

REVISE HANDGUN LICENSURE ACT

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Senate Bill 370 (Substitute S-2)

Sponsor: Sen. Randy Richardville

House Committee: Tourism, Outdoor Recreation and Natural Resources

Senate Committee: Judiciary

Complete to 6-24-08

A SUMMARY OF SENATE BILL 370 AS PASSED BY THE SENATE 6-17-08

BRIEF SUMMARY: Among other things, Senate Bill 370 (Substitute S-2) would amend the handgun licensure act to do the following:

- Repeal Section 9 which requires people who purchase or come into possession of a pistol to present it for a safety inspection and requires the maintenance of safety inspection records.
- Extend licensure provisions to people who *possess* a pistol in Michigan in addition to those who purchase, carry, or transport pistols, unless the person is covered by an exception.
- Allow license forms and sales records to be returned to the local police or sheriff department in person or by mail (first class or certified).
- Require licensees to return license forms within 10 days of a pistol being purchased or otherwise obtained.
- Require licenses and sales records to be kept for a minimum of six years and to be entered into the pistol entry database by local police or county sheriff departments, electronically, if possible (in the case of sales records) or provided to the State Police.
- Allow persons to obtain a copy of information entered into the pistol entry database about a pistol they have purchased for a fee of not more than one dollar.
- Require persons with a license to purchase a pistol to keep the required license with them for first 30 days after the purchase, but not afterward.
- Require persons licensed to carry a concealed weapon to keep the required sales record with them for first 30 days after the purchase of a pistol, but not afterward.
- Specify the penalty (civil infraction with a fine of up to \$250) for failure to return required license forms or sales records to the local police or sheriff department or for otherwise violating specified sections.
- Require the concealed weapon licensing board to be notified when a person who has a concealed pistol license commits this type of infraction.
- Shift the responsibility for returning the required sales record from the seller of the pistol to the purchaser when the pistol is purchased by someone with a concealed weapon license.

- Define "peace officer" to include motor carrier officers and certain state security personnel in the section describing the responsibilities of persons with licenses to carry concealed weapons.
- Amend an exception allowing persons to carry, possess, use, or transport a pistol belonging to someone else under certain circumstances.
- Make the bill effective 180 days after enactment.

Senate Bill 370 (S-2) is tie-barred to Senate Bill 371 which has been referred to the House Judiciary Committee. A more detailed summary of the bill follows.

DETAILED SUMMARY:

Require license for possession of pistol. [§2(1), p.2] Section 2(1) of the act prohibits a person from purchasing, carrying, or transporting a pistol in Michigan without first having obtained a license for it, unless the person is covered by an exception. Under the bill, a person would also need a license to *possess* a pistol in Michigan, unless an exception applied.

Issuance of licenses by police or sheriff departments. [§2(3), p. 2] The section of the act dealing with the issuance of licenses to "purchase, carry, or transport" pistols by local police departments and sheriffs would be changed to refer to licenses to "purchase, carry, possess, or transport."

Court orders disqualifying a person from obtaining a license. [§2(3), p.3] Some people cannot obtain a pistol license because of an order or disposition entered into the Law Enforcement Information Network (L.E.I.N) under various statutes including the Mental Health Code, the Estates and Protected Individuals Code (EPIC), and the Revised Judicature Act of 1961. The bill would change an existing reference to the Revised Judicature Act concerning the entry of personal protection orders into L.E.I.N from Section 2950(9) to Section 2950(10), MCL 600.2950.

Application forms; unused licenses void after 10 days. [§2(4), p. 4-5] Currently, an applicant for a license to purchase, carry, or transport a pistol must execute the proper form in triplicate, signed by the licensing authority. ["Licensing authority" appears to refer to a local police department or, in areas of the state without a local police department, the county sheriff.] The bill would (1) make the application cover not only purchasing, carrying, or transporting a pistol, but also the possession of a pistol; (2) make the form quadruplicate instead of triplicate; and (3) require the licensing authority to deliver four copies of it to the applicant, instead of three. In addition, the bill would move a provision stating that an unused license is void 10 days after issuance from Subsection 2(6) to Subsection 2(4).

Completion of license forms. [§2(5), p.5] Currently, when a pistol is sold, the seller must fill out and sign his or her name in ink to a license form describing the pistol sold and the date of sale. The licensee purchasing the pistol must also sign his or her name in ink on the form indicating the purchase of the pistol from the seller. The seller retains one copy

of the license form as a record of the sale, and the other two copies go to the licensee who is required to return them to the licensing authority within 10 days of the purchase. Under the bill, the licensee would receive *three* copies of the license form from the seller but would remain obligated to return two of them to the licensing authority within 10 days of the pistol having been purchased *or obtained*.

Allow return of forms by first class or certified mail. [§2(5), p.5] Currently, the act does not describe allowable methods for returning the license forms. The bill would specify that the license forms could be returned (1) in person or (2) by first class or certified mail sent within the 10-day period to the proper address of the licensing authority.

Civil infraction and fine for licensees who do not return forms to licensing authority. [§2(5), p.5] The bill would specify that a licensee who fails to comply with the requirements of Subsection 2(5) (e.g., by not signing the forms or not returning two copies to the licensing authority in person or by mail within 10 days) would be responsible for a state civil infraction and subject to a fine of up to \$250. The court would be required to notify the State Police when an individual is found responsible for a civil infraction under this subsection. [This civil infraction and penalty would appear to apply only to a purchaser who does not comply with the requirements of Subsection 2(5), but not to a seller who violates that subsection.]

Maintenance of forms and entry of information into pistol entry database. [§2(6), pp.5-6] When a licensing authority receives license forms, it must retain one copy as an official record for six years, and forward the other to the State Police within 48 hours. The bill would require the official record copy to be kept for "*not less than six years*," and would retain the requirement that the second copy be forwarded promptly to the State Police. The bill would also require a licensing agency with the ability to do so to enter the information into the pistol entry database as required by the State Police within 10 days of receipt of the license forms. A licensing agency without the ability to do so would have to provide the information to the State Police in a manner required by the State Police. Any licensing authority that provided pistol descriptions to the State Police under Section 9 (to be repealed by the bill) would have to keep doing so under Subsection 2(6).

Right of licensee to copy of information placed in pistol entry database. [§2(6), p. 6] The licensee would have the right to obtain a copy of the information placed in the pistol entry database to verify the accuracy of the information. A licensing authority could charge up to one dollar for a copy of this information.

Requirement that licensee have possession of license for 30 days after purchase. [§2(6), p.6] For 30 days beginning on the date of the pistol's purchase, a licensee would have to be in possession of the license to carry, use, possess, or transport the pistol. After 30 days, the licensee would no longer have to have the license in his or her possession to do these things. [Unlike some other sections of the act, this requirement appears to apply only to *purchased* weapons, not weapons that have been obtained in other ways, such as by gift or inheritance.]

Concealed pistol licensees exempt from Section 2 license requirements. [§2a(1), p.8] Currently, a person with a license to carry a concealed pistol under Section 5b is not required to obtain a license under Section 2 to purchase, carry, or transport a pistol. Under the bill, a person with a license to carry a concealed pistol would not need a license under Section 2 to purchase, carry, *possess*, or transport a pistol.

Sales records of a pistol purchase by a concealed weapons licensee. [§2a(2), p.8] Currently, when a person who has a license to carry a concealed pistol purchases a pistol, the seller must complete a sales record in triplicate on the proper form which includes the purchaser's concealed weapon license number. This form must also be signed by the purchaser. The seller must retain one copy of the record, provide one copy to the purchaser, and forward the original to the State Police.

Under the bill, the sales record would be completed in quadruplicate, rather than triplicate, and while the seller could keep one copy of the record, the seller would no longer be *required* to do so. The purchaser would receive three copies of the record and the purchaser, not the seller, would be required to forward copies of the sales record to the local police department (or county sheriff if the person lived in area not covered by a local police department) within 10 days of the purchase.

Allow return of forms by first class or certified mail. [§2a(2), p.8] Currently, the act does not set forth allowable methods for returning sales records to local police and sheriff departments. As with licenses described above, the bill would specify that sales records could be returned (1) in person or (2) by first class or certified mail sent within the 10-day period to the proper address of the police department or county sheriff.

Civil infraction and fine for not complying with sales records requirements. [§2a(2), p.8] A person who does not comply with the requirements of Subsection 2a(2) (the sales records requirements that apply when a purchaser has a concealed weapons license) would be responsible for a state civil infraction and subject to a fine of up to \$250. The court would be required to notify the State Police and the concealed weapon licensing board when an individual is found responsible for a civil infraction under this subsection. [It is unclear to us whether this civil infraction would apply to both sellers and purchasers who fail to comply with the requirements of Subsection 2(5), or just purchasers.]

Maintenance of sales records and entry of information into pistol entry database. [§2a(3), p.9] Within 48 hours after receiving the sales records, the local police department or county sheriff would have to forward one copy to the State Police. The other copy would be kept as an official record for not less than 6 years.

The bill would also require a police department or county sheriff with the ability to do so to enter the information *electronically* into the State Police's pistol entry database within 10 days of receiving the returned license forms. A local police department or county sheriff without the ability to enter the information electronically would have to provide the information to the State Police in a manner required by the State Police. A police department or county sheriff that that provided pistol descriptions to the State Police

under Section 9 (to be repealed by the bill) would have to keep doing so under Subsection 2a(3). [Note: the word "electronically" appears in Subsection 2a(3) but not the similar Subsection 2(6), described above.]

Right of a concealed weapons licensee to copy of information placed in pistol entry database. [§2a(3), p. 9] A concealed weapon licensee would have the right to obtain a copy of the information placed in the pistol entry database to verify the accuracy of the information. The police department or county sheriff could charge up to one dollar for a copy of this information.

Requirement that concealed weapons licensee have possession of sales record for 30 days after purchase. [§2(6), p.6] For 30 days beginning on the date of a pistol's purchase, the licensee would have to be in possession of the sales record to carry, use, possess, or transport the pistol. After 30 days, the licensee would no longer have to have the sales record in his or her possession to do these things. [Unlike some other sections of the act, this requirement appears to apply only to *purchased* weapons, not weapons that have been obtained in other ways, such as by gift or inheritance.]

Definition of "peace officer." [§5f(8), p.12] Among other things, Section 5f requires a person who has a concealed weapon license to show a peace officer his or her concealed weapon license and driver license (or Michigan personal identification card) upon request. When stopped by a peace officer, a licensee carrying a concealed pistol on his or her person or in his or her vehicle must disclose that fact. A pistol carried in violation of the requirements of 5f is subject to immediate seizure by a peace officer. Under the bill, a "peace officer" for purposes of Section 5f would include "motor carrier officers" [officers who enforce laws relating to commercial truckers and other motor carriers] and "security personnel employed by the state" in Lansing or Windsor Township, Eaton County, under Sections 6d and 6c under Public Act 59 of 1935.

Carrying or using someone else's pistol. [§12(1)(i), p.13] Current Section 12(1) describes persons who are exempt from the license requirement of Section 2 and the safety inspection requirement of Section 9. The bill would eliminate this reference to Section 9 and safety inspections (as Section 9 would be repealed) and would amend an existing exemption (Section 12(1)(i)) for certain persons carrying, possessing, using, or transporting a pistol belonging to someone else. Under the bill, a person could carry, possess, use, or transport someone else's pistol so long as the other person's possession of the pistol was authorized by law and the person using it either (1) has a license to carry a concealed pistol, or (2) is exempt from licensure as provided in Section 12a. [Section 12a exempts many law enforcement and corrections officers from requirements for obtaining a concealed weapon license].

Licensure not required for certain signaling devices. Licensure requirements under Section 2 and safety certificate requirements under Section 9 do not apply to signaling devices approved by the U.S. Coast Guard pursuant to specified federal regulations. The bill would eliminate the reference to Section 9, which is to be repealed.

Repeal safety inspection certificate requirement. [Enacting §1, p.13] Section 9 requires people who purchase or otherwise come into possession of a pistol in Michigan to obtain a safety inspection certificate and requires the maintenance of safety inspection certificate records. The bill would repeal Section 9.

Delayed effective date. [Enacting §2, p. 13] The bill would take effect 180 days after being enacted.

Tie-bars. [Enacting §3, p.14] Senate Bills 370 and Senate Bill 371 are tie-barred to each other, meaning that unless both bills are enacted, neither will take effect. Senate Bill 371 (S-1), was referred on June 17, 2008 to the House Judiciary Committee.

MCL 28.422 *et al.*

FISCAL IMPACT:

A fiscal analysis is in process.

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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.