

Legislative Analysis



CONCEALED WEAPON PERMIT REQUIREMENTS: EXPIRATION DATE

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House Bill 4977 (Substitute H-1)

House Bill 4978 (Substitute H-1)

Sponsor: Rep. Dave Hildenbrand

Committee: Conservation, Forestry, and Outdoor Recreation

First Analysis (9-13-05)

BRIEF SUMMARY: The bills would specify that after July 1, 2006, the expiration date of a concealed weapons permit is to fall on a person's date of birth, and would require that those seeking a concealed pistol permit meet certain federal eligibility standards.

FISCAL IMPACT: The bills would have an indeterminate fiscal impact.

THE APPARENT PROBLEM:

Currently a permit to carry a concealed weapon expires five years after the date it was issued, if it was issued after July 1, 2003, or three years after the date it was issued, if it was issued before July 1, 2003. These expiration dates are often confusing for permit holders, most especially for those who hold permits for several weapons. To make renewal of the permits easier, legislation has been proposed to make the expiration date the same as an applicant's birth date, as is now the case with the licenses to drive motor vehicles.

In addition, according to a May 20, 2005 letter addressed to the Department of State Police from the U. S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Michigan's law to purchase a pistol and carry a concealed weapon is not currently aligned with federal requirements.

Current federal law restricts all of the following people from obtaining and transporting firearms: convicted felons, people under indictment for felonies, mental defectives or incompetents, illegal users of controlled drugs, illegal aliens, veterans dishonorably discharged, those who have renounced their U. S. citizenship, fugitives from justice, people convicted of a misdemeanor crime of domestic violence, and those subject to domestic violence restraining orders. In addition, illegal aliens—those entering the country unlawfully—and also nonimmigrant aliens—for example, temporary workers and trainees, students, and visitors for business or pleasure—cannot obtain or transport arms.

To ensure that those who apply to purchase or carry arms are eligible to do so, officials customarily check state and federal databases, including the National Instant Criminal Background Check System (known as NICS), and the Immigration and Customs Enforcement databases (known as ICE). Since May 2002, local law enforcement

agencies issuing firearms permits have been notified by the Michigan State Police that they are responsible for conducting ICE checks for non-U.S. citizens as part of a NICS check performed on a license applicant. However, the Department of State Police has recently been informed that a written policy does not satisfy federal requirements, since it does not have the same effect as a state law or regulation.

To align the state statute with the federal law, legislation has been introduced to require that an agency issuing a pistol permit 1) determine that an applicant is not prohibited by federal law from owning or transporting a firearm, and 2) if the applicant is not a citizen of the United States, that he or she is not an illegal alien, or a nonimmigrant alien.

THE CONTENT OF THE BILLS:

House Bill 4977 (H-1) would amend Public Act 372 of 1927 (MCL 28.4251), which concerns the regulation of firearms, to specify that the expiration date of a concealed weapons permit would fall on a person's date of birth.

Currently under the law, a license to carry a concealed pistol issued before July 1, 2003 is valid for three years, and a license to carry a concealed pistol issued on or after July 1, 2003 is valid for five years.

House Bill 4977 would revise these provisions to specify that a license to carry a concealed pistol issued on or after July 1, 2003 but before July 1, 2006 would be valid for five years. Further and under the bill, a license to carry a concealed pistol issued on or after July 1, 2006 would be valid until the applicant's date of birth that fell not less than five years or more than six years after the license was issued.

House Bill 4978 (H-1) would also amend Public Act 372 of 1927 (MCL 28.421-28.435), to require that those seeking a concealed pistol permit must meet certain federal eligibility standards.

The bill would prohibit issuing a license to an applicant under sections 2 or 5b [which concern licenses to purchase, carry, or transport firearms; and to carry concealed pistols, respectively], unless both the following applied:

- the issuing agency had determined through the federal National Instant Criminal Background Check System (NICS) that the applicant was not prohibited under federal law from possessing or transporting a firearm; and,
- the issuing agency had verified through the U. S. Immigration and Customs Enforcement (ICE) databases that the applicant was not an illegal alien, or a nonimmigrant alien.

ARGUMENTS:

For:

House Bill 4977 will make easier the renewal of a concealed weapons permit, since beginning with permits issued after July 1, 2006, a five-year permit would expire on an applicant's date of birth. This would bring the expiration date in line with a person's driver's license, making renewal easy to remember.

For:

House Bill 4978 brings Michigan into compliance with federal laws that govern the purchase and transport of concealed pistols. The legislation is necessary in order to ensure homeland security during an era when terrorists threaten the safety of our citizens.

Against:

The Shooters Alliance for Firearms Rights opposes House Bill 4978, given legislation pending in the U.S. Congress, because it does not contain a provision ensuring applicants the right of due process. To achieve due process, they recommend an amendment be added to the bill stating, "The issuing agency has determined that the applicant is not prohibited under federal law *by means of adjudication* from possessing or transporting a firearm."

The Alliance spokesmen point out that House Bill 4978 is written to prohibit a person from making applications either to purchase or to carry concealed, a pistol, if that person's name were to appear on either the federal government's terrorist watch list, or the so-called 'do not fly' list used to screen airplane travelers. Although the Alliance believes it is vitally important to prevent suspected terrorists from obtaining firearms, the group's spokesmen note that the two lists maintained by the federal government are unreliable, sometimes preventing the movement of innocent people having the same names as those under suspicion of unlawful behavior. Under House Bill 4978, these unfortunate people also would be unable to apply either to purchase a pistol, or carry it concealed. Spokesmen from the Alliance also observe that the criteria for list development are confidential since they are classified as top-secret information, and further, there are no means either to review the federal lists, or to have one's name removed from them. In effect, the due process rights of both U. S. citizens and legal resident aliens may be denied, should a person's name appear on either of these lists.

Response:

Some who support House Bill 4978 acknowledge this concern as a legitimate one. However, they say the law written by the U. S. Congress should be amended to ensure due process protections for citizens, not this proposed state statute.

POSITIONS:

The Shooters Alliance for Firearms Rights supports House Bill 4977 but opposes House Bill 4978. (9-8-05)

The Michigan Association of County Clerks supports House Bills 4977 and 4978 as amended. (9-8-05)

Great Lakes Shooting Sports supports House Bills 4977 and 4978 as amended. (9-8-05)

The Department of State Police is neutral on House Bill 4977, and supports House Bill 4978. (9-8-05)

The Michigan Coalition of Responsible Gun Owners supports the bills. (9-8-05)

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■ 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.