

# Legislative Analysis

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## CARRYING FIREARMS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4416 as introduced**  
**Sponsor: Rep. Michele Hoytenga**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4417 as introduced**  
**Sponsor: Rep. Pamela Hornberger**

**House Bill 4418 as introduced**  
**Sponsor: Rep. Sue Allor**

**House Bill 4419 as introduced**  
**Sponsor: Rep. Triston Cole**

**Committee: Judiciary**  
**Complete to 5-16-17**

## SUMMARY:

Taken together, the bills amend various sections of law to:

- Remove carrying of a firearm from the prohibition on carrying a dangerous weapon, whether concealed or not, on a person or in a vehicle.
- Apply the prohibition on carrying a concealed pistol only to a person who is prohibited by state or federal law from possessing a firearm.
- Repeal a provision allowing armed security guards to carry a pistol only when on duty and remove the maximum term of imprisonment for a violation from inclusion in the sentencing guidelines.
- Repeal a provision providing for exceptions to the current prohibition on carrying a concealed pistol without a license.
- Specify that the Natural Resources and Environmental Protection Act cannot be construed to prohibit an individual from transporting a pistol or carrying a loaded pistol, whether concealed or not.
- Tie-bar House Bills 4417-4419 to House Bill 4416, meaning that none of those bills could become law unless House Bill 4416 was also enacted.

Specifically, the bills would do the following:

House Bill 4416 amends the Michigan Penal Code (MCL 750.227 et al.) to:

- ❖ Specify that the prohibition on carrying a dangerous weapon concealed on or about the person of an individual, or concealed in any vehicle operated or occupied by the person, does not apply to a firearm or a hunting knife adapted and carried as a hunting knife. ("Firearm" is defined in the Code to mean any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive. A "pistol" is defined to mean a firearm that is 26 inches or less in length, whether loaded or unloaded. A knife adapted and carried as a hunting knife is currently excluded from being a "dangerous weapon.")

- ❖ Revise the current prohibition on carrying a concealed pistol without a concealed pistol license (CPL), and apply the prohibition on carrying a concealed pistol only to a person who is prohibited by state or federal law from possessing a firearm.

Currently, a person is prohibited from carrying a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person *without a license to carry the pistol as provided by law, and if licensed, is prohibited from carrying the pistol in a place or manner inconsistent with any restrictions upon such license.* An exception is made for conduct occurring in the person's house, place of business, or on other land possessed by the person. The bill would delete the italicized text and the exception for carrying the pistol at home, at work, or on the person's other land.

- ❖ Repeal Section 227a.  
Section 227a prohibits a person licensed to carry a pistol in the scope of a profession in protecting the person or property of another (e.g., armed security guards, bodyguards) from possessing a pistol while not on duty; a pistol may be carried in his or her home or other land, or an unloaded pistol may be carried to or from his or her place of employment. A violation is a felony punishable by up to four years imprisonment and/or up to a \$5,000 fine.

- ❖ Repeal Section 231a.  
Section 231a specifies that the current prohibition against carrying a concealed pistol contained in Section 227 does not apply to any of the following:
  - A resident from another state who is licensed by that state to carry a concealed pistol.
  - Transportation of pistols by an authorized agent of a person licensed to manufacture firearms.
  - A person carrying an antique firearm when unloaded in a closed case or container designed for the storage of firearms and carried in the trunk of a vehicle.
  - A person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with Section 2 of the Handgun Licensing Act and the pistol is unloaded in a closed case designed for the storage of firearms in a vehicle that does not have a trunk and is not readily accessible to the vehicle's occupants.

Section 231a also contains a definition for "antique firearm." (The identical definition is contained in Section 237a of the Code, which proscribes certain conduct in weapon-free school zones.)

- ❖ Eliminate references to the repealed sections in several provisions of the Code.

House Bill 4417 amends the Handgun Licensing Act, Public Act 372 of 1927 (MCL 28.432 and 28.435). The bill makes several revisions of a technical nature; for instance, the bill replaces references to the definition for antique firearm contained in Section 231a of the

Michigan Penal Code, which would be repealed by House Bill 4416, with a reference to Section 237a of the Code.

House Bill 4418 amends the Natural Resources and Environmental Protection Act (MCL 324.43510). Under the bill, Section 43510 would specify that the NREPA or a rule promulgated under it or a rule issued by the Department of Natural Resources or the Michigan Natural Resources Commission cannot be construed to prohibit an individual from transporting a pistol or carrying a loaded pistol, whether concealed or not.

Currently, the provision applies only if:

- ❖ The individual has in his or her possession a license to carry a concealed pistol under provisions of the Handgun Licensing Act: or,
- ❖ The individual is authorized under the circumstances to carry a concealed pistol without obtaining a license to carry a concealed pistol under the Handgun Licensing Act, as provided for under:
  - Section 12a of the Act.
  - Sections 227, 227a, 231, and 231a of the Michigan Penal Code.

House Bill 4419 amends the Code of Criminal Procedure (MCL 762.12 and 777.16m). The bill deletes references to Section 227a of the Michigan Penal Code, which would be repealed by House Bill 4416. The bill also deletes the maximum term of imprisonment for a violation of Section 227a from inclusion in the sentencing guidelines.

## **FISCAL IMPACT:**

### State Police:

House Bill 4416 would have an indeterminate fiscal impact on the Department of State Police. Pursuant to 1927 PA 372 section 5b(5), county clerks collect a fee to process concealed pistol license applications. A portion of this fee is transferred to the Department of Treasury to be credited to the Department of State Police in order to cover the costs of completing background checks on individuals seeking a concealed pistol license, maintaining the concealed pistol license database, compiling and issuing the annual concealed pistol license report to the Legislature, and other activities related to concealed pistol licensure. Therefore this bill would reduce the revenues generated by the concealed pistol license application fees, but would also reduce the workload that these fees support. Any costs savings realized, or net revenue reductions, would depend upon the extent to which these costs would exceed, or would be less than, revenues from fees collected pursuant to 1927 PA 372 section 5b(5).

The Department of State Police reported that in FY 2015-16 total statewide revenues from concealed pistol license application fees were \$8,020,900. Total FY 2015-16 statewide expenditures matched revenues. (For more information, see the Department of State Police FY 2015-16 concealed pistol licensing report.<sup>1</sup>)

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<sup>1</sup> [http://www.michigan.gov/documents/msp/Oct.\\_2015-Sept.\\_2016\\_CPL\\_Annual\\_Report\\_560961\\_7.pdf](http://www.michigan.gov/documents/msp/Oct._2015-Sept._2016_CPL_Annual_Report_560961_7.pdf)

Corrections & Judiciary:

HB 4416 would have an indeterminate fiscal impact on the state and on local units of government, depending on how many persons are currently convicted under provisions being repealed by the bills. Felony convictions result in increased costs related to state prisons and state probation supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 per supervised offender in the same year. New misdemeanor convictions increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Penal fine revenues increase funding for local libraries, which are the constitutionally designated recipients of those revenues. Also, the bill would have an indeterminate fiscal impact on the judiciary and local court funding units, depending on how the repealers affected court caseloads and related administrative costs.

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