

Legislative Analysis



HANDGUN LICENSURE ACT AMENDMENTS

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Senate Bill 59 (Substitute H-2)

Sponsor: Sen. Mike Green

House Committee: Natural Resources, Tourism, and Outdoor Recreation

1st Senate Committee: Judiciary

2nd Senate Committee: Natural Resources, Environment, and Great Lakes

Complete to 12-13-12

A REVISED SUMMARY OF SENATE BILL 59 (H-2) AS REPORTED FROM COMMITTEE 12-12-12

BRIEF SUMMARY: Generally speaking, the bill would amend the Handgun Licensure Act (1927 PA 372) to:

** Eliminate county concealed weapon licensing boards and transfer all duties and responsibilities to the county sheriffs.

** Allow licensees and applicants that meet certain requirements to apply for exemptions to carry concealed pistols in most no-carry zones.

[No carry zones include schools and school property, except in vehicles on school property that are picking up or dropping off students; public or private child care centers or day care centers, public or private child caring institutions, and public or private child placing agencies; bars and taverns, except for the owner or employees of the business; property and facilities owned or operated by a church, synagogue, mosque, temple, or other place of worship unless allowed by the organization; entertainment facilities that seat 2,500 people or more; hospitals; and dormitories and classrooms of a community college, college, or university.]

** Require each county to establish and maintain a Concealed Pistol Licensing Fund.

** Allow private property owners to prohibit an individual from carrying a pistol, including a pistol that is openly carried, on the private premises.

** Allow colleges or universities that are constitutionally autonomous to enact and enforce ordinance regulating the possession, carrying, use, or transportation of a pistol.

DETAILED SUMMARY:

Among other things, the bill would do the following:

- Eliminate all county concealed weapon licensing boards effective January 1, 2013, and transfer their duties and functions to county sheriffs.

- Eliminate a provision requiring the police department or county sheriff to retain certain records for at least six years.
- Alter the information that county sheriffs, police agencies, and county clerks must include in the concealed pistol application kits that each is required to provide free-of-charge to interested applicants.
- Clarify that each county must operate a concealed weapon licensing board through April 30, 2013.
- Clarify that the county clerk will serve as the clerk of the licensing authority and is responsible to store and maintain all records related to the issuance or denial of a license.
- Provide that the authority for a licensing board to convene a panel to assist in evaluating applicants expires on April 30, 2013, at midnight.
- Provide that the licensing authority could only require an application to appear before it for a conference if it has reason to believe the application may not be qualified to receive a concealed pistol license. The clerk of the licensing authority would have to send a notification to appear at a conference to the applicant that includes a specific statutory citation for each disqualification to be addressed. Both parties would have to mutually agree on the date of a hearing.
- Require that the firearms laws compiled by the Legislative Service Bureau be provided to the State Police in electronic format, rather than to the individual licensing boards. The State Police would have to provide a copy of the compiled laws to each of the licensing authorities and its clerk, in addition to information regarding the rights and responsibilities of applicants, license holders, and licensing authorities. The State Police would also have to provide appeal forms and must distribute all forms and information to each licensing authority and its clerk.
- Eliminate effective at midnight on April 30, 2013, all county concealed weapon licensing boards and transfer all duties, functions, and responsibilities of the boards to the county sheriffs. All applications and official documents would have to be transferred to the clerk of the licensing authority. Pending applications would remain in place and would be processed as provided for in the act.
- Clarify that concealed pistol carry licenses issued prior to midnight on April 30, 2013, would be valid and remain in effect until the license expires.
- Provide that references used by an applicant cannot be related to the applicant or a member of the household.

- Allow the licensing authority clerk to take photographs of applicants at no charge or for a reasonable fee if the applicant does not submit a photograph.
- Require the county clerk to obtain a signature from the applicant at the time of application for use on a license.
- Require the applicant to properly complete a refund authorization form.
- Provide that no additional information can be requested of an application than what is required in the bill.
- Provide that no other charges, fees, costs, or assessments, can be required of an applicant, except for those authorized in the bill. The bill would also direct \$41 of each application and licensing fee into the newly created Concealed Pistol Licensing Fund with the remaining \$64 being deposited into the General Fund to the credit of the State Police.
- Require county sheriffs or local police agencies that take fingerprints to provide a receipt to the applicant verifying the fingerprints have been take. The receipt would have to contain a statement that the applicant should retain the receipt for purposes of obtaining a refund under the act.
- Require sheriffs and local police agencies that maintain fingerprinting capability to provide reasonable access to those services during normal business hours as is necessary to comply with the requirements of the bill.
- Reduce from 10 to 7, the number of days in which the State Police must provide a copy of an FBI fingerprint report to the submitting sheriff's department or local police agency.
- Allow applications to be denied if fingerprints are not classifiable and a report cannot be obtained from the applicant's name, birthdate, and other identifying information.
- Clarify that a licensing authority is required to issue a determination on an application within 45 days after the date the applicant has classifiable fingerprints taken. The licensing authority would also have to include an endorsement exemption from the prohibitions against carrying a concealed pistol in certain areas if the applicant requests the exemption endorsement and the request is granted.
- Increase from 5 to 7 days, the amount of time a licensing authority would have to (1) inform the applicant of the reasons for denial and (2) inform the applicant of the right to appeal if a licensing authority denies issuance of a license or denies an exemption to carry a concealed pistol in a no-carry zone.

- Provide that if a determination is not made within 45 days after the applicant has classifiable fingerprints taken, the clerk of a licensing authority would have 10 days to issue a temporary license and a refund of the portion of the application fee that is deposited in the Concealed Pistol Licensing Fund. If the clerk fails to issue a temporary license within 10 days, the clerk would have to immediately issue a temporary license and issue an appropriate refund. If a license is not issued on the grounds that the authority has not received the fingerprint comparison, the clerk could require the applicant to show his or her receipt for having those prints taken before a refund would have to be provided.
- Require that by May 1, 2013, licenses be constructed of plastic laminated paper or hard plastic and prohibit any additional fees be charged for such a license. The bill would allow a licensing authority to charge an optional \$10.00 fee for an optional hard plastic license.
- Require a court to order the county in which a licensing authority that has been found to have denied or failed to issue a license, and the decision is found to be clearly erroneous or arbitrary and capricious, to pay **all** of the applicant's actual costs and attorney fees in appealing the denial. Under current law, the state is required to pay 1/3 of the cost and the county is required to pay 2/3 of the cost. All costs and refunds paid to applicants would be paid out of the Concealed Pistol Licensing Fund, or if a sufficient amount is not in the fund, from the county general fund.
- Remove a provision requiring the applicant pay the actual costs and attorney fees of the licensing board in responding to an appeal that was determined to be frivolous.
- Add the number of suspended concealed pistol licenses in the State Police's annual report to the Legislature.
- Require that in order for a pistol training or safety program to meet the requirements for knowledge or training, it must have been provided within five years of the date of application.
- Modify the criteria for pistol training and safety programs for certificates issued after May 1, 2013.
- Allow licensing authorities to suspend, rather than revoke, licenses of individuals found guilty of committing certain alcohol related offenses.
- Require the licensing authority clerk to notify a licensee of the pending expiration of a license. The notice would have to be sent no later than three months and no earlier than six months prior to expiration. Applicants are eligible for a license renewal prior to a license expiring or within a 5-year period before the application date. Licenses held by members of the military that expire while the licensee is

on official deployment orders outside of Michigan or the continental United States would be automatically extended until 60 days after the end of the date of deployment. A deployed licensee who receives an extension would have to possess his or her deployment orders when carrying a concealed pistol during the 60-day extension. This provision would not apply to licenses issued under Section 2 of the act.

- Reduce from 60 to 45 days, the amount of time a licensing authority has to make a determination on a renewal license. If a determination is not made during that time span, an appropriate refund would have to be issued in the same manner as provided for an initial application.
- Waive certain education requirements for certain active and retired federal law enforcement officers or agents, including military police officers.
- Exempt from the prohibition from carrying a concealed pistol in a no-carry zone or against carrying a portable device that uses electro-muscular disruption technology: peace officers licensed under the act, including federal law enforcement officers and military police officers that are in possession of a valid official identification that identifies the individual as such; or a retired individual mentioned above that retired in good standing; or a corrections or retired parole, probation, or corrections officer that is licensed under the act; or an active or retired federal judge licensed under the act.
- Beginning May 1, 2013, require applicants to certify that during the 1-hour of firing range time required for renewal, the applicant fired at least 98 rounds. Under current law, educational requirements can be waived for an application applying for a renewal license if the applicant certifies he or she has completed at least three hours of review and one hour of firing range time.
- Transfer from the prosecuting attorney to the State Police, the responsibility for notifying the licensing authority when a license holder has been charged with an offense specified in the act.
- Exempt individuals that have applied for and been granted an exemption to carry concealed pistols in no-carry zones. In order to be eligible for an exemption, individuals have to request an exemption and (1) be a current licensee or applicant that has completed at least eight hours of additional training (that meets the requirements of the bill) or a (2) be a certified firearms instructor.
- Waive certain education requirements required for renewal for (1) individuals who have been granted an exemption and are applying for a renewal license with an exemption and (2) firearms instructors, provided the applicant certifies he or she completed at least three hours of review of the appropriate training. Educational requirements would be considered met if the applicant certifies on the renewal application that he or she has completed the requirements and the

licensing authority would not be able to otherwise require verification of the statements and could not require an applicant to obtain a certificate or undergo additional training.

- Allow a licensing authority to delegate the responsibility for making a determination of an exemption to the clerk of the licensing authority for current licensees only.
- Require that a determination be made on an exemption application within 10 days of receiving it. In the event an exemption is denied, the denial notice would have to include specific statutory for the denial.
- Require the entire fee be deposited into the Concealed Pistol Licensing Fund if the licensing authority delegates responsibility for making a determination on an exemption to the clerk.
- Require current license holders that apply for and are granted an exemption to surrender a license immediately after receiving a replacement license with the exemption endorsement.
- Provide that individuals licensed under the act could not intentionally display or openly carry a pistol on a premises in a no-carry zone unless the individual owns the premises or is employed or contracted by the owner, if the possession of the firearm is to provide security or is otherwise in the scope of the individual's duties, or the individual is acting with the express written consent of the owner.
- Require each county to establish a Concealed Pistol Licensing Fund that would be under the investment control of the county treasurer. The fund could only be used to administer the cost of the act or for (1) staffing, (2) technology, (3) office supplies, (4) or document storage and retrieval. Money expended from the Fund would be subject to appropriation by the county board of commissioners, except for refunds, which would have to be paid regardless of an appropriation.
- Provide that hearings conducted to determine whether applicants pose a danger to himself or herself or to any other person would be closed to the public if requested by the individual. Individuals could be represented by legal counsel during the hearing and could present relevant evidence. If a suspension is imposed, the licensee would have to promptly surrender the license after receiving notice from the clerk.
- Automatically reinstate a surrendered license when the suspension period expires, provided the license has not expired and the individual is otherwise qualified to receive a license. The clerk would have to provide notice of license reinstatement within seven days of the license being reinstated. The authority would be able to charge a reinstatement fee of up to \$20.

- Repeal a section allowing concealed weapons licensing boards to issue licenses for "gas ejecting devices" to eligible entities.

FISCAL IMPACT:

A fiscal analysis is in process.

BACKGROUND INFORMATION AND DISCUSSION:

The bill is intended to streamline the concealed pistol license application process by transferring authority from county licensing boards and to the county sheriffs. According to testimony, Michigan is the only state in the country that still utilizes county gun boards. The bill also allows private property owners and universities to restrict the possession of firearms on their premises. Additionally, the bill would allow license holders that apply for and receive an exemption to carry concealed weapons in most no-carry zones. Supporters believe this change is in line with the Second Amendment and provides additional safety and security to the public.

There were strong concerns with allowing concealed pistols to be carried in schools, hospitals, churches, and other areas where children are present. Some believe firearms have no business in these areas while others are concerned about the unintended consequences and the chances of the weapon failing into the wrong hands. According to testimony, churches, schools, hospitals, day care centers, and other similar areas are meant to be places of peace and security and allowing concealed pistols to be carried there would put both in jeopardy.

POSITIONS:

Michigan Association of County Clerks support the provisions dealing with the role of county clerks in processing license applications but did not offer a position on the entire bill. (12-12-12)

Michigan Coalition of Responsible Gun Owners supports the bill. (12-12-12)

Michigan Gun Owners submitted written testimony in support of the bill. (12-12-12)

Michigan Open Carry, Inc. supports the bill. (12-12-12)

Michigan Students for Concealed Carry submitted written testimony in support of the bill. (12-12-12)

Michigan United Conservation Clubs supports the bill. (12-12-12)

President's Council, State Universities of Michigan is neutral on the bill. (12-12-12)

Beaumont Hospitals opposes the bill. (12-12-12)

Michigan Association of School Boards opposes the bill. (12-12-12)

Michigan Catholic Conference opposes the bill. (12-12-12)

Michigan Health and Hospital Association opposes the bill. (12-12-12)

Michigan Municipal League opposes the bill. (12-12-12)

Michigan Unitarian Universalist Social Justice Network opposes the bill. (12-12-12)

National Council of Jewish Women opposes the bill. (12-12-12)

Oakland Schools opposes the bill. (12-12-12)

Sparrow Health System opposes the bill. (12-12-12)

Sparrow Hospital opposes the bill. (12-12-12)

Spartan Child Development Center opposes the bill. (12-12-12)

Wayne RESA opposes the bill. (12-12-12)

Clergy from the Unitarian Universalist Fellowship of Midland, the United Church of Christ, and the United Methodist Church testified in opposition to the bill.

Legislative Analyst: Jeff Stoutenburg
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.