

## CONCEALED WEAPONS

House Bill 6337

Sponsor: Rep. Scott Hummel

Committee: Civil Law and the Judiciary

Complete to 11-27-02

### A SUMMARY OF HOUSE BILL 6337 AS INTRODUCED 9-18-02

House Bill 6337 would amend the handgun licensure act (MCL 28.425b et al.) to provide various amendments regarding a license to carry a concealed pistol or weapon (CCW). The bill would increase the license fee, delete the current provision for license renewals, change current requirements for license applications, fingerprinting, carrying a concealed weapon, firearm safety training, and restrictions on carrying a CCW, amend the penalties for failure to carry a CCW license, and extend the list of individuals who are exempt from the license requirements of the act, as follows:

License. Currently, a CCW license is valid for three years, and may be renewed. The bill would specify, instead, that a license would be valid for five years, and would delete the renewal provisions. The bill would also increase the CCW license fee, from \$55 to \$85; and delete the current requirement that an applicant pay an additional \$5 assessment for deposit in the Concealed Weapon Enforcement Fund. Under the bill, one year after a concealed weapon license had expired, the county clerk could destroy the record and maintain only a name index of it. In addition, the bill would specify that if an individual licensed to carry a concealed pistol moved to a different county, his or her license would remain valid until it expired, or was otherwise suspended or revoked. A license that had been lost, stolen, or defaced could be replaced for a \$10 replacement fee. A county treasurer would be required to deposit \$25, rather than \$10, collected from each license fee in the county's general fund. Of that deposit, \$16 would be credited to the county clerk, and \$15 of that amount would be credited to the county sheriff.

License Applications. Under the act, an applicant must provide the Concealed Weapon Licensing Board with certain information on the application form. The bill would require, in addition, that an applicant authorize the board to access any medical record (in addition to medical records pertaining to the applicant's history of mental illness) pertaining to his or her qualifications for a license, and provide to the board a certificate or other proof that he or she had completed the pistol safety training course required under the act. The bill would also provide the following:

- An applicant could request that information provided to the board concerning his or her medical records be reviewed in a closed session. The session would only be closed for the purposes specified, and any information received would be confidential, would not be subject to disclosure under the Freedom of Information Act (FOIA) (MCL 15.231 to 15.245), and could not be disclosed to anyone except for purposes of the act or for law enforcement purposes. In addition, the applicant and his or her attorney would have the right to be present.

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- Information received by the board concerning an applicant's history of mental illness would not be subject to disclosure under the FOIA except for purposes of the act or for law enforcement purposes. (Current law provides for a closed session of the board, as described above, to hear information about an applicant's mental health records.)

- The passport-quality photograph that is currently required would have to be current at the time of application.

- The requirement that an applicant must not have been convicted of any other misdemeanor, other than those specified under the act, in the prior three years, would be deleted.

- The Concealed Weapon Licensing Board would have to keep a verbatim record of the proceedings that denied a license application.

- The board would have to issue or deny a license within 45 days, rather than 30 days as under current law, after receiving a fingerprint comparison report. The board would have to issue a temporary license if the report was not received within 60 days, rather than 30 days as under current law.

Fingerprinting. The current requirements for fingerprinting an applicant would be amended to specify that fingerprinting would have to be done by the county sheriff within five business days—rather than three business days—after requested by an applicant, and on forms prescribed by the state police, rather than forms supplied by the FBI. Also, the Concealed Weapon Licensing Board could not issue a license until it received a fingerprint comparison report, and could deny a license if an individual's fingerprints were not classifiable by the FBI. The bill would also delete current language that allows a sheriff to charge a fee not exceeding \$15 for the costs of taking fingerprints.

Carrying a Concealed Weapon. Currently, a license holder is required to have the license in his or her possession any time the concealed weapon is being carried, and must show the license and his or her driver license at a police officer's request. Failure to comply with a request or to carry the license is a state civil infraction, punishable by a fine of up to \$500, suspension of license for six months, or both, for a first offense. For a second or subsequent offense, the fine may be up to \$1,000 and license suspension. The bill would specify, instead, that a subsequent offense within three years of a prior offense would be subject to the increased penalty.

Firearm Safety Training. Currently, the act requires that a safety training course include instruction on, among other things, firearms and the law, including civil liability issues. The bill would require, in addition, that the course include instruction on the use of deadly force, and would require that this be taught by an attorney or an individual trained in the use of deadly force. In addition, the current requirement that the course include at least eight hours of instruction with three hours of firing range time would be amended to require in addition that it include firing at least 30 rounds of ammunition.

Currently, the act specifies that the firearm safety educational requirements are waived for a person who was licensed as of July 1, 2001, and who is a peace officer or former peace officer; and for an individual licensed on or after July 1, 2001, the education requirements are waived

except that such an individual must complete a 3-hour review course.. The bill would specify, instead, that the latter provision would apply only to a person who *renewed* a license on or after July 1, 2001.

Restrictions on Carrying a Concealed Weapon. Under the act, a person who is licensed to carry a concealed weapon, or who is exempt from licensure, cannot carry a concealed pistol on the premises of certain institutions, including a school, or school property (except in the case of a parent or legal guardian in a vehicle, dropping off a child). The bill would extend this exception to include a child care provider authorized by a student's parent or legal guardian who was in a vehicle, dropping off a child.

The act also prohibits carrying a concealed weapon in a dining room, lounge, or bar area of licensed premises (a business licensed to serve alcohol). The bill would amend this provision to specify that the prohibition would apply to a bar or tavern where the business's primary source of income was the sale of alcoholic liquor by the glass and consumed on the premises.

Under the act, a person who violates these provisions "is responsible for a civil violation guilty of a crime." The penalties increase for first, second, and subsequent violations, and include license suspension. House Bill 6337 would delete the provisions for license suspension. Under the bill, a violation would be a civil violation, punishable by a fine of up to \$500 for a first offense. A subsequent offense within three years of a prior violation would be a civil violation, and a violator could be fined up to \$1,000.

Peace Officers. Certain individuals are exempt from the licensure requirements of the act, including peace officers; the following individuals while performing their official duties: constables, Department of Corrections' (DOC) employees, members of the U.S. Army, Air Force, Navy, or Marine Corps or the National Guard; and residents of other states who are licensed there. (In addition an authorized agent of a licensed firearms manufacturer does not need a license for the "regular and ordinary transportation of a pistol as merchandise," and a license is not required to carry a pistol, unloaded, in a wrapper or container in the trunk of a vehicle, or in a locked compartment or container that is separate from the pistol's ammunition). House Bill 6337 would extend the list of persons exempt from licensure requirements to include any of the following while on duty, as authorized by law:

- A corrections officer of a county sheriff's department.
- A motor carrier officer or Capitol security officer of the Department of State Police.
- A member of a sheriff's posse.
- An auxiliary officer or reserve officer of a police or sheriff's department.

Analyst: R. Young

■ 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.