

Legislative Analysis



PROHIBIT INSTITUTIONS OF HIGHER EDUCATION FROM REGULATING FIREARMS

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House Bill 5474

Sponsor: Rep. Wayne Schmidt

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 10-26-09

A REVISED SUMMARY OF HOUSE BILL 5474 AS INTRODUCED 9-25-09

The bill would amend Public Act 319 of 1990, MCL 123.1101-1105, to remove the power of an institution of higher education to regulate the ownership, carrying, or possession of pistols or other firearms, ammunition, or components in any way except (1) to regulate conduct that constituted a criminal offense under state law, (2) to regulate the conduct of employees in the course of their employment, or (3) as otherwise provided by state or federal law. (The bill applies, generally speaking, to a public college, junior college, community college, or university.)

Currently, Section 2 of Public Act 319 of 1990 prohibits a local unit of government (defined as a city, village, township, or county) from taxing, adopting or enforcing an ordinance pertaining to, or regulating in any other manner "the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunition, or components," except as otherwise provided by federal or state law. The bill would extend Section 2 to institutions of higher education so as to also prohibit them from enacting or enforcing most regulations relating to pistols, other firearms, ammunition, or components.

Exceptions. Section 3 of the act, MCL 123.1103, provides that a local unit of government is not precluded from (1) prohibiting or regulating conduct with a pistol or other firearm that constituted a criminal offense under state law; or (2) prohibiting or regulating the transportation, carrying, or possession of a pistol or other firearm *by employees in the course of their employment with the local unit of government*. The bill would make these exceptions also apply to institutions of higher education — that is, institutions of higher education would also be allowed to regulate conduct on the part of their employees in the course of their employment or conduct that constituted a criminal offense. In addition, as noted above, an institution of higher education would be able to regulate firearms, ammunition, and components as "otherwise provided by federal or state law" under Section 2.

Section 4 of the act, MCL 123.1104, currently allows a city or charter township to prohibit the discharge of a pistol or other firearm within its jurisdiction. The bill would not afford institutions of higher education the same right to prohibit the discharge of a pistol or other firearm on campus property.

Definition of institution of higher education. The bill defines "institution of higher education" as "a college, university, community college, or junior college described in Section 4, 5, or 6 of Article VIII of the State Constitution of 1963 or established under Section 7 of Article VIII of the State Constitution of 1963." These provisions appear to refer to *public* institutions of higher education:

- Article VIII, Section 4 of the Constitution requires the Legislature to appropriate moneys to maintain certain named institutions (the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan Technological University, and Grand Valley State University) and other institutions of higher education established by law.
- Article VIII, Section 5 of the Constitution prescribes governing boards for the University of Michigan (Regents), Michigan State University (Board of Trustees), and Wayne State University (Board of Governors), and grants to each board general supervision of its institution.
- Article VIII, Section 6 of the Constitution specifies that other institutions of higher education established by law having authority to grant baccalaureate degrees are to be governed by a board of control with general supervision of the institution. The Governor appoints board members.
- Article VIII, Section 7 of the Constitution provides for the establishment and financial support of public community and junior colleges that are supervised and controlled by locally-elected boards.

BACKGROUND INFORMATION:

Minimum age for purchasing a handgun. Under Michigan law, a person may lawfully purchase a pistol at 18 years of age from a private seller, but must be 21 to purchase a pistol from a federally-licensed firearms dealer, MCL 422(3)(b). Persons aged 21 and older who meet statutory requirements may obtain a concealed pistol license, MCL 28.425(7)(a).

Gun-free zones. Michigan law includes two distinct lists of gun-free zones. The list found in the Michigan Penal Code, MCL 750.234d does not apply to persons with a Michigan or out-of-state concealed pistol license (CPL) and does not cover most college and university buildings.¹ The separate gun-free zone list that applies only to CPL holders and exempt persons covers a few, but not all, college and university buildings.²

¹ Section 234d of the Michigan Penal Code, MCL 750.234d, prohibits the possession of a firearm (not just a pistol) on the premises of any of the following places by persons who do not have a Michigan or out-of-state CPL or who are not otherwise exempt: (1) a depository financial institution (or subsidiary or affiliate of one); (2) a church or other house of religious worship; (3) a court; (4) a theatre; (5) a sports arena; (6) a day care center; (7) a hospital, and (8) an establishment licensed under the Michigan Liquor Control Act.

² MCL 28.425o(1)(a)-(h) prohibits CPL holders and exempt persons from carrying a concealed pistol in the following places (except for the parking lots of these places): (1) a school or school property, as defined in MCL

For example, while the gun-free zone list applicable to CPL holders does apply to college classrooms and dormitories, day care centers, churches, sports arenas, entertainment facilities seating 2,500 or more, and hospitals, many other typical college buildings such as libraries, botanical gardens, student unions, exercise facilities, administration buildings, offices, research facilities, and health clinics are not covered. In addition, the gun-free zone list that applies to CPL holders arguably only prohibits CPL holders and exempt persons from carrying *concealed* pistols, not *openly-carried* ones, in the listed places.³

Other pending legislation. Senate Bill 747, sponsored by Sen. Randy Richardville, would remove college, community college, and university dormitories and classrooms from the list of places where CPL holders and exempt persons may not carry a concealed pistol. House Bill 4348, sponsored by Rep. Richard LeBlanc, would eliminate the entire list of prohibited places for CPL holders and exempt persons.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

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■ 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.

750.237a, except that a parent or guardian of a student may carry a concealed pistol while in a vehicle on school property, when dropping off or picking up the student from school; (2) child care center, day care center, child caring institution, or child placing agency, whether public or private; (3) a sports arena or stadium; (4) a bar or tavern licensed under the Michigan Liquor Control Act where the primary source of income is the sale of alcohol by the glass that is consumed on the premises; (5) any property or facility owned or operated by a church or other place of worship unless its presiding official or church officials permit the carrying of a concealed pistol on the premises; (6) an entertainment facility with a seating a capacity of 2,500 or more; (7) a hospital; (8) a dormitory or classroom of a community college, college, or university; (9) a sports arena; or (10) a place where carrying a pistol would violate a specified rule of the Michigan Gaming Control and Revenue Act.

³ See, for example, Attorney General Opinion No. 7113 (June 28, 2002).