

Legislative Analysis



ALLOW ADDITIONAL INDIVIDUALS TO CARRY CONCEALED PISTOLS IN NO-CARRY ZONES

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4591 (Substitute H-1)
Sponsor: Rep. Frank D. Foster
Committee: Judiciary

First Analysis (5-9-12)

BRIEF SUMMARY: The bill would allow a retired federal law enforcement officer or a state correctional officer who had a license to carry a concealed pistol to carry that pistol in a "no-carry" zone. It also would allow a peace officer who wanted to apply for a license to carry a concealed pistol to be exempt from the educational requirements.

FISCAL IMPACT: The bill would have no fiscal impact on state government.

THE APPARENT PROBLEM:

Even if a person holds a concealed pistol license (CPL), he or she cannot carry the concealed pistol into certain places such as day care centers or bars - known as *no-carry zones* - unless specifically allowed by statute. Public Act 719 of 2002 amended the portion of law authorizing certain CPL holders to carry a concealed pistol into a no-carry zone to include correctional officers working in county jails and certain employees in a city jail or lockup. Correctional officers employed by the Department of Corrections (DOC) were not included, though PA 719 did add DOC parole and probation officers to the list. Some feel it was an oversight at the time to exclude DOC correctional officers as they, when off duty, are exposed to similar risks as probation and parole officers and county correctional officers or city jail employees.

Similarly, it has been argued that federal law enforcement officers who are now retired should also be added to the list of CPL holders allowed to carry concealed pistols into a no-carry zone since retired state and local law enforcement officers are authorized to do so. Further, a retired police officer or retired law enforcement officer who wishes to obtain a CPL is exempt from completing the educational requirements required for the license (which includes completing a pistol safety training course, generally taught by retired law enforcement officers). Some feel that all active peace officers should be exempt from having to take a pistol safety course if they wish to apply for a CPL.

Legislation has been offered to address these concerns.

THE CONTENT OF THE BILL:

House Bill 4591 would amend Public 372 of 1927, the handgun license act, to specifically authorize a retired federal law enforcement officer who held a concealed pistol license (CPL) under the act, and who had carried a firearm during the course of his

or her employment, to carry the pistol in a no carry zone. The concealed weapon licensing board could require a letter from the law enforcement agency that had employed the officer immediately prior to retirement stating that the officer retired in good standing. The bill would define "federal law enforcement officer" to mean an officer or agent employed by a law enforcement agency of the U.S. government whose primary responsibility is enforcing the laws of the U.S.

In addition, a state correctional officer, as defined in Section 2 of the Correctional Officers' Training Act, who held a CPL would also be authorized under the bill to carry a concealed pistol in a no carry zone. The term is defined to mean "any person employed by the department in a correctional facility as a correctional officer or a corrections medical aide, or that person's immediate supervisor."

Further, the bill would exempt a peace officer who applied for a CPL from the educational requirements under Section 5b(7)(c). That provision requires the applicant to have knowledge and have had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of section 5j, and that is available to the general public and presented by a law enforcement agency, junior or community college, college, or public or private institution or organization or firearms training school.

The bill would also make several revisions of a technical nature to references to Section 12a to conform to changes made to that section by Public Act 559 of 2006.

MCL 28.425k, 28.425l, and 28.425o

ARGUMENTS:

For:

Currently, a correctional officer who works in a county jail can carry a concealed pistol in a no-carry zone such as a church or school if he or she holds a concealed pistol license, but a correctional officer working in a state prison cannot. Likewise, a retired police officer or retired law enforcement officer with a CPL can carry his or her pistol into a no-carry zone but a retired federal law enforcement officer who carried a firearm in the course of his or her employment cannot. The bill simply would correct what some see as oversights regarding which CPL holders should be exempted from the ban on carrying a concealed pistol onto certain premises.

For:

Currently, peace officers are exempted from having to obtain a concealed pistol license in order to carry a concealed pistol when off duty. However, some officers are interested in purchasing more than one pistol, especially if they are gun enthusiasts. Apparently, the process to obtain a license to purchase a pistol is more streamlined for CPL holders. The bill would simply allow peace officers to apply for a CPL without having to take the gun safety training currently required for applicants. Retired police officers and retired law enforcement officers are already exempted from these courses. It makes sense to exempt

active peace officers who, as part of maintaining their MCOLES certification, must show firearm proficiency.

Against:

Some feel that providing exemptions to the no-carry zone law defeats the purpose of allowing responsible citizens to carry concealed pistols for personal protection and instead creates a special class of CPL holders "believed" to be a more accurate shot or whose life is more important. The bill would expand this list to include active DOC correctional officers and retired federal law enforcement officers. Just because these persons may have carried a weapon during their employment, they may never have drawn their weapon, let alone fired it, during the course of their careers.

Yet, by carving out certain classes of CPL holders from the no-carry zone prohibition, it is as if government is saying that those persons -- even though they also may have limited experience with a pistol -- are more responsible or have more value than, say, a woman who is the victim of domestic violence who has a PPO against her aggressor or is the target of a stalker. Without the ability to carry her pistol on her person at all times, she is vulnerable whenever she picks her child up at school or daycare, attends church, or goes to a baseball game. All persons eligible to carry a concealed pistol should have the same right to self-protection.

POSITIONS:

The Michigan State Police indicated support for the bill. (5-3-12)

Michigan Gun Owners testified in opposition to the bill. (5-3-12)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ 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.