

## REVISE HANDGUN LICENSURE LAW

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### House Bill 5969

Sponsor: Rep. Jeff Mayes

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 4-22-08

### A SUMMARY OF HOUSE BILL 5969 AS INTRODUCED 4-10-08

Among other things, the bill would amend the Handgun Licensure Act, Public Act 372 of 1927, to (1) adopt a definition of Michigan residency for purposes of the act, (2) specify when non-residents of the state of Michigan are exempt from licensing requirements, (3) create an exemption from licensing requirements for children and adults at recognized target ranges, (4) amend provisions concerning the application of licensure requirements to active duty members of the armed services, (5) allow the holders of concealed pistol licenses issued by other states to obtain temporary licenses upon establishing Michigan residency, and (6) amend the list of misdemeanor crimes that disqualify applicants for concealed pistol licenses (if the conviction was in the past eight years).

Amendment to the ban on carrying or transporting unlicensed pistols. [§2(1)] Generally speaking, individuals are prohibited from purchasing, carrying, or transporting a pistol in Michigan without a license to do so. Currently, the only specified exception is for members of the armed forces who arrive in Michigan on leave from active duty or after discharge from active duty who are granted up to 30 days to obtain a license for their pistol. As described below, the bill would create additional exceptions.

Michigan residency. [§2(3)(c)] Applicants for a license to purchase, carry, or transport a pistol in Michigan must be both (1) a citizen of the United States and (2) a legal resident of Michigan. Federal law governs who is a citizen of the U.S. The bill would describe who is a legal resident of Michigan for purposes of this section of the act. Under the bill, a person with any of the following would be a legal resident of Michigan for purposes of this section of the act: (1) a valid, lawfully-obtained Michigan driver license or official state personal identification card; (2) a lawful Michigan voter registration; (3) if on active duty with the United States Armed Forces, a "home of record" in Michigan if stationed outside Michigan; or (4) a permanent assignment in Michigan on active duty, if the person's "home of record" is outside Michigan.

[Note: Although an applicant for a license to purchase, carry, or transport a pistol must be a U.S. citizen, an applicant for a license to carry a concealed pistol may be either a U.S. citizen or a lawfully-admitted alien. See below.]

No pending criminal charges. Currently, applicants for a license to purchase, carry, or transport a pistol must not have any felony charges pending against them at the time of application. The bill would delete the word "felony," so that *any* pending criminal

charge, whether classified as a felony or misdemeanor, would disqualify an applicant. [Note: In contrast, in the section pertaining to applications for a concealed weapon license, only pending felonies would be disqualifying.]

Non-residents exempt from licensure requirement. The bill would exempt persons who are not residents of Michigan from the requirement of a pistol license if all of the following conditions apply:

- The individual is licensed in his or her state of residence to purchase, carry, or transport a pistol, and the person is in possession of this license.
- The person is the owner of the pistol he or she possesses or is carrying.
- The person possesses the pistol for a lawful purpose as that term is defined in Section 231 of the Michigan Penal Code, MCL 750.231a.
- The person is in Michigan for 180 days or less and does not intend to establish Michigan residency.

[A "lawful purpose" under Section 231 includes (1) travel to or from a hunting or target shooting area; (2) travel to or from a weapon repair shop; (3) moving goods from one place of abode or business to another; (4) travel to or from a law enforcement agency for a safety inspection or to turn in a weapon; (5) travel to or from a gun show; and (6) travel to or from a person's home to a public shooting facility or public or private land where the discharge of firearms is permitted.]

Must present home state license when asked by a police officer. A non-resident who has an out-of-state pistol license must present it upon the demand of a police officer. Failure to do so would constitute a misdemeanor punishable by up to 90 days in prison or a fine of up to \$100, or both.

Proof of active duty status. A licensing authority could require a person claiming active duty status to provide proof of one or both of the following: (1) the person's "home of record" or (2) a permanent active duty assignment in Michigan.

Exemption for minors using pistols at target ranges. A minor would not need a license to possess a pistol if all of the following conditions apply: (1) the person is not otherwise prohibited from possessing the pistol; (2) the person is at a recognized target range; (3) the pistol is used for target practice or instruction in the safe use of a pistol; (4) the person's parent or guardian is physically present and supervising the person; and (5) the pistol's owner is physically present.

[Note: It would appear that the exemption created in Section 2(11) would apply to persons under the age of 18, but it is not entirely clear because the language used is that the licensing requirement would not apply to persons "who are less than the age required under subsection 3(b)." That subsection in turn, says that a person must be 18 to obtain a license or 21, if the seller is licensed under a specified federal law.]

General exception for persons using pistols at target range or shooting facility. While Section 2(11) appears to exempt minors from needing a license to use a pistol at a target

range when supervised by a parent, Section 2(12) would appear to create a general exception for persons using pistols at recognized target ranges or shooting facilities. (Section 2(11), pertaining to minors, applies only to target ranges.) In general, persons would not need a license to possess a pistol, if all of the following conditions apply: (1) the person is not otherwise prohibited from possessing the pistol; (2) the person is at a recognized target range or shooting facility; (3) the pistol is used for target practice or instruction in the safe use of a pistol; (4) the owner of the pistol is physically present and supervising its use.

License to carry a concealed pistol. A concealed weapon licensing board may require a person claiming active duty status to provide proof of one or both of the following: (1) the person's "home of record," or (2) a permanent active duty assignment in Michigan.

Citizenship and residency requirements for license to carry a concealed pistol. Under current law, to qualify for a concealed weapon license, an applicant must be (1) either a U.S. citizen or a lawfully-admitted alien and (2) a Michigan resident; and (3) must have resided in Michigan for at least six months. The bill would specify that the applicant must be a "legal resident" of Michigan for the six months *immediately preceding* the date of the application.

Applicants who hold a valid concealed pistol license in another state. If an applicant for a concealed weapon license in Michigan holds a valid concealed pistol permit from another state, the concealed weapon licensing board could waive the six-month waiting period and the person could apply for a concealed weapon pistol license as soon as the applicant's Michigan residency is established. Then the concealed weapon licensing board would have to issue a temporary license to the applicant that is valid until the board decides whether to grant or deny the concealed pistol license application.

As in the section described above, Michigan residency could be established with (1) a valid, lawfully-obtained Michigan driver license or official state identification card; (2) lawful voter registration; (3) active duty status with a Michigan "home of record," or (4) active duty status and a permanent assignment in Michigan (if the person's "home of record" is outside Michigan).

Conditions that disqualify an applicant for a concealed pistol license. Among other things, a previous felony conviction or pending felony charge currently disqualifies an applicant for a concealed pistol permit. Unlike the section pertaining to applications for a license to purchase, carry, or transport a license, the bill would not include pending misdemeanor charges as a disqualifying condition.

Conviction of certain specified misdemeanors in the previous eight years also disqualifies an applicant under current law. The bill would make a number of revisions to the list of disqualifying misdemeanors. New, amended, or deleted disqualifying misdemeanor crimes include:

- Operating a commercial vehicle while intoxicated, second offense.
- Breaking and entering, or entering without breaking.
- Illegal use or sale of a self-defense spray.

- Fourth degree criminal sexual conduct. (new)
- Ignition interlock device reporting violation.
- Controlled substance violation.
- False pretenses with intent to defraud.
- Second degree retail fraud.
- Larceny of defrauding lessor.
- Failure to obey police direction (deleted).

Failure to return revoked concealed pistol license as misdemeanor. Current law requires a person whose concealed pistol license has been suspended or revoked to return it promptly to the licensing board. The bill would specify that a failure to do so after being notified of the suspension or revocation would constitute a misdemeanor punishable by prison for up to 93 days or a fine of up to \$500, or both.

Mandatory revocation. Currently, a concealed weapon licensing board "may revoke" a license it has issued if it determines that the person has committed any violation of the act other than a violation of Section 5f(4), or if the person is ineligible under the act to receive a license to carry a concealed pistol. Section 5f(4) deals with providing a license and identification when requested by law enforcement. The bill would change the wording to "shall revoke."

#### **FISCAL IMPACT:**

House Bill 5969 would have an indeterminate fiscal impact on state and local government. Under new language in Section 2(8) of this bill, a non-Michigan resident isn't required to obtain a pistol license if that person has a license from his or her state of residence. However, under new language in Section 2(9) of this bill, if this individual does not present the license upon the demand of a police officer, the individual is guilty of a misdemeanor with imprisonment for not more than 90 days or a fine of not more than \$100, or both. It is unknown how many individuals would be found guilty of this misdemeanor.

Under new language in Section 5b(16) of this bill, if a license is revoked or suspended by a concealed weapons licensing board and the individual doesn't return the license after notification of the suspension, that person is guilty of a misdemeanor with imprisonment for not more than 93 days or a fine of not more than \$500, or both. It is unknown how many individuals would be found guilty of this misdemeanor.

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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.