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FIREARMS AND THE CONCEALED WEAPONS PACKAGE

House Bill 4536

Sponsor: Rep. Rick Johnson

House Bill 4542

Sponsor: Rep. Larry Julian

House Bill 4543

Sponsor: Rep. Raymond Basham

House Bill 4647

Sponsor: Rep. Ken Daniels

Committee: Constitutional Law and Ethics

Complete to 5-10-99

A SUMMARY OF HOUSE BILLS 4536, 4542, AND 4543 AS INTRODUCED 4-21-99 AND HOUSE BILL 4647 AS INTRODUCED 5-6-99

The bills are part of a package of legislation concerning concealed weapons. Some of the bills (House Bills 4530, 4532-35, 4536-38, and 4545) have been referred to the House Committee on Conservation and Outdoor Recreation. All four bills, if enacted, would take effect on September 30, 1999, and could not take effect unless House Bill 4530, the main bill in the concealed weapons law revision package, also were enacted.

House Bill 4536 would amend the Michigan Penal Code by adding a new section (MCL 750.568) that would prohibit a person from having, using, transporting, selling, buying, carrying, shipping, receiving, or distributing a firearm within Michigan that he or she knew (or had reason to know) was not registered as required by law or was not properly registered as required by law due to a material false statement by any person. The new section would not apply to a firearm that wasn't required to be registered by Michigan or federal law. Violations of the section would be felonies punishable by imprisonment for up to 4 years or a fine up to \$2,500, or both.

House Bill 4542 would amend the Michigan Penal Code's so-called "felony firearm" provisions (MCL 750.227b) to increase the felony penalty for a violation of these provisions and to add a new "concealed pistol felony," and to add both additional exemptions from, and additions to, the penal code's felony firearm provisions. Currently, it is a separate felony to carry a firearm when committing (or attempting to commit) a felony other than the felonies of selling a firearm or ammunition to someone under indictment for, or convicted of, a felony; carrying a concealed

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weapon without a licensee; off-duty licensees carrying loaded weapons; and removing identifying marks from firearms. This "firearm" felony currently carries a mandatory term of imprisonment for 2 years for a first offense, 5 years for a second offense, and 10 years for a third or subsequent offense.

The bill would exempt from the firearm felony law the following additional felonies:

- ** Having unregistered or improperly registered firearms (MCL 750.230a, proposed by HB 4536);
- ** Intentionally aiming a firearm, without malice, at another person (MCL 750.233);
- ** Discharging a firearm intentionally aimed, without malice, at another person if the other person isn't hurt (MCL 750.234);
- ** Having a firearm in a depository financial institution, a church or house of religious worship, a court, a theater, a sports arena, a day care center, a hospital, or an establishment with a liquor license (MCL 750.234d);
- ** Injuring someone by discharging a firearm intentionally aimed, but without malice, at them (MCL 750.235);
- ** Having or using a firearm while drunk or under the influence of "any exhilarating or stupefying" drug (MCL 750.237);
- ** Stealing someone's firearm (MCL 750.357b).

The bill would add the following to the list of crimes to which the firearm felony provisions would apply:

- ** Assault, assault and battery, or domestic assault (MCL 750.81);
- ** Assault with serious injury (MCL 750.81a); and
- ** Stalking (MCL 750.411h).

The bill also would add a new subsection to this section of the penal code to make it a felony if someone licensed to carry a concealed pistol carried a pistol, concealed or otherwise, when committing or trying to commit the crimes listed in the firearm felony provisions (with the above proposed changes). Penalties for violations would be greater than for the felony firearm felonies, with a mandatory 10 years' imprisonment for a first offense, a mandatory 15 years for a second offense, and a mandatory 20 years for third and subsequent offenses.

House Bill 4543. Currently, certain offenses in the Michigan Penal Code are misdemeanors, generally punishable by imprisonment for up to 90 days, a fine of up to either \$100 or \$500, or both. The bill generally would amend the code to change the maximum imprisonment to 93 days (the threshold for fingerprinting and entry into the Law Enforcement Information Network) for a misdemeanor, and to make second and subsequent offenses felonies punishable by imprisonment for up to 4 years, a fine of up to \$2,500, or both.

More specifically, the bill would make the following changes: The penal code has several misdemeanors involving intentionally but without malice aiming a firearm at someone. (1) Under section 233 of the penal code it is a misdemeanor with unspecified penalties to intentionally, but without malice, aim a firearm at someone. The bill would specify that the misdemeanor would be punishable by imprisonment for up to 93 days, a fine up to \$100, or both, and would make second and subsequent offenses felonies punishable by imprisonment for up to 4 years, a fine of up to \$2,500, or both. The bill also would add a new provision making it a 4-year felony for someone

who was licensed to carry a concealed pistol to violate this section of the penal code while carrying a pistol, whether concealed or not, when committing the violation. (2) Under section 234 of the penal code it is a misdemeanor, punishable by imprisonment in the county jail for up to one year, fine of \$500, or both, to discharge a firearm intentionally but without malice aimed at someone. The bill would make it a 4-year felony for second and subsequent violations, and add a 4-year felony for the same violation when committed by someone with a concealed pistol license while carrying a pistol. And (3) under section 235 of the penal code, it is a misdemeanor punishable by imprisonment in the county jail for up to one year, a fine of up to \$500, or both, to injure someone by discharging a firearm "intentionally but without malice" pointed at them. The bill would add 4-year felonies for second and subsequent violations and for violations by concealed pistol licensees carrying a pistol.

It also is a misdemeanor (punishable by imprisonment for up to 90 days, a fine of up to \$100, or both) under section 234d of the penal code to have a firearm on certain premises (including depository financial institutions, houses of religious worship, courts, theaters, sports arenas, day care centers, hospitals, and bars). The bill would raise the maximum imprisonment for the misdemeanor to 93 days, and add a 4-year felony for second and subsequent violations.

Brandishing a firearm in public is a 90-day misdemeanor under section 234e of the penal code (section 234e). The bill would define "brandish" to mean "to exhibit or display in an aggressive or menacing manner," raise the misdemeanor imprisonment maximum to 93 days, and add 4-year felonies for second and subsequent violations and for violations by concealed pistol licensees carrying a pistol.

The penal code prohibits individuals younger than 18 from having firearms in public except under the direct supervision of someone 18 or older (section 234f). Violations are 90-day misdemeanors. The bill would change the 90 days to 93 days, and add 4-year felonies for second and subsequent violations and for violations by concealed pistol licensees carrying a pistol.

Finally, under section 237 of the penal code, anyone under the influence of "intoxicating liquor or any exhilarating or stupefying drug" who carries or has a firearm in his or her possession or control or who uses ("in any manner") or discharges a firearm is guilty of a misdemeanor with unspecified penalties. The bill would amend this section to add to the misdemeanor possession of a firearm (in addition to specifying "under the influence of intoxicating or an exhilarating or stupefying drug") "while having a bodily alcohol content of .08 or more per 100 milliliters of

blood, per 210 liters of breath, or per 67 milliliters of urine," and specify that the misdemeanor was punishable by up to 93 days' imprisonment, a fine up to \$100, or both. The bill also would add two new 4-year felonies for discharging a firearm while drunk or under the influence of drugs, one for simple discharge and one for concealed pistol licensees. The bill also would define "intoxicating liquor" (but not "exhilarating or stupefying drugs") by reference to the Michigan Liquor Control Code of 1998.

House Bill 4647 would amend the handgun licensure act (Public Act 372 of 1927, MCL 28.422 and 28.426) to increase the minimum age for a pistol license or a concealed weapon license from 18 to 21.

Analyst: S. Ekstrom

■ 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.