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## BILL ANALYSIS



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Senate Bill 219 (as enacted)  
Sponsor: Senator Mike Green  
Senate Committee: Judiciary  
House Committee: Judiciary

**PUBLIC ACT 95 of 2017**

Date Completed: 11-21-17

**CONTENT**

The bill amended the handgun licensure law to do the following regarding the issuance of a concealed pistol license (CPL):

- Require a determination of an applicant's disqualification due to mental health or criminal history to be based solely on a report from the Michigan State Police (MSP).
- Delete a provision under which a person could submit only one application for a concealed pistol license in any calendar year.
- Require a county sheriff to notify the county clerk if the sheriff determines that an applicant for an emergency CPL is not eligible for a license due to mental health and/or criminal history.
- Specify that, if an applicant for an emergency CPL does not complete a pistol training course and apply for a CPL within 10 business days, the emergency license will no longer be valid.
- Indicate that the \$100 application and licensing fee for a CPL is nonrefundable.
- Include a peace officer who holds 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 has 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 holds that status.
- Revise requirements for a receipt of a CPL renewal application, depending on whether the applicant's CPL has already expired; and, if the license has expired, provide that the receipt will serve as a CPL if a license or notice of statutory disqualification is not issued within 30 days.
- Revise a provision prohibiting the issuance of a license, depending on whether the license is to purchase, possess, or transport a pistol or is to carry a concealed pistol.
- Allow a county clerk to provide certain documents in an electronic format.

The bill also repealed Section 232 of the Michigan Penal Code, which made it a misdemeanor for a person engaged in the retail sale of firearms or firearm silencers to fail to keep a register of purchasers and make it open to police inspection.

The bill took effect on October 11, 2017.

## CPL Application & Issuance

Statutory Disqualification. To obtain a CPL, an individual must apply to the county clerk in the county in which he or she lives. The clerk must issue a CPL to an applicant if the clerk determines that he or she meets the requirements of the law (is 21 years of age or older; is a United States citizen or a lawfully admitted alien; has been a resident of Michigan for at least six months; has successfully completed a pistol safety training course; has not been dishonorably discharged from the U.S. Armed Forces; has a valid State-issued driver license or personal identification card; and has filed a statement that he or she does not have a history of mental illness that would disqualify him or her from receiving a CPL).

The county clerk also must make a determination that the applicant meets all 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 before 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 before the date of application 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.

Under the bill, the clerk's determination that the applicant meets those criteria must be based solely on the report received from the MSP.

Application Frequency. Previously, not more than one application for a CPL could be submitted in any calendar year. The bill deleted that limit.

Application & Licensing Fee. An applicant must pay a \$100 application and licensing fee to the county. The bill describes the fee as "nonrefundable".

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, previously, the clerk could maintain only a name index of the record. Under the bill, the clerk may destroy the record and a name index of the record must 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.)

Replacement CPL. A county clerk issuing an initial or renewal CPL must mail it to the licensee by first-class mail in a sealed envelope. Previously, upon payment of the fee for a replacement CPL, a clerk had to issue a replacement license in person at the time of application for the replacement unless the applicant requested delivery by first-class mail.

Under the bill, upon payment of the fee for a replacement license, the clerk must deliver a replacement license in person at the time of application. The clerk also may deliver a replacement license by first-class mail if the individual submits to the clerk a written request and a copy of his or her State-issued driver license or personal ID card.

Under the law, a CPL that is lost, stolen, or defaced may be replaced by the county clerk for a \$10 replacement fee. Under the bill, this also applies to a CPL that is replaced for any other reason.

#### 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 meets the the criminal history and mental health criteria for eligibility (listed above). The county sheriff must make a determination of eligibility based on a criminal record check through the Law Enforcement Information Network.

The bill requires the county sheriff to notify the county clerk if the sheriff determines that an individual is not eligible to receive a license according to those criteria.

Under the law, 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 applying for an emergency license does not comply with these requirements within 10 days after applying, his or her emergency license will no longer be valid.

#### Prohibition against Issuance of License

Under the bill, an issuing agency may not issue a license to purchase, possess, or transport a pistol 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.

(Previously, these criteria applied to the issuance of a license to purchase, possess, or transport a pistol, as well as the issuance of a CPL.)

The bill prohibits a county clerk from issuing a license to carry a concealed pistol to an applicant unless both of the following apply:

- The MSP or the county sheriff 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 MSP has verified through ICE databases that the applicant is not an illegal alien or a nonimmigrant alien.

#### No-Carry Zone Exemptions

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 (no-carry zones) and the applicant provides acceptable proof that he or she qualifies for that exemption.

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

Individuals who are exempt from the no-carry zone restrictions include members of a sheriff's posse, auxiliary officers, and reserve officers who are CPL holders. The bill specifies that, if the county clerk receives notice from a county sheriff or chief law enforcement officer that a licensee is no longer a member of a sheriff's posse, an auxiliary officer, or a reserve officer, the clerk must notify the licensee that he or she is required to surrender the CPL with the no-carry zone exemption. The licensee must surrender the CPL within 30 days after receiving the notice and obtain a replacement license after paying a \$10 replacement

### 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. The law previously required the receipt to 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 must contain this information if it is issued to an individual whose current license is not expired at the time of application. If the individual's license has already expired, the receipt must contain the same information but state it was issued for the purpose of renewal of a CPL. If a license or notice of statutory disqualification is not issued within 30 days after the receipt was issued, the receipt will serve as a CPL when carried with an official State-issued driver license or personal ID card. The receipt will be valid as a CPL until the county clerk issues a license or notice of statutory disqualification. The receipt does not exempt the individual named in it from complying with all applicable laws for the purchase of firearms.

### 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 must come from a law enforcement agency, prosecuting official, or court.

## 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 may provide the compilation and forms in an electronic format.

MCL 28.421 et al.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

The 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.

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