



Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**House
Legislative
Analysis
Section**

**LICENSING FOR CONCEALED
WEAPONS**

House Bill 4718

Sponsor: Rep. Allen Lowe

House Bill 4719

Sponsor: Rep. Deborah Whyman

House Bill 4720

Sponsor: Rep. Alan Cropsey

Committee: Judiciary and Civil Rights

Complete to 12-7-95

A SUMMARY OF HOUSE BILLS 4718, 4719, and 4720 AS INTRODUCED 4-25-95

The bills, which are tie-barred to each other, would change the rules and procedures by which citizens may apply for and receive licenses to carry concealed weapons. Currently, licenses to carry concealed weapons are issued by one of 83 separate county "gun boards." The individual applying for the license has the burden of establishing that he or she has a special need for such a license. The package of bills would not affect the process for purchasing or owning a pistol without a concealed weapon permit, except by eliminating the requirement that an individual seeking a permit to purchase and/or possess a pistol be a citizen of the United States.

Under House Bill 4720, which would amend the handgun licensure act (MCL 28.422, et al.), the secretary of state would be responsible for issuing licenses to carry concealed weapons. The bill would rename the act the "Citizens Self-Defense Act," and would specify that, "as provided under the Constitution of the United States and the Constitution of this state, this act secures the individual rights of the citizens of this state to transfer, carry, keep, own, and bear arms." The bill would also repeal the current concealed weapons licensure provisions of the handgun licensure act and amend the portion of the act concerning permits to purchase and own pistols. The bill would specifically exempt individuals who have received licenses to carry concealed weapons under the bill from having to get a permit to purchase or possess a pistol. Further, the bill would not bar an individual from receiving a permit because he or she was subject to an order entered into the law enforcement information network (LEIN) under MCL 552.14, which allows the court to enter a personal protection order for a person affected by spousal abuse.

The secretary of state would be required to provide an application kit to anyone who wanted to apply for a license to carry a concealed weapon. The kit would contain an application form, fingerprint cards, and information regarding the procedures involved in obtaining a license, including where the individual could receive the necessary training to qualify for such a license and the applicant's right to appeal the denial of a license. The secretary of state would be required to grant a license to carry a concealed weapon to any applicant who met certain

minimum standards set forth in the bill, who passed a criminal and mental illness background check, and who was not subject to a judicial injunction against owning a handgun.

Requirements for license. The secretary of state would be required to grant a license to any applicant whose application indicates that he or she was eligible to have a license, unless the secretary of state determined that, based on specific and articulable facts, issuing a license to the person would threaten the safety of the applicant or any other individual. In order to be eligible to receive such a license an individual would have to:

** be a current resident of Michigan, residing in the state for at least six months;

**be at least 21 years old, or at least 18 years old where the individual were required to carry a concealed weapon as part of his or her employment;

**show evidence of knowledge or training in the use of a firearm (see below);

**have no felony charges pending, nor felony convictions or confinement, in this state or any other, for the eight years immediately prior to the application;

**never have been adjudged insane or legally incapacitated, unless he or she has been adjudged restored to sanity or legal capacity by order of a court, nor be under an order of involuntary commitment for mental health treatment;

**show that he or she was not currently enjoined from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under MCL 750.227f, which refers to the commission of a crime while wearing body armor. (Note: The reference appears to be in error; it may be intended to apply instead to MCL 750.224f, which bars individuals convicted of a committing or attempting to commit certain crimes from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing firearms. Under that section, depending upon the nature of the offense for which the individual was convicted, he or she is barred from transporting, possessing, or distributing firearms for either three or five years after he or she has paid all the fines associated with the crime, completed his or her term of imprisonment, and completed all the terms and conditions of his or her parole. Where the crime involved was punishable by four or more years of imprisonment, the person is barred for three years beyond his or her completion of the conditions of his or her punishment. Where the individual was convicted of committing a felony which involved the use of physical force, controlled substances, explosives, the unlawful possession or distribution of a firearm, or burglary, breaking and entering, or arson, the convicted person must wait until five years after he or she has completed his or her term of incarceration and must apply for and receive a restoration of those rights from a concealed weapons licensing board.)

**If the application was filed on or after April 1, 1996, several statutes will require that LEIN entries be made whenever certain events occur. The applicant's request for a license could be rejected if he or she is the subject of a LEIN order or disposition entered as the result of his or her involuntary hospitalization or alternative treatment under the mental health code, or legal incapacity under the revised probate code, or due to the existence of an injunction, or restraining order under provisions of the revised judicature act regarding domestic violence; or for stalking,

or for having been declared not guilty of any crime by reason of insanity, or he or she was released from incarceration subject to conditions or restrictions which were placed upon him or her for the protection others.

Application for license. In order to receive a license to carry a concealed weapon, an individual would have to obtain and complete an application form provided by the secretary of state. The form would include the applicant's name and address, a sworn statement that the applicant was familiar with and met the requirements set forth in the act for a license to carry a concealed weapon, and a warning indicating that intentionally making a false statement in the application was a misdemeanor punishable by up to 90 days imprisonment and/or a \$100 fine.

Fingerprinting. As part of the application process, the individual would have to have two sets of fingerprints taken. The applicant's fingerprints would be taken by the local police department or local county sheriff on forms supplied in the secretary of state's application kit. The police department or sheriff's office would be required to take the individual's fingerprints within 72 hours of his or her request to be fingerprinted. The police department or sheriff could charge a fee of up to \$15 for taking the applicant's fingerprints, and these fees would be deposited with the treasurer of the police department or sheriff's funding unit on a monthly basis. The money could then be used solely for the purpose of implementing the process of fingerprinting applicants under the bill. One set of fingerprints would be forwarded to the FBI and the other would be sent to the Department of State Police. Both sets of prints would be compared by the appropriate subdivision of each agency with the print records retained by each agency. Both the FBI and the Department of State Police would then send a report of their comparisons to the secretary of state. Copies of both comparisons would be forwarded by the secretary of state to the police department or sheriff's office which took the fingerprints. The secretary of state would also be required to maintain copies of all of the fingerprints submitted by applicants.

Without both fingerprint comparison reports the secretary of state would be unable to issue the applicant a license. However, if more than 45 days had passed after the submission of the fingerprints to the appropriate agencies without receiving one or both of the reports, the report requirement would be waived and the secretary of state could not deny the individual a license solely because it did not receive a report.

Concealed weapon license databank. The secretary of state would also be required to use information from the applications to create and maintain a computerized data base to keep track of individuals who apply for licenses to carry concealed weapons. The data base would contain the names and addresses of all applicants, and either their license number and date of expiration or the reasons that a person's application was denied. An explanation of why an individual was denied a license would be deleted from the data base if the individual were later issued a license. The information contained in the data base would only be released for the purposes of the act or for law enforcement officials to confirm an individual's license.

Firearm safety training. An applicant would be required to show that he or she had knowledge or training in the safe use and handling of a pistol. This could be shown by any of the following means: 1) successful completion of this or any other state's hunter safety education course, 2) successful completion of a firearms safety or training course conducted by the National

Rifle Association (NRA), 3) successful completion of a firearms safety training course using NRA certified instructors, offered by a law enforcement agency, junior college, college, or public or private institution or organization, or firearms training school, 4) successful completion of a law enforcement firearms safety training course for security guards, investigators, special deputies, or law enforcement officers, 5) successful completion of a firearms training or safety course conducted by an instructor certified by this or any other state, or by the NRA, 6) proof of experience equivalent to any of the courses mentioned or, 7) proof that he or she is or has been licensed in this or any other state to carry a concealed weapon, unless that license was properly revoked for good cause.

Law enforcement objection to licenses. After receiving a completed application for a license to carry a concealed weapon, the secretary of state would be required to provide a copy of the application with written notice to the applicant's local police department or sheriff's office of the opportunity to object to the applicant's request for a license. If the local police department or sheriff's office wished to object, they would be required to file a sworn written statement indicating the specific objections which the department has to the issuance of a concealed weapon license to that particular individual. If the secretary of state issued a license over the objections of the local law enforcement entity, that entity could petition the concealed weapons licensing appeals board to review and revoke the issuance of that license.

Denial of licenses. If the secretary of state denied issuance of a license, the secretary would be required to immediately inform the applicant in writing of his or her right to petition for a review of the denial before the concealed weapon licensing appeals board and of the reasons for the denial. The statement of the reasons for the denial would have to include a statement of the specific and articulable facts which support the denial, the names and addresses of any individual's whose testimony was relied upon to support the denial, copies of any writings, photographs, records, or other documentary evidence used to support the denial, and a copy of the local police department's or sheriff's office's objections, if applicable.

Use of licenses. A license issued under the bill would be valid for four years and could be renewed through re-application. The licensee would be required to have the license in his or her possession anytime he or she was actually carrying a concealed weapon, and would be required to show it to a police officer at the officer's request. Failure to comply with an officer's request or failure to carry one's license would be a civil violation, punishable by a fine of up to \$100. The license itself would contain the licensee's name, address, physical description, and a color photograph, as well as the effective dates of the license and a statement indicating that the licensee was authorized to carry a concealed weapon in Michigan but was not authorized to discharge the weapon illegally. A person who possessed a license to carry a concealed weapon at the time the bill took effect (December 1, 1995) would be allowed to continue to carry a weapon under that license until the expiration or termination of the license.

If an individual was discovered carrying a concealed weapon without a license, the weapon could be seized by a peace officer immediately without any hearing or other procedure. While individuals without licenses to carry a concealed weapon under the bill would be still be subject to having their weapons forfeited to the state for carrying or possessing a weapon in violation state law, an individual with a license to carry a concealed weapon whose weapon had been seized for failing to show his or her license would able to reclaim the weapon by showing