



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 219 (as introduced 3-7-17)
Sponsor: Senator Mike Green
Committee: Judiciary

Date Completed: 3-14-17

CONTENT

The bill would amend the handgun licensure law to do the following:

- Require a county sheriff to notify the county clerk if the sheriff determined that an applicant for an emergency concealed pistol license (CPL) was not eligible to receive a CPL under certain provisions relating to mental health and/or criminal history.
- Specify that, if a person who applied for an emergency license did not complete a pistol training course and apply for a CPL within 10 business days after applying, the emergency license would no longer be valid.
- Allow one CPL application to be submitted in any 12-month period, rather than in any calendar year.
- Require a name index of a CPL application record to be maintained in a Michigan Department of State Police (MSP) database.
- Allow a county clerk to deliver a replacement CPL by first-class mail, if the applicant submitted a written request and a copy of his or her driver license or State ID card.
- Include a peace officer who held a CPL in the list of license holders who are exempt from the law's prohibition against carrying a concealed pistol on certain premises (commonly referred to as "no-carry zones").
- Provide for the surrender and replacement of a CPL for a licensee who had been exempt from the no-carry zone prohibition because he or she was a member of a sheriff's posse, an auxiliary officer, or a reserve officer, when he or she no longer held that status.
- Revise requirements for receipt of a CPL renewal application, depending on whether the applicant's CPL had already expired.
- Revise a provision prohibiting the issuance of a license, depending on whether the license was to purchase, possess, or transport a pistol or to carry a concealed pistol.
- Revise provisions regarding the suspension, revocation, or reinstatement of a CPL if ordered by a court or if the licensee's eligibility to carry a concealed pistol changed.
- Allow a county clerk to provide certain forms in an electronic format.

The bill also would repeal Section 421 of the Michigan Penal Code, which prohibits a person, without first obtaining a license, from constructing, buying, selling, possessing, or operating a motor vehicle, or other vehicle capable of being drawn by a motor vehicle, designed for the use or purpose of defense or attack, from or by explosives, projectiles, ammunition, gases, fumes or other missiles, weapons, and firearms.

Emergency CPL

Under the law, a county clerk must issue an emergency license to carry a concealed pistol to an applicant if he or she has obtained a personal protection order (PPO) enjoining domestic violence or stalking activity, or if a county sheriff determines that there is clear and convincing evidence to believe the safety of the applicant or a member of his or her household is endangered by that person's inability to carry a concealed pistol. A county clerk may issue an emergency license to an applicant who has obtained a PPO only if the individual is eligible under provisions of the law that require the MSP to verify eligibility for a CPL through a criminal background check. Those provisions require verification of the following:

- The applicant is not the subject of certain orders or dispositions under the Mental Health Code, the Estates and Protected Individuals Code, the Revised Judicature Act, or the Code of Criminal Procedure.
- The applicant is not prohibited under the Michigan Penal Code from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm.
- The applicant has never been convicted of a felony in Michigan or elsewhere, and a felony charge against the applicant is not pending at the time he or she applies for a CPL.
- The applicant has not been convicted of certain misdemeanors in the eight years immediately preceding the date of application for a CPL and a charge for any of those violations is not pending at the time of application.
- The applicant has not been convicted of certain other misdemeanors in the three years immediately preceding the date of application for a CPL and a charge for any of those violations is not pending at the time of application.
- The applicant has not been found guilty but mentally ill of any crime and has not offered a plea of not guilty of, or been acquitted of, any crime by reason of insanity.
- The applicant is not currently and has never been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.
- The applicant is not under a court order of legal incapacity in Michigan or elsewhere.

The bill would require a county sheriff to notify the county clerk if the sheriff determined that an individual was not eligible to receive a license under those provisions. In addition, the bill specifies that verification of the conditions would have to be based solely on the report received from the MSP.

Currently, within 10 business days after applying for an emergency license, an applicant must complete a pistol training course and apply for a CPL. Under the bill, if an individual who applied for an emergency license did not comply with these requirements, his or her emergency license would no longer be valid.

CPL Application

Application Frequency. To obtain a CPL, an individual must apply to the county clerk in the county in which he or she lives. Not more than one application may be submitted in any calendar year. Under the bill, not more than one application could be submitted in any 12-month period.

Record Retention. The law requires the county clerk to retain a copy of each CPL application as an official record. One year after a CPL expires, the clerk may destroy the record and maintain only a name index of the record. Under the bill, the clerk could destroy the record and a name index of the record would have to be maintained in the database created under Section 5e of the law.

(Section 5e requires the MSP to create and maintain a computerized database of individuals who apply for a license to carry a concealed pistol. If an individual who was denied a CPL after

July 1, 2001, or was issued a notice of statutory disqualification, subsequently is issued a license, the MSP must delete from the database the previous reasons for the denial or notice.)

Delivery of CPL. A county clerk issuing an initial or renewal CPL must mail it to the licensee by first-class mail in a sealed envelope. Upon payment of the fee for a replacement CPL, a clerk must issue a replacement license in person at the time of application for the replacement unless the applicant requests that it be delivered. The bill instead specifies that a clerk could deliver a replacement license by first-class mail if the individual submitted to the clerk a written request and a copy of his or her State-issued driver license or personal ID card.

No-Carry Zone Exemptions/Replacement Fee

The law requires the county clerk to include an indication on a CPL if the license holder is exempt from the prohibition against carrying a concealed pistol on certain premises described in Section 5o (no-carry zones) and the applicant provides "acceptable proof" that he or she qualifies for that exemption.

The law lists individuals to whom the prohibition does not apply. The bill would include in that list an individual licensed under the law who is a peace officer. "Acceptable proof" for the individual would mean his or her employee identification.

Members of a sheriff's posse, auxiliary officers, and reserve officers who are CPL holders are among those who are exempt from the no-carry zone restrictions. The bill specifies that, if the county clerk received notice from a county sheriff or chief law enforcement officer that a licensee was no longer a member of a sheriff's posse, an auxiliary officer, or a reserve officer, the clerk would have to notify the licensee that he or she was required to surrender the CPL with the no-carry zone exemption. The licensee would have to surrender the CPL within 30 days after receiving the notice and obtain a replacement license after paying the \$10 fee required for replacing a license that is lost, stolen, or defaced. The bill also specifies that the fee would apply to a CPL that is lost, stolen, defaced, or replaced for any other reason.

Renewal Receipt

Under the law, an application to renew a CPL may be submitted within six months before the current license expires. The MSP must complete the required verification for certain licensure requirements and the county clerk must issue a renewal license or a notice of statutory disqualification within 30 days after the date the renewal application was received.

By December 1, 2018, the MSP must provide a system for an applicant to submit his or her renewal application online or by first-class mail, and must accept those applications on behalf of the county clerk at no additional charge. Beginning on the date the MSP establishes that system, it must give an applicant a digital receipt, or a receipt by first-class mail if requested, for his or her renewal application. A receipt must contain all of the following:

- The applicant's name.
- The date and time the receipt is issued.
- The amount paid.
- The applicant's State-issued driver license or personal ID card number.
- A statement that the receipt was issued for purposes of renewal of a CPL, serves as a CPL when carried with the expired license, and is valid until the county clerk issues a license or notice of statutory disqualification.

Under the bill, a receipt issued to an individual applying for a renewal license whose current license was not expired at the time of application would have to contain that information.

A receipt issued to an individual applying for a renewal license whose license had already expired would have to contain a different statement. That statement would have to indicate that the receipt was issued for purposes of renewal of a CPL. If a license or notice of statutory disqualification were not issued within 30 days after the receipt was issued, the receipt would serve as a CPL when carried with an official State-issued driver license or personal ID card. The receipt would be valid until the county clerk issued a license or notice of statutory disqualification.

Issuance of License Prohibited

Under the law, a license to purchase, possess, or transport a pistol or to carry a concealed pistol may not be issued to an applicant unless both of the following apply:

- The issuing agency has determined through the Federal national instant criminal background check system that the applicant is not prohibited under Federal law from possessing or transporting a firearm.
- If the applicant is not a U.S. citizen, the issuing agency has verified through the U.S. Immigration and Customs Enforcement (ICE) databases that the applicant is not an illegal alien or a nonimmigrant alien.

Under the bill, an issuing agency could not issue a license to purchase, possess, or transport a pistol unless both of those applied.

A county clerk could not issue a license to carry a concealed pistol to an applicant unless both of the following applied:

- The MSP or the county sheriff had determined through the Federal national instant criminal background check system that the applicant was not prohibited under Federal law from possessing or transporting a firearm.
- If the applicant were not a U.S. citizen, the MSP had verified through ICE databases that the applicant was not an illegal alien or a nonimmigrant alien.

Suspension, Revocation, Reinstatement of CPL

The law requires the clerk of the county in which a CPL was issued to suspend, revoke, or reinstate a license if ordered by a court or if the county clerk is notified of a change in the licensee's eligibility to carry a concealed pistol. Under the bill, this notification would have to come from a law enforcement agency, prosecuting official, or court.

Currently, if a county clerk is notified by a law enforcement agency, prosecuting official, or court that a CPL holder is charged with a felony or misdemeanor, the clerk immediately must suspend the person's license until there is a final disposition of the charge. Under the bill, that provision would apply when one of those entities notified the clerk that a licensee was charged with a felony or a misdemeanor that makes a person ineligible for a CPL.

Forms in E-Format

The law requires the Legislative Service Bureau to compile the State's firearm laws, including laws that apply to carrying a concealed pistol, and provide copies of the compilation in an electronic format to the MSP. The MSP must give copies of the compiled laws to each county clerk in Michigan. The MSP also must provide forms to appeal any notice of statutory disqualification, or suspension or revocation of a license. The MSP must distribute copies of the compilation and forms in an electronic format to each county clerk. The clerk must distribute a copy of the compilation and appeals forms, at no charge, to each person who applies for a CPL at the time the application is submitted. The bill specifies that the county clerk could provide the compilation and forms in an electronic format.

FISCAL IMPACT

The proposed minor changes in procedures related to the administration of concealed weapons licenses are not expected to have a fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker
Elizabeth Pratt