

ADOPTED
09/17/2015

CONNECTICUT SENTENCING COMMISSION

No. 2015-03

Resolution Regarding Connecticut's Weapon in a Motor Vehicle Statute

Resolution

1 **RESOLVED**, That the Connecticut Sentencing Commission urges the Connecticut
2 General Assembly to amend Conn. Gen. Stat § 29-38 to comply with the Connecticut
3 Supreme Court's ruling in State v. Jason William DeCiccio, SC19104 (Conn. 2014).
4
5

Proposed Changes

Sec. 29-38. Weapons in vehicles. Penalty. Exceptions.

(a) Any person who knowingly has, in any vehicle owned, operated or occupied by such person, any weapon, any pistol or revolver for which a proper permit has not been issued as provided in section 29-28 or any machine gun which has not been registered as required by section 53-202, shall be guilty of a class D felony, and the presence of any such weapon, pistol or revolver, or machine gun in any vehicle shall be prima facie evidence of a violation of this section by the owner, operator and each occupant thereof. The word "weapon", as used in this section, means any BB. gun, any blackjack, any metal or brass knuckles, any police baton or nightstick, any dirk knife or switch knife, any knife having an automatic spring release device by which a blade is released from the handle, having a blade of over one and one-half inches in length, any stiletto, any knife the edged portion of the blade of which is four inches or more in length, any martial arts weapon or electronic defense weapon, as defined in section 53a-3, or any other dangerous or deadly weapon or instrument.

(b) The provisions of this section shall not apply to: (1) Any officer charged with the preservation of the public peace while engaged in the pursuit of such officer's official duties; (2) any security guard having a baton or nightstick in a vehicle while engaged in the pursuit of such guard's official duties; (3) any person enrolled in and currently attending a martial arts school, with official verification of such enrollment and attendance, or any certified martial arts instructor, having any such martial arts weapon in a vehicle while traveling to or from such school or to or from an authorized event or competition; (4) any person having a BB. gun in a vehicle provided such weapon is unloaded and stored in the trunk of such vehicle or in a locked container other than the glove compartment or console; **[and]** (5) any person having a knife, the edged portion of the blade of which is four inches or more in length, in a vehicle if such person is (A) any member of the armed forces of the United States, as defined in section 27-103, or any reserve component thereof, or of the armed forces of the state, as defined in section 27-2, when on duty or going to or from duty, (B) any member of any military organization when on parade or when going to or from any place of assembly, (C) any person while transporting such knife as merchandise or for display at an authorized gun or knife show, (D) any person while lawfully removing such person's household goods or effects from one place to another, or from one residence to another, (E) any person while actually and peaceably engaged in carrying any such knife from such person's place of abode or business to a place or person where or by whom such knife is to be repaired, or while actually and peaceably returning to such person's place of abode or business with such knife after the same has been repaired, (F) any person holding a valid hunting, fishing or trapping license issued pursuant to chapter 490 or any saltwater fisherman while having such knife in a vehicle for lawful hunting, fishing or trapping activities, or (G) any person participating in an authorized historic reenactment **[.]; and (6) any person having a dirk knife or police baton in a vehicle while lawfully removing such person's household goods or effects from one place to another, or from one residence to another.**

Report

On December 23, 2014, the Connecticut Supreme Court released its decision in State v. DeCiccio, holding that Conn Gen. Stat § 29-38 violates the Second Amendment to the extent that it acts as a complete prohibition on the transportation of dirk knives and police batons between residences.

Jason DeCiccio was involved in an automobile accident while in the process of moving his belongings from his former home in Connecticut to a new home in Massachusetts. Mr. Deciccio was arrested and charged with having weapons in his vehicle in violation of Connecticut General Statutes § 29-38(a) after police investigating the accident discovered a dirk knife and a police baton in his vehicle. Mr. DeCiccio was subsequently convicted of two counts of violating § 29-38(a) and appealed, claiming that the statute constituted an unreasonable infringement on his Second Amendment right to bear arms.

The Connecticut Supreme Court reversed, concluding that, “possession of a dirk knife and a police baton in a person's home is protected by the second amendment” and that, “...our statutory scheme, which categorically bars the transportation of those weapons by motor vehicle from a former residence to a new residence, impermissibly infringes on that constitutional right.”

The Commission’s proposal is designed to rectify the now unconstitutional portion of § 29-38 in accordance with the court’s narrow holding.