

Legislative Analysis



REPEAL STATE PISTOL LICENSING REQUIREMENT

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House Bill 5225 (Substitute H-3)
Sponsor: Rep. Paul Opsommer

House Bill 5498 (Substitute H-1)
Sponsor: Rep. Richard LeBlanc

House Bill 5499 (reported without amendment)
Sponsor: Rep. Ray A. Franz

Committee: Judiciary
Complete to 6-11-12

A PRELIMINARY SUMMARY OF HOUSE BILL 5225 & HOUSE BILLS 5498-5499 AS REPORTED FROM COMMITTEE

House Bill 5225 would repeal Section 2 of the Handgun Licensure Law, Public Act 372 of 1927, which says that, with some exceptions, a person shall not purchase, carry, possess, or transport a pistol in Michigan without first having obtained a license from local law enforcement. This is commonly referred to as a "purchase license." Such a license is void unless it is used within 10 days after it is issued.

[Persons licensed to carry a concealed pistol and federally licensed firearms dealers are not now required to obtain a license under Section 2.]

House Bills 5498 and 5499 would make complementary amendments to the Code of Criminal Procedure and the Michigan Penal Code related to penalties for violations of Section 2 of PA 372, since that section would be repealed by House Bill 5225.

Under Section 2, which the bill would repeal, purchase licenses are obtained from the appropriate city, township, or village police department (or, in some cases, the sheriff's department), and they are issued unless local law enforcement "has probable cause to believe that the applicant would be a threat to himself or herself or to other individuals, or would commit an offense with the pistol that would violate a law of this or another state or of the United States." The section lists circumstances that would disqualify a person from obtaining a license. An applicant must also correctly answer 70% of the questions on a basic pistol safety review questionnaire.

[Handgun transactions would be subject to the federal law on firearms purchases, which involves a background check through the National Criminal Instant Background Check System operated by the Federal Bureau of Investigation in cases where an individual purchases a gun from a federally licensed firearms dealer.]

Also under Section 2, once a pistol has been purchased or otherwise acquired, a copy of the license must be sent to the State Police, and the local unit must enter certain license information into the State Police pistol entry database.

Required Destruction of Records

The bill would require the State Police Director, each county sheriff, and the commissioner or chief of police of each city, village, or township police department to destroy all records held by or under the control of that department that were received, compiled, or retained under Sections 2, 2a, or 11 of the Handgun Licensure Law, including copies of the records.

The destruction of the records would have to be completed within six months after the effective date of the bill.

However, the destruction-of-records requirement would not apply to a record or copy of a record being held in evidence in a criminal prosecution or a civil proceeding that has been initiated and is pending on the bill's effective date. However, such a record would have to be destroyed within 30 days after it is no longer being held as evidence in that prosecution or proceeding.

Each department would have to provide a report of its compliance to the Secretary of the State Senate and Clerk of the State House of Representatives within 30 days after the six-month period has expired. The report would have to separately identify the number of records and copies of records retained as evidence. Each department would have to also provide a report on January 1 of each year of the number of records and copies of records destroyed (that had been held for criminal prosecutions and civil proceedings) during that year.

Related Repealers

The bill also repeals several related sections, as follows:

Section 2a: this section provides an exemption from Section 2 for individuals licensed under Section 5b (concealed weapons licensure) and for federally licensed firearms dealers.

Section 9a: this section requires the State Police to approve a basic pistol safety pamphlet and safety questionnaires related to licensing under Section 2.

Section 9c: this section requires entities authorized to issue licenses under Section 2 to distribute the pistol safety pamphlet upon request.

Section 11: This section requires the State Police Director to provide a system for the expeditious review of the criminal histories of individuals who purchase firearms, if sufficient money is appropriated.

Section 12: This section exempts certain individuals from licensure under Section 2, such as law enforcement and military personnel, concealed weapons license holders from other states, owners of antique firearms, etc.

Section 12b: This section says Section 2 does not apply to signaling devices approved by the U.S. Coast Guard.

FISCAL IMPACT:

A fiscal analysis is in process.

POSITIONS:

The NRA-ILA has indicated support for House Bill 5225. (5-24-12)

The Michigan United Conservation Clubs (MUCC) has indicated support for House Bill 5225. (5-24-12)

The Michigan State Police has indicated opposition to House Bill 5225. (5-24-12)

The State of Michigan Domestic Violence and Sexual Assault Prevention and Treatment Board indicated opposition to House Bill 5225. (5-24-12)

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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.