- The proposed requirement to carry the firearm in a carry a firearm in a Level 1 holster is an unnecessary limitation that could deny licensees the ability to carry in a purse or bag or otherwise carry the firearm in the manner the licensee finds most comfortable.
- Storage is defined in proposed Rule 1.2(v) and further elaborated upon in proposed Rule 7.5 which delineates the parameters of possession allowed by an enhanced license. If a licensee is not in “possession” of the firearm as defined by proposed Rule 1.2(s) and 7.5, then the firearm is being stored, which is prohibited.

84. Name of Commenter: Julee Jaeger

Comment: The Conway Human Development Center is a home to adults and children with special needs. It is a sensitive area and should be treated like a school or prison. There should be

special training for handling weapons in the bedrooms and bathrooms of Arkansans with special needs. No one should be able to store their weapons inside of the buildings, offices, or bedrooms.

Response:

- If the Conway Human Development Center (CHDC) is a publicly owned and maintained facility as described in A.C.A. § 5-73-122, there is currently no exception under the law to treat it as a prohibited place or firearm sensitive area.
- Enhanced licensees will be taught to consider the risks associated with carrying a firearm in previously protected areas, as well as the criminal and civil liability that could result from firearm negligence.
- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is no authority under the law to store a firearm in buildings, offices, or bedrooms of publicly owned and maintained buildings.

85. Name of Commenter: Caroline J. Morgan

Comment: The live-fire proficiency requirement qualification score should be increased from 70% to 90%. The rules regarding “storage” are confusing, as they seem to apply only to campuses and not to other public buildings.

Response:

- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.
- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is a specific provision in A.C.A. § 5-73-322(d) stating that storage in a university or college-operated student dormitory or residence hall is prohibited by A.C.A. § 5-73-119(c). However, there is no authority under the law to store a firearm in other buildings, offices, or bedrooms of publicly owned and maintained buildings.

86. Name of Commenter: Tim Huett

Comment: The required 8 hours for training is too long, as the enhanced training topics are already covered in the regular CHCL class and don’t take that long. Instructors should be able to provide their own live fire training or produce his or her annual firearms qualification from a law enforcement agency. There should be a standard course of live-fire with a pass/fail percentage on the regular CHCL as well. There should be a training requirement for active shooter type events modeled after the CRASE training. First aid training should be required, at least tourniquet application and stop the bleeding type stuff.

Response:

- A.C.A. § 5-73-322(g)(2)(A)(ii) requires the course to last up to eight (8) hours. Allowing instructors to set their own timeframe might result in much shorter classes. A required standard must be set to ensure that each instructor covers the necessary topics in detail.

However, the range qualification should be set to “maximum 2 hours.” If it takes less time for the students to complete the live-fire proficiency requirement, there is no need for range time to continue. Rule 13.3 has been revised accordingly.

- Once an instructor passes the enhanced training exam, he or she may apply for an enhanced CHCL and use the enhanced instructor certification as the enhanced CHCL training certificate. See revised Rule 13.3(e). No other substitutions are permitted.
- The purpose of the basic CHCL live-fire requirement is to demonstrate proficiency with the use of the handgun in loading, unloading, firing, and general safety. This is to ensure, as Rule 14.0(a) states, that the applicant meets a basic level of practical operation for safe handling of a handgun. The proficiency requirement for an enhanced license is designed to demonstrate some level of skill above a “basic level.”
- The example Syllabus for Enhanced Training contains some instruction for students on the active threat training taught to civilians – such as Run, Hide, Fight or Avoid, Defend, Deny. There will not be any active shooter training designed to encourage response or engagement with an active shooter by the enhanced licensee.
- Enhanced licensees are not first responders or emergency medical technicians. Their primary concern during an active threat should be defending themselves and avoiding interference with law enforcement and other first responders. Training enhanced licensees to “respond” and give aid during an active threat is more likely to give a licensee a false sense of confidence regarding his or her abilities than anything else.

87. Name of Commenter: Tyrone Jaegar, Daniel Bishop

Comment: The live-fire proficiency requirement qualification score should be increased from 70% to 90%.

Response: Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.

88. Name of Commenter: Judith Levine

Comment: All law enforcement and university police were against having guns on campus. ASP is required to make law enforcement’s job more dangerous by implementing enhanced training. This was an abuse of power by elected officials.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

89. Name of Commenter: Albert P. Bender, Jr.

Comment: Define “recent/recently” as defined in Rules 1.7 and 13.2. Add a definition of the term “nominal” as used in A.C.A. § 5-73-322(g)(2)(A)(iv). Prohibited places in Rules 7.2 and 7.3 would be better presented in a table format. Provide clarification as to the process for obtaining an enhanced license and whether a person is required to first obtain a basic license. Specify the type of target to be used and shooting position in Rule 13.3(d). An instructor should

be permitted to substitute his or her enhanced training registration for the enhanced license training requirement.

Response:

- The term “recently” is used in A.C.A. § 5-73-320 regarding a military service member who has recently been honorably discharged. The precise date of discharge is irrelevant, but, the discharged service member must produce a form demonstrating that he or she has met the military qualification requirements for issuance and operation of a handgun within one (1) year of the application date. See A.C.A. § 5-73-320(e).
- A.C.A. 5-73-322(g)(2)(A)(iv) mandates that enhanced training shall cost no more than a nominal amount. ASP does not provide the enhanced training – it is provided by the instructors. The Department presumes that, with more than 1100 instructors state-wide, market forces will operate to establish a reasonable range of fees to be charged for enhanced training, based in part on the current prices of basic CHCL training. Any instructor who significantly overprices the enhanced training to the extent it is unaffordable by any citizen would risk violating the requirement under subsection (iii) that the training be offered by all training instructors. However, an attempt by the Department to establish a set “nominal fee” may work an undue hardship on instructors who could not afford to offer training below a certain price.
- Proposed Rule 7.2 and revised Rule 7.4 set out the general categories of prohibited places. These Rules provide as detailed a summary as possible to notify instructors/licensees of prohibited places under the law, while directing licensees to the corresponding statutes for full details as it regards any particular location. Each instructor and/or licensee is responsible for determining whether the particular buildings in their neighborhood/town/region where they wish to carry a firearm fall into one of the prohibited areas. Because there are numerous statutes prohibiting carry of a firearm into certain areas (and corresponding exceptions to each prohibition), there will be several areas of overlap.
- A new applicant may apply for a CHCL with endorsement (enhanced license) all at one time. However, the applicant must attend both the basic class and the enhanced class.
- The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.
- Once an instructor passes the enhanced training exam, he or she may apply for an enhanced CHCL and use the enhanced instructor certification as the enhanced CHCL training certificate. See revised Rule 13.3(e). No other substitutions are permitted.

90. Name of Commenter: Tracie Spivey, Kevin T. Browne

Comment: The live-fire proficiency requirement qualification score should be increased from 70% to 90%. Enhanced applicants should receive de-escalation training. Applicants who fail live-fire should not be able to retake the test with any instructor for six months.

Response:

- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced

licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.

- Enhanced licensees will not be used as supplemental law enforcement. Civilians have a duty to retreat under certain circumstances prior to using deadly physical force in self-defense. However, training in de-escalation could encourage enhanced licensees to unnecessarily involve themselves in a dangerous situation and is contrary to the duty to retreat.
- It would be difficult or impossible to police an applicant from going to multiple instructors in an attempt to pass the live-fire proficiency requirement for enhanced training. There is no system to track attendance of potential applicants at various instruction courses.

91. Name of Commenter: Angela Hunter, Diane Payne, Amy Dana, Heidi Harris

Comment: The live-fire proficiency requirement qualification score should be increased from 70% to 90%. If permit-holders will be supplementing law enforcement, they should receive de-escalation training. Applicants who fail live-fire should not be able to retake the test with any instructor for six months. There should be a vision requirement to be tested every 4 years. If someone fails, the CHCL should be revoked.

Response:

- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.
- Enhanced licensees will not be used as supplemental law enforcement. Civilians have a duty to retreat under certain circumstances prior to using deadly physical force in self-defense. However, training in de-escalation could encourage enhanced licensees to unnecessarily involve themselves in a dangerous situation and is contrary to the duty to retreat.
- It would be difficult or impossible to police an applicant from going to multiple instructors in an attempt to pass the live-fire proficiency requirement for enhanced training. There is no system to track attendance of potential applicants at various instruction courses.
- Licensees are required to complete renewal training every five (5) years which includes “live-fire” training. See Rule 5.0(a)(4). Vision problems that prevent a licensee from safely and accurately firing their handgun should be detected by the instructor upon renewal training, and the instructor should refuse to certify that the renewal applicant completed the training.

92. Name of Commenter: Phyllis Nader

Comment: The live-fire proficiency requirement qualification score should be increased from 70% to 90%. If permit-holders will be supplementing law enforcement, they should receive de-

escalation training. Applicants who fail live-fire should not be able to retake the test with any instructor for six months. There should be a vision requirement to be tested every 4 years. If someone fails, the CHCL should be revoked. There should be clarification as to the “possession” requirement and what it means for a firearm to be “on or about” one’s person. It would be preferable if ASP could require firearms to be in a Level 1 holster. There are numerous concerns about enhanced carry licensees on campus and in student housing – what counts as storage? What would constitute a violation?

Response:

- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.
- Enhanced licensees will not be used as supplemental law enforcement. Civilians have a duty to retreat under certain circumstances prior to using deadly physical force in self-defense. However, training in de-escalation could encourage enhanced licensees to unnecessarily involve themselves in a dangerous situation and is contrary to the duty to retreat.
- It would be difficult or impossible to police an applicant from going to multiple instructors in an attempt to pass the live-fire proficiency requirement for enhanced training. There is no system to track attendance of potential applicants at various instruction courses.
- Licensees are required to complete renewal training every five (5) years which includes “live-fire” training. See Rule 5.0(a)(4). Vision problems that prevent a licensee from safely and accurately firing their handgun should be detected by the instructor upon renewal training, and the instructor should refuse to certify that the renewal applicant completed the training.
- The definition of possession at proposed Rule 1.2(s) states that the firearm must be on or about one’s person, in a vehicle occupied by him or her, or otherwise readily available for use. A firearm is on one’s person if it is in some way affixed to the person’s body, such as being tucked into pockets or a holster. A firearm is about one’s person if it is located in a purse or bag belonging to the person and located in the person’s immediate vicinity, clarified as “within arm’s reach.” To determine whether a licensee abides by this definition, the totality of the circumstances then existing must be considered.
- The proposed requirement to carry the firearm in a carry a firearm in a Level 1 holster is an unnecessary limitation that could deny licensees the ability to carry in a purse or bag or otherwise carry the firearm in the manner the licensee finds most comfortable.
- Storage is defined in proposed Rule 1.2(v) and further elaborated upon in proposed Rule 7.5 which delineates the parameters of possession allowed by an enhanced license. If a licensee is not in “possession” of the firearm as defined by proposed Rule 1.2(s) and 7.5, then the firearm is being stored, which is prohibited.

93. Name of Commenter: Terence Sharp

Comment: How does the endorsement apply to law enforcement officers carrying off-duty?

Response: It does not apply. The enhancement only applies to licensed CHCL holders. Active and retired law enforcement officers are exempt from the CHCL laws and Rules per A.C.A. § 5-73-304. If a law enforcement officer or retired law enforcement officer chooses to obtain an enhanced CHCL, he or she would be entitled to the same benefits as any other enhanced licensee.

94. Name of Commenter: Erik Gilbert

Comment: It is vague as to whether the course of live-fire begins with the weapon holstered or at the ready. The proposed times are reasonable, if they are from the ready; very fast if from an open holster; and insanely fast if from a concealed holster. If applicants are required to fire from a concealed holster, the enhanced permit would only be available to a small number of highly accomplished shooters. Even if the strings of fire begin from the ready, at least one of them has a speed requirement that exceeds pistol qualifiers used by Arkansas law enforcement.

Response:

- Revised Rule 13.3(d)(4) specifies shooting from the “ready” position.
- The live-fire proficiency requirement for enhanced training is derived from the standard to obtain a Texas carry permit. The time requirements are identical to that program. The particular string referenced may require civilians to shoot 2 rounds 1 second faster than a similar string for law enforcement, but law enforcement officers are required to score a minimum of 80% to pass their course of fire, while enhanced licensees are only required to score 70%.

95. Name of Commenter: Allison Shutt

Comment: The live-fire proficiency requirement qualification score should be increased from 70% to 90%. If permit-holders will be supplementing law enforcement, they should receive de-escalation training. What counts as storage? What would constitute a violation? How will law enforcement differentiate between gun carriers? In regard to this and other gun laws in the state – why are they so open to individual/county interpretation? Why can’t the legislators write a bill that everyone understands?

Response:

- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.
- Enhanced licensees will not be used as supplemental law enforcement. Civilians have a duty to retreat under certain circumstances prior to using deadly physical force in self-defense. However, training in de-escalation could encourage enhanced licensees to unnecessarily involve themselves in a dangerous situation and is contrary to the duty to retreat.
- Storage is not permitted in a campus dorm per A.C.A. § 5-73-322(d). Storage is defined in proposed Rule 1.2(v) and further elaborated upon in proposed Rule 7.5 which

delineates the parameters of possession allowed by an enhanced license. If a licensee is not in “possession” of the firearm as defined by proposed Rule 1.2(s) and 7.5, then the firearm is being stored, which is prohibited.

- Enhanced licensees will have their status reflected on the CHCL itself.
- The last question relates to legislation as opposed to the proposed Rules. ASP has no discretion or control over the legislation.

96. Name of Commenter: Tim Kizer

Comment: Instructors need more clarity as to what is intended for instructors and CHCL candidates. Do the courses have to be offered at the same time? Are all CHCL applicants required to take enhanced training? This seems to be an effort to weed out instructors. There should be more range time than class time for enhanced carry.

Response:

- Once the Rules have been finalized and approved, an example Syllabus for Enhanced Training will be distributed to instructors for guidance in teaching the enhanced class. As usual, there will be instructions sheet on the website breaking down the application process for applicants.
- The basic CHCL course and the enhanced course are separate and should be taught separately. The enhanced class should only be taught when students wish to obtain an enhanced license. Revised Rules 13.3(b) and 14.3(a) attempt to clarify this issue, which proved confusing to many commenters.
- 8 hours is an insufficient amount of time to prepare a civilian for tactical response to and engagement with an active shooter. Minimal training in these areas is more likely to give a licensee a false sense of confidence regarding his or her abilities than anything else.

97. Name of Commenter: Walter Burke

Comment: What will the target size be for the enhanced license live-fire proficiency requirement?

Response: The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.

98. Name of Commenter: Larry Schwartz

Comment: Enhanced carry is a move in the right direction. Licensees should be properly trained. ASP should increase the basic concealed carry training requirements and require students to pass a live-fire prep class. Many students don’t know how to fire their weapon, which could lead to unintentional or accidental injury or death.

Response: At this time, there are no plans to increase the live-fire requirements for a basic CHCL. The purpose of the basic CHCL live-fire requirement is to demonstrate proficiency with the use of the handgun in loading, unloading, firing, and general safety. This is to ensure, as Rule 14.0(a) states, that the applicant meets a basic level of practical operation for safe handling of a handgun. The proficiency requirement for an enhanced license is designed to demonstrate some level of skill above a “basic level.”

99. Name of Commenter: Larry Combs

Comment: 15 yards is too far for concealed weapons to be fired. I am attaching my syllabus for shooting from 7 yards and close up.

Response: The qualification requirement is designed for the applicant to demonstrate to the Department's satisfaction that the applicant is proficient with a handgun at the time the application for enhanced license is submitted. The live-fire proficiency requirement for enhanced training is derived from the standard to obtain a Texas carry permit and includes the same distance requirements.

100. Name of Commenter: Denise Greathouse

Comment: I am opposed to the law. Allowing handguns on campus will make it more dangerous for everyone. Campuses are stressful places. I do not think an enhanced licensee will make a campus a safer place in the event of an active shooter, instead, it will increase the chances of innocent people being shot or killed.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

101. Name of Commenter: William A. Schwab

Comment: I am appalled and concerned by your actions to allow concealed weapons on campus. College is stressful and difficult for students. Add alcohol, drugs, anger, and depression, and it will likely lead to a tragedy. You should be concerned about the killing of the innocent and young men who will die by suicide. I will not teach in any classroom where a student is armed.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

102. Name of Commenter: Robert Wayne Mortenson

Comment: I oppose concealed carry on campus because law enforcement officers and organizations were against it, and because it appears as though the legislation was imposed against the will of those who will be affected by it.

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

103. Name of Commenter: Austin Bailey

Comment: There should be a vision requirement. The live-fire proficiency requirement qualification score should be increased from 70% to 90%. If permit-holders will be supplementing law enforcement, they should receive de-escalation training. There are numerous concerns about enhanced carry licensees on campus and in student housing – what counts as storage? What would constitute a violation? Please make sure the negative consequences of drinking and carrying firearms are addressed in the training.

Response:

- Licensees are required to complete renewal training every five (5) years which includes “live-fire” training. See Rule 5.0(a)(4). Vision problems that prevent a licensee from safely and accurately firing their handgun should be detected by the instructor upon renewal training, and the instructor should refuse to certify that the renewal applicant completed the training.
- Act 562 permits licensees with an endorsement or “enhanced license” to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There

is nothing in the Act or other legislation that would authorize or require enhanced licensees to “supplement law enforcement” or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.

- Enhanced licensees will not be used as supplemental law enforcement. Civilians have a duty to retreat under certain circumstances prior to using deadly physical force in self-defense. However, training in de-escalation could encourage enhanced licensees to unnecessarily involve themselves in a dangerous situation and is contrary to the duty to retreat.
- Storage is not permitted in a campus dorm per A.C.A. § 5-73-322(d). Storage is defined in proposed Rule 1.2(v) and further elaborated upon in proposed Rule 7.5 which delineates the parameters of possession allowed by an enhanced license. If a licensee is not in “possession” of the firearm as defined by proposed Rule 1.2(s) and 7.5, then the firearm is being stored, which is prohibited.
- The potential ramifications of alcohol use while carrying a firearm are required to be addressed in the training for enhanced licensees under Rule 13.3.

104. Name of Commenter: National Rifle Association – Anthony Roulette

Comment: The proposed Rules refer to the licensure status established by Act 562 as an “enhanced license,” whereas it is only referred to in the legislation as an endorsement to an existing license. The wording should be changed throughout to endorsement or the enhanced license should be clearly defined to refer to the endorsement. The process for obtaining an enhanced license, particularly for an existing CHCL holder, is not clearly set out in the Rules. The provision contained at A.C.A. § 5-73-322(g)(2)(A)(i) that the enhanced training not be required to be renewed means that an enhanced training is a “one-time-only” requirement. A licensee should be entitled to use the enhanced training to satisfy the requirements of renewal training. The training waiver set forth in A.C.A. § 5-73-322(g)(2)(B) is not addressed in the Rules. “Storage” is prohibited by the Rules, but that is inconsistent with the statute. Instructors are required to complete the exam to teach enhanced training by January 1, 2018, but the proposed Rules and Example Syllabus for Enhanced Training has not been distributed yet. Why do applicants for an enhanced license have to wait six (6) months to train again if they fail live-fire and why do they have to take the entire enhanced training course again? The definition of crime of violence is “vastly overbroad.” The definition of “committed” is too general. The definition of “convicted” should include a reference to one place in the law where the term is used (A.C.A. § 5-73-309(5)). Proposed Rule 1.2(a) does not specify whether members of the National Guard are included in the definition of “active duty military” when deployed for active service. There is an inconsistency between proposed Rule 1.3 stating that the Director “may” issue a license and A.C.A. § 5-73-309 which states that the Director “shall” issue the license. The penalty for false statement on the application was impermissibly increased from Class B to Class A in Rule 1.6. The period in which renewal training can be completed has been reduced from 12 to 6 months prior to submitting a renewal application. Proposed Rules 7.2 and 7.3 are not entirely accurate when compared with the full version of the prohibition in the statute. There is no indication in Rule 4.2 as to when the 30 days for retrieval of requested documents begins to run or a requirement that the applicant be notified of the deficiency in a timely manner. Clarify

the wording of Rule 4.2(f). There should be a time requirement for notification of a revocation under Rule 9.1 to protect the licensee from liability. There are inconsistencies in the language when referring to licensees – particularly in Rule 1.7, 5.1, and 7.4

Response:

- Act 562 is titled “An Act Concerning the Possession of a Concealed Handgun in a Public University, Public College, or Community College Building; Concerning Other Privileges Associated with an *Enhanced License* to Carry a Concealed Handgun; and for Other Purposes.” The commenter is correct, however, that the term “enhanced license” is not included in the actual legislation. Accordingly, a definition has been added to link the “enhanced license” referred to in the Rules to the endorsement authorized by A.C.A. § 5-73-322(g)(3). See revised Rule 1.2(m).
- Proposed Rule 4.1 sets out the application process for an initial licensee. An applicant who does not already possess a CHCL may opt at that time to receive an enhanced license as set forth in proposed Rule 4.1(h), and will have to go through the process outlined in Chapter 4 and the training outlined in proposed Rules 13.0 and 13.3. A current licensee may apply for an enhanced license as described by Rule 13.3(b). In order to qualify, he or she must only complete the Department approved training and fill out the application (identifying him or herself and notifying the Department that he or she seeks an enhanced license). There are no other requirements than those set forth in the Rules. Proposed Rule 4.1(d) does not mandate that an applicant first obtain a basic CHCL before being allowed to receive an enhanced CHCL. Rather, the purpose of the proposed Rule is to indicate that the endorsement/enhancement may only be applied to a CHCL issued by the state of Arkansas. Rules 13.3(b) and 14.3(a) have been revised and a new proposed Rule 6.5 has been added in an attempt to clarify this issue.
- The Department disagrees with the commenter’s interpretation of A.C.A. § 5-73-322(g)(2)(A)(i). The terms contained therein must be interpreted in the context of the entire chapter on concealed handgun carry licensing. The provision says enhanced training is not required to be “renewed.” Elsewhere in the chapter, licensees are required to undergo renewal training every five (5) years prior to the expiration of the term of the license. See A.C.A. § 5-73-313. Accordingly, in stating that the enhanced training is not required to be renewed, A.C.A. § 5-73-322(g)(2)(A)(i) indicates that licensees are not also required to undergo enhanced training every five (5) years prior to the expiration of the term of the license. There is not a prohibition in the law on requiring a former licensee to undergo enhanced training a second time if he or she loses the status of licensee altogether and wishes to obtain a new license.
- Enhanced training taken within six (6) months of renewal of a CHCL will satisfy the renewal training requirement. See revised Rule 13.1.
- A.C.A. § 5-73-322(g)(2)(B) clearly sets out the requirements for a waiver – up to four (4) hours may be waived based on the licensee’s prior training within ten (10) years of applying for the enhanced license on appropriate topics. The use of the word “may” indicates the waiver will be entirely within the Director’s discretion and dependent on the submissions of the licensee. The topics covered by enhanced training are set forth in proposed Rule 13.3.
- Act 562 permits a licensee to “carry” a concealed handgun in certain locations. “Storage” in those locations is not permitted by the law except where expressly stated in A.C.A. §

5-73-119(e)(12), A.C.A. § 5-73-122(a)(3)(C), and A.C.A. § 5-73-306(13)(B)(v). Notations of these “parking lot” exceptions have been added to the revised Rules.

- Instructors are not required to have completed the enhanced training exam by January 1, 2018. Proposed Rule 14.3 applies to current instructors who are registered to provide CHCL training on January 1, 2018. If an individual maintaining the status of instructor on that date chooses to continue instructing CHCL training, he or she must then undergo and pass the exam within three (3) months of its implementation by the Department. Rule 14.3(a) has been revised to correct any confusion on this issue.
- An enhanced license bestows special privileges to carry a firearm in sensitive areas, where a higher level of care and safety should be exercised. If the applicant is unable to successfully complete enhanced training, he or she should be required to wait a certain period of time before attempting training again and should be reminded of the legal requirements, risks, and concerns associated with the enhanced status.
- The crimes of violence described elsewhere in Arkansas Code all refer to serious crimes, most of which are felonies. Because A.C.A. § 5-73-308(a) refers to *misdemeanor* crimes of violence, the Department cannot rely on the description of violent crimes used to seek higher level convictions to arrive at a proper definition. 18 U.S.C. § 921(a)(33) defines a misdemeanor crime of domestic violence as any offense that has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon. The definition arrived at by the Department attempts to encompass less serious (misdemeanor) crimes that involve offensive contact or threatened offensive contact to another person. Certain misdemeanor crimes can result in the serious injury or death (violence to the physical person) of an individual based on the omission of the defendant, such as negligent homicide, so the definition includes not only an “act” but an “omission.” The inclusion of offenses such as disorderly conduct in the definition of “crime of violence” is designed to make licensees aware of the types of offenses that could be classified as crimes of violence. Non-violent disorderly conduct offenses would not otherwise fall within the definition of causing or threatening to cause physical injury, but there is a section of the disorderly conduct offense that describes violent conduct (A.C.A. § 5-71-207(a)(1) – “engages in fighting or in violent, threatening, or tumultuous behavior”). The definition of “crime of violence” is not being used to disqualify an individual, but to educate the individual as to what might be disqualifying. The additional comment to the definition clearly states that a crime of violence “*can*” include certain offenses, not that it necessarily does include all the listed offenses. To actually disqualify an applicant or revoke a license, the Department must still incorporate the definition of the offense into the actual law – A.C.A. § 5-73-308(a) – as a misdemeanor within the last five (5) years that has not been sealed or expunged. The commenter posits that, because the offering for sale of live baby chicks or ticket scalping might involve “physical contact” these offenses could be used to exclude an applicant, however, any physical contact involved in those offenses is not an actual element of the crime and is not committed upon another person without his or her consent.
- The Department has found that applicants have a preconceived notion of a “commitment” or being “committed” as only an involuntary admission achieved by a court order. However, A.C.A. § 5-73-309 uses the term “committed” in the context of both voluntary and involuntary admissions for mental health, drug, and alcohol treatment. To give guidance and clarification to applicants about the status of the law, the Department found

it necessary to craft a definition of “committed” that could apply to both voluntary and involuntary admissions, regardless of whether this definition correlates to the usage of the term “committed” in the mental health profession. The commenter posits that the definition could be used to disqualify an applicant because he or she stayed overnight at the hospital emergency room with a sick child, however, the Department only has the authority to disqualify a licensee or applicant for a commitment if provided for under the law – commitments for abuse of controlled substances (A.C.A. § 5-73-309(7)(B)), as an alcoholic (A.C.A. § 5-73-309(8)(B)), or for voluntary or involuntary mental health treatment (A.C.A. § 5-73-309(11)).

- The definition of “convicted” is designed to apply to all places where the word is used in the subchapter. By including the phrase “unless otherwise specifically stated” the Department is clearly notifying applicants that there are places in the law where the definition of “convicted” does not include offenses that have been sealed or expunged, but reiterating that such sealed or expunged offenses must be specifically excluded – such as in A.C.A. § 5-73-308(a)(2) or A.C.A. § 5-73-309(5)(B).
- Rule 1.2(a) specifically includes “reserve components” in the definition of “active duty military.” Pursuant to 10 U.S.C. § 10101, the “reserve components” of the armed forces are the Army National Guard of the United States; the Army Reserve; the Navy Reserve; the Marine Corps Reserve; the Air National Guard of the United States; the Air Force Reserve; and the Coast Guard Reserve. Presumably, any member of one of these organizations is already aware that their service constitutes a “reserve component.”
- The complained about provision of Rule 1.3 is not a proposed Rule, but is part of the existing Rule. The inconsistency between the language describing the Authority of the Director and the Requirements for a License is strange and unexplained. However, Rule 1.3 in particular restates precisely the Authority of the Director from the statute, A.C.A. § 5-73-302, which states that the Director “may issue” a license to carry a concealed handgun.
- This is correct – A.C.A. § 5-3-305 states that the penalty is a Class B misdemeanor. Rule 1.6(a) has been revised accordingly.
- The time period for completion of renewal training was reduced with the purpose of achieving consistency throughout the regulations for training – all training must be completed within six (6) months of submitting an application for licensure. Renewal applicants have a six (6) month period after the expiration of their license to complete the training and renew, which gives them a total of twelve (12) months to complete renewal training.
- The laws and Rules regarding prohibited places are complicated and highly technical. All instructors and licensees should devote significant time to understanding the precise prohibitions and corresponding exceptions. Proposed Rule 7.2 and revised Rule 7.4 set out the general categories of prohibited places, providing as detailed a summary as possible to give instructors/licensees notice of prohibited places under the law, while directing licensees to the corresponding statutes for full details as it regards any particular location.
- The failure of the Department to specify an intended date from which the 30 days begins to run is intended to accrue to the benefit of the applicant. If the Department specifies from the date of the letter, then the applicant is necessarily deprived of the time taken for mailing and receipt. The Department has 120 days to issue a license. The time is only

tolled during periods when the burden is returned to the applicant to provide missing or incomplete documentation. Accordingly, failure to timely notify the applicant of a deficiency serves only to deprive the Department of its allotted time under the law, but still preserves the applicant's ability to cure the deficiency.

- The proposed modification to Rule 4.2(f) provides more clarity and it has been revised accordingly.
- A revocation is not lawful and effective unless and until the Department has given the licensee notice by mail. See A.C.A. § 25-15-211(c).
- The Department was unable to locate areas in the specified rules where the term "CHCL license" was used as indicated by the commenter. That term would certainly be redundant, but there are areas within the existing rules where the term "CHCL" is used interchangeably with the term "license" and the phrase "concealed handgun carry license." For the purpose of consistency, those uses have been revised.

105. Name of Commenter: Molly Darragh

Comment: I am concerned about people being allowed to carry guns into areas where children are present, and that the training guidelines are not rigorous enough to protect all non-carrying bystanders. I am worried that enhanced licensees will see themselves as potential heroes and intervene in dangerous situations. Licensees should be trained in crisis response and de-escalation and should be required to demonstrate a 90% accuracy rate in shooting. What are the requirements for carrying on campus? Where can guns be stored on campus? Can they be stored in cars?

Response:

- Enhanced licensees will not be used as supplemental law enforcement. Civilians have a duty to retreat under certain circumstances prior to using deadly physical force in self-defense. However, training in de-escalation or crisis response could encourage enhanced licensees to unnecessarily involve themselves in a dangerous situation and is contrary to the duty to retreat.
- Act 562 permits licensees with an endorsement or "enhanced license" to carry concealed handguns in certain locations where the carry of firearms was formerly prohibited. There is nothing in the Act or other legislation that would authorize or require enhanced licensees to "supplement law enforcement" or otherwise perform law enforcement type duties in an active threat scenario. For this reason, it is not necessary for enhanced licensees to meet or exceed the levels of proficiency required for law enforcement or commissioned security officers and a 70% accuracy rate has been deemed sufficient to obtain an enhanced license.
- Storage is not permitted in a campus dorm per A.C.A. § 5-73-322(d). Storage is defined in proposed Rule 1.2(v) and further elaborated upon in proposed Rule 7.5 which delineates the parameters of possession allowed by an enhanced license. If a licensee is not in "possession" of the firearm as defined by proposed Rule 1.2(s) and 7.5, then the firearm is being stored, which is prohibited. However, any licensee may continue to carry a concealed firearm in a vehicle or leave it in an unattended, locked vehicle in publicly owned and maintained parking lots pursuant to A.C.A. § 5-73-119(e) and A.C.A. § 5-73-306(13)(B).

106. Name of Commenter: Jeff Cook

Comment: Rule 1.1(b) says that the proposed Rules do not address federal law concerning active and retired law enforcement, but the federal provisions on this subject are contained at 18 U.S.C. § 926B and C. Even though law enforcement officer and retired law enforcement officers are exempt from the licensing provisions for concealed carry holders, the proposed Rules should give guidance to those individuals and allow federal law enforcement officers to carry in the same venues as retired state and local law enforcement officers. Rule 7.1(a) prevents individuals with a restricted permit from carrying semiautomatic pistols. This Rule is too restrictive and not justified by the recently passed legislation.

Response:

- Active and retired, federal and state law enforcement officers are exempt from the CHCL laws and Rules per A.C.A. § 5-73-304. The Rules only apply to concealed handgun carry license holders, and accordingly, ASP does not have the authority to address, bind, or guide non-CHCL holders in the Rules. If a law enforcement officer or retired law enforcement officer chooses to obtain an enhanced CHCL, he or she would be entitled to the same benefits as any other enhanced licensee.
- Rule 7.1(a) is not a new rule. It was included in the 2009 Rule revisions. Additionally, the establishment of a “restricted” license that does not allow the holder to carry a semiautomatic handgun is required by law under A.C.A. § 5-73-310(8). Applicants who wish to receive a restricted license do so by choice and are freely able to obtain an unrestricted license if they wish to do so.

107. Name of Commenter: Jim Valetutti

Comment: Individuals carrying on campus should be adequately trained and prove proficiency from an accuracy and safety perspective. The shooter should demonstrate his or her skills in accessing the handgun from their personalized and frequently used concealment method and demonstrate proficiency with the type of handgun he or she would carry (i.e. mandate a minimum caliber that will be used during the proficiency test).

Response: The method of concealment and/or type of handgun chosen by a licensee could change on a daily basis. Accordingly, any mandate for the enhanced licensee to undergo this type of training is unlikely to produce the desired result.

108. Name of Commenter: Rev. Jeremy D. Decker

Comment: The definitions of “convicted” and “documentation” refer to offenses which have been sealed or expunged and which should be regarded as having never happened. The definitions do not indicate under what circumstances an applicant would be denied a CHCL. The Rules should list the eligibility requirements under A.C.A. § 5-73-308 and A.C.A. § 5-73-309 so applicants will know whether they are disqualified prior to submitting an application. The provision requiring an applicant to say whether they have been convicted of a crime of violence should not be stricken from proposed Rule 4.1.

Response:

- The Department is entitled to review offenses that have been sealed or expunged, and these definitions attempt to notify applicants that offenses that have been sealed or expunged could render them ineligible to receive a CHCL. The Department may consider sealed and expunged offenses based on the definition of “convicted” in A.C.A. § 5-73-301(3) to include a guilty or nolo contendere plea in addition to a guilty finding. See *Landers v. Arkansas Department of Education*, 2010 Ark.App. 312, 374 S.W.3d 795

(2010). Other provisions of the law include this same language, such as A.C.A. § 5-73-312(b) and (c). Also, some sealed or expunged felonies would still render an individual ineligible to receive a CHCL. See A.C.A. § 5-73-309(5)(B). And, a sealed misdemeanor crime of domestic violence could render an individual ineligible to possess a firearm under federal law.

- The “definitions” section is not intended to set out the eligibility requirements for a CHCL. Those requirements are found elsewhere in the law, specifically A.C.A. § 5-73-308 and A.C.A. § 5-73-309. Each of these sections clearly sets out when a sealed or expunged offense will not be considered.
- ASP provides a link to the CHCL subchapter on the website. Instructors are required to cover the contents of the CHCL subchapter, including the eligibility requirements, prior to certifying that an applicant has completed his or her training. An applicant is also required to independently verify that he or she has been provided with a copy of the CHCL subchapter and is acquainted with the truth and understanding of it on the application form. Because of its wide availability and the requirement to familiarize oneself with the CHCL subchapter prior to filling out an application, an applicant should have advance knowledge of disqualifying factors. ASP seeks to avoid redundancy by reprinting all of the statutory provisions in the Rules.
- There is no requirement under the law that the application for a CHCL include a question as to whether the applicant has been convicted of a crime of violence. This provision was removed from proposed Rule 4.1 because ASP does not rely on the report of the applicant to make this determination. Instead, whether an applicant has been convicted of a crime of violence is determined by reviewing the applicant’s criminal history. A.C.A. § 5-73-310(9) does require the application to contain a statement as to whether or not the applicant has been found guilty of a crime of violence or domestic abuse, so that provision remains in the Rule.

109. Name of Commenter: Paolo Montero

Comment: Can a student leave a weapon in a university locker for the purpose of taking a test? Can a student have a weapon in his/her backpack when attending a class at the U of A? When students take tests, they are asked to leave backpacks against the wall in the room. Can a student leave his/her own gun in the backpack that is left unattended during the test?

Response: “Storage” and “possession” must be considered together to arrive at appropriate conduct when an enhanced licensee is carrying in formerly prohibited places. Act 562 gives an enhanced licensee the right to “carry” a firearm in certain places, but not to store it (which is defined as leaving it unattended for future use or safekeeping). To “possess” a handgun, it must be on or about the person, or otherwise readily available for use. To determine whether a licensee abides by this definition, the totality of the circumstances then existing must be considered. A licensee is responsible for anticipating such situations (such as exams) and preparing accordingly. The proposed definitions are intended to give licensees some reasonable parameters with which to conform their conduct. Accordingly, the answers to the questions are “No,” “Yes,” and “No.”

110. Name of Commenter: Ed Monk

Comment: The proposed Rules 7.2 and 7.3 include language and description of locations that are not included in A.C.A. § 5-73-306. The new draft rules misstate the carry prohibition in the

law for an enhanced licensee in official meetings on campus. The 8-hour training requirement is too rigid. There should not be a requirement under proposed Rule 3.2 for a licensee to carry his or her CHCL if the person is not carrying the handgun concealed. Publicly owned buildings and facilities are included in proposed Rule 7.2, but not in A.C.A. § 5-73-306. The requirement that an instructor must take and pass the enhanced exam within three (3) months is too rigid. What if the instructor is out of state, in the military, or has a major illness or injury? The draft rules do not define a “nominal amount.” There is no indication in the draft rules as to how the 4 hour waiver of training will be handled. What will be the fee to ASP for changing an existing CHCL to an ECHCL? What are the dates and locations of the testing required for instructors to teach ECHCL? Will ASP give instructors any guidance for the test other than it will cover the new laws and final rules?

Response:

- The comment indicates some confusion regarding the force and effect of other laws criminalizing the carry of firearms (A.C.A. § 5-73-119 and A.C.A. § 5-73-122) considered with A.C.A. § 5-73-306. A CHCL holder may not carry a weapon in areas designated prohibited by A.C.A. § 5-73-306, but he or she must also refrain from carrying a weapon in additional locations designated by other statutes unless a corresponding exception applies. For example, A.C.A. § 5-73-119 prohibits carry of a firearm on the developed property of a school (not covered by A.C.A. § 5-73-306), but there are exceptions for CHCL holders listed in A.C.A. § 5-73-119(e)(11) and (12). Proposed Rule 7.2 and revised Rule 7.4 are intended to give instructors/licenses/applicants notice of all the general areas where carrying a firearm may be prohibited, and include the corresponding statutes for further details for each individual and specific location.
- The laws and Rules regarding prohibited places are complicated (e.g., there are exceptions to the exceptions). All instructors and licensees should devote significant time to understanding the precise prohibitions and corresponding exceptions. These Rules provide as detailed a summary as possible, while directing licensees to the corresponding statutes for full details. However, Rule 7.4 has been revised to ensure that the summary of each location does not appear to conflict with the actual law.
- A.C.A. § 5-73-322(g)(2)(A)(ii) requires the course to last up to eight (8) hours. Allowing instructors to set their own timeframe might result in much shorter classes. A required standard must be set to ensure that each instructor covers the necessary topics in detail. However, the range qualification should be set to “maximum 2 hours.” If it takes less time for the students to complete the live-fire proficiency requirement, there is no need for range time to continue. Additionally, however, range time should not be substituted for required class-time. Rule 13.3 has been revised accordingly.
- There are numerous criminal offenses that are either related to or involving firearms or that, when committed in possession of a handgun, would result in a suspension or revocation of a CHCL. If licensees are not required to notify law enforcement, it is possible that ASP does not receive timely notification of an arrest for such offenses. Additionally, notifying law enforcement that the person is a CHCL holder represents that he or she has undergone training and a criminal background check and is lawfully permitted to possess the firearm in question (i.e. not barred by federal law).
- The new status of enhanced license creates two different categories of “prohibited places” for licensees. Enhanced licensees are permitted to carry in places that were previously

prohibited under A.C.A. § 5-73-306, but also in locations where carrying a loaded firearm was previously a criminal offense under A.C.A. § 5-73-119 and A.C.A. § 5-73-122. Proposed Rule 7.2 and revised Rule 7.4 were designed to give instructors/applicants/licensees complete and accurate guidance as to where a basic CHCL holder versus an enhanced CHCL holder is lawfully allowed, and not allowed, to carry a firearm. For this reason, the criminal prohibitions are included with the prohibitions under A.C.A. § 5-73-306.

- At this time, no instructor has indicated an inability to complete the test within the three (3) month period for circumstances outside of his or her control. If/when that occurs, ASP will consider exceptions.
- A.C.A. 5-73-322(g)(2)(A)(iv) mandates that enhanced training shall cost no more than a nominal amount. ASP does not provide the enhanced training – it is provided by the instructors. The Department presumes that, with more than 1100 instructors state-wide, market forces will operate to establish a reasonable range of fees to be charged for enhanced training, based in part on the current prices of basic CHCL training. Any instructor who significantly overprices the enhanced training to the extent it is unaffordable by any citizen would risk violating the requirement under subsection (iii) that the training be offered by all training instructors. However, an attempt by the Department to establish a set “nominal fee” may work an undue hardship on instructors who could not afford to offer training below a certain price.
- A.C.A. § 5-73-322(g)(2)(B) clearly sets out the requirements for a waiver – up to four (4) hours may be waived based on the licensee’s prior training within ten (10) years of applying for the enhanced license on appropriate topics. The use of the word “may” indicates the waiver will be entirely within the Director’s discretion and dependent on the submissions of the licensee. The topics covered by enhanced training are set forth in proposed Rule 13.3.
- The only cost will be to a current CHCL holder who wants to upgrade to an enhanced CHCL. The licensee will have to pay \$15 for a replacement license to obtain a license that reflects the enhancement.
- Dates for testing cannot be established until the Rules have been finalized and approved. Instructors should study the topics covered in proposed Rules 13.3 and 14.3 and the example Syllabus for Enhanced Training distributed by the Department when the Rules are final.

111. Name of Commenter: Stephannie Baker

Comment: If enhanced licensees are not supplemental to law enforcement, could that information be included in the training?

Response: The rights and responsibilities of enhanced licensees, as well as civil and criminal liability for use and negligent use of a firearm, will be covered in detail in the enhanced training.

112. Name of Commenter: RD Madison

Comment: The Rules should specify the type of target used in the live-fire proficiency requirement.

Response: The target size and scoring specifications were accidentally left out of the proposed Rules. The revised version of the Rules (Rule 13.3(d)(5)) specifies a B-27 target with successful hits within the 7 ring.

113. Name of Commenter: Thomas W. Pennington, Arkansas Tech University

Comment: Re: the 70% score on the live-fire proficiency requirement, is the applicant required to shoot 70% on each of the 3 stages, or just shoot 70% overall? Does Rule 7.5 eliminate the ability of a licensee to store his or her firearm in a locked and unattended vehicle per A.C.A. § 5-73-306(18)(B)(ii)? Would the Department consider defining a “documented grievance and disciplinary procedure” as the term is used in A.C.A. § 5-73-322(e)? Can ASP add a requirement that the enhanced licensee pass a test over the classroom portion of the training with a score of at least 70%?

Response:

- The applicant is required to shoot 70% overall. A clarification has been made to revised Rule 13.3(d).
- The right of a licensee to leave a firearm in a locked and unattended vehicle under A.C.A. § 5-73-119, A.C.A. § 5-73-122, and A.C.A. § 5-73-306 is not affected by the proposed Rules. Any indication to the contrary has been clarified.
- That provision of the law refers to “documented grievance and disciplinary procedures *as established by the public university, public college, or community college.*” Accordingly, it appears that the university or college must determine what constitutes an “official meeting...conducted in accordance with documented grievance and disciplinary procedures.”
- At this time, ASP relies on the instructor to certify the level of competence of the applicant per Rule 14.0(a).

114. Name of Commenter: Steven W. Kopp

Comment: University faculty did not want firearms on campus at all. I am concerned about the safety of firearms in a classroom and accidental discharge. Too many resources will be used to comply with the requirement to have a location designated as “firearm-sensitive.”

Response: These comments are directed at Act 562 itself. ASP has no discretion or control over the legislation.

115. Name of Commenter: Holly Gale

Comment: Is there any provision in the Rules for a professor to exclude firearms from his or her personal working space? As a voice instructor, I work with a student’s posture, and a concealed weapon would be obvious. I feel unsafe working with someone who has a gun on their person, especially in a one on one environment. It would also be unsafe for students to wear a firearm on their person in musical theater, which involves blocking and dancing.

Response:

- The only exceptions to carrying on campus are included in the law, such as “firearm-sensitive areas,” and “official meetings conducted in accordance with documented grievance and disciplinary procedures.” Otherwise, an enhanced licensee may carry a firearm into a professor’s office or classroom.
- Enhanced licensees are responsible for avoiding exposure of the firearm, whether accidental or intended. The license could be suspended or revoked for rule violations that lead to repeated exposure or accidental discharge.

116. Name of Commenter: Sarah James, University of Arkansas System

Comment: We would appreciate additional clarification regarding the definitions of storage and possession. Possession should be constructive possession as defined by the Court of Appeals as “immediately and exclusively accessible.” A tactical or practical approach to enhanced training would be better to add a situational stress component to the training. Moving and using hard cover would make the training more useful and demonstrate the shooters knowledge of safe tactics as well. The definition of “committed” is too broad. If an individual possesses a concealed carry license in another state, what will be required of that individual to legally carry on an Arkansas campus?

Response:

- These definitions have been somewhat clarified to address the concerns of many commenters. However, to require that a firearm in possession of a licensee be “exclusively accessible” to the licensee would negate the use of the term “possession” in a vehicle when the licensee is suspended or revoked for an alcohol-related crime while in possession of a handgun. Currently, that usage of the term would apply to a firearm in a vehicle that is not “exclusively accessible” to the licensee, but would also be accessible to other passengers.
- 8 hours is an insufficient amount of time to prepare a civilian for tactical response to and engagement with an active shooter. Minimal training in these areas is more likely to give a licensee a false sense of confidence regarding his or her abilities than anything else.
- Any time a word is defined, the definition should be used to give clarity to the term wherever it is used in the legislation or the Rules. A licensee or applicant would only be disqualified for a commitment if provided for under the law – commitments for abuse of controlled substances (A.C.A. § 5-73-309(7)(B)), as an alcoholic (A.C.A. § 5-73-309(8)(B)), or for voluntary or involuntary mental health treatment (A.C.A. § 5-73-309(11)).
- The law does not provide for out-of-state license holders to obtain an enhanced CHCL or to carry on Arkansas campuses. To carry on campus, a person must receive the endorsement referred to in A.C.A. § 5-73-322(g)(3). That section states that the enhancement is an “endorsement...on his or her license to carry a concealed handgun.” In Arkansas, to obtain a license to carry a concealed handgun, a person must be a resident of the state. See A.C.A. § 5-73-309(2).