



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 5225 (Substitute H-4 as passed by the House)
House Bill 5498 (Substitute H-1 as passed by the House)
House Bill 5499 (Substitute H-1 as passed by the House)
Sponsor: Representative Paul Opsommer (H.B. 5225)
Representative Richard LeBlanc (H.B. 5498)
Representative Ray A. Franz (H.B. 5499)

House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 7-17-12

CONTENT

House Bill 5225 (H-4) would amend the handgun licensure law to do the following:

- Repeal sections of the law that deal with licensure to purchase, carry, possess, or transport a pistol.
- Require the Director of the Michigan Department of State Police (MSP), sheriffs, and municipal police chiefs to destroy records dealing with pistol licensure.

House Bill 5498 (H-1) would amend the Code of Criminal Procedure to delete sentencing guidelines designations for violations that House Bills 5225 (H-4) and Bill 5499 (H-1) would eliminate.

House Bill 5499 (H-1) would amend the Michigan Penal Code to delete provisions that refer to portions of the handgun licensure law that House Bill 5225 (H-4) would repeal, or that specify penalties for violations that the bill would eliminate. House bill 5499 (H-1) also would repeal a section of the Code that exempts certain entities from a section that prescribes various penalties.

House Bill 5498 (H-1) is tie-barred to House Bills 5225 and 5499. House Bill 5499 (H-1) is tie-barred to House Bill 5225.

House Bill 5225 (H-4)

Repeal of Licensure Provisions

The bill would repeal Section 2 of the handgun licensure law, which generally prohibits a person from purchasing, carrying, possessing, or transporting a pistol in Michigan without first having obtained a license for the pistol. Section 2 also outlines the terms of eligibility for a license and the process for buyers and sellers to comply with licensure requirements, including record-keeping and reporting requirements.

The bill also would repeal the following sections of the handgun licensure law:

- Section 2a, which exempts an individual licensed to carry a concealed pistol, or who is a federally licensed firearms dealer, from the requirement to obtain a license under Section 2.
- Sections 9a and 9b, which require the MSP to approve, print, and distribute to licensing entities a pamphlet on basic pistol safety; and Section 9c, which requires licensing entities to give the pamphlet free of charge to each person who requests a copy.
- Section 11, which requires the MSP to provide a system for the expeditious review of the criminal histories of individuals who purchase firearms.
- Section 12, which identifies individuals and entities that are exempt from the licensure requirements under Section 2.
- Section 12b, which provides that Section 2 does not apply to a signaling device that is approved by the U.S. Coast Guard.

Destruction of Records

The bill would require the MSP Director, the sheriff of each county, and the commissioner or chief of police of each city, village, and township police department to destroy all records held by or under the control of that law enforcement agency that were received, compiled, or retained under Section 2, 2a, or 11, including all copies of those records. The records destruction requirement also would apply to records received, compiled, or retained under former Section 9 of the law, which dealt with safety inspection requirements for pistols.

The requirement would not apply to a record or copy that was being held as evidence in a criminal prosecution or civil proceeding that had been initiated and was pending on the bill's effective date. The record or copy, however, would have to be destroyed within 30 days after it was no longer held as evidence in the proceeding.

Destruction of the records would have to be completed within six months after the bill's effective date.

Each law enforcement agency would have to give a report of its compliance with the destruction requirement to the Secretary of the Senate and the Clerk of the House of Representatives within 30 days after the six-month period had expired. The report would have to identify separately the number of records and copies retained as evidence. By January 1 of each year, each agency also would have to give the Secretary and the Clerk a report of the number of records and copies retained or destroyed during that year, until all of the records and copies were destroyed in compliance with the bill.

House Bill 5498 (H-1)

The bill would delete the sentencing guidelines designations for forgery on a pistol license application and a false statement on a pistol sales record. (Requirements for the license application and sales record would be repealed by House Bill 5225 (H-4).) Each violation is a Class F felony against the public safety, with a statutory maximum sentence of four years' imprisonment.

The bill also would delete the sentencing guidelines designation for a false statement in a pistol application (which is a violation that House Bill 5499 (H-1) would eliminate). The violation is a Class G felony against the public safety, with a statutory maximum sentence of four years' imprisonment.

House Bill 5499 (H-1)

Under the Penal Code, a person who knowingly sells a pistol without complying with Section 2 of the handgun licensure law is guilty of a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$100. A person who obtains a pistol in violation of

Section 2 is guilty of a misdemeanor, punishable by the same penalty. A person who intentionally makes a material false statement on an application for a license to purchase a pistol under Section 2 is guilty of a felony, punishable by up to four years' imprisonment and/or a maximum fine of \$2,000. The bill would delete these provisions.

The bill also would repeal Section 231b of the Penal Code, which exempts from Section 223 police and correctional agencies, the Armed Forces, organizations authorized by law to purchase or receive weapons from the United States or this State, members of those entities for weapons used by the members for the agencies' or organizations' purposes, people holding a license to carry a concealed pistol, and the regular transportation of pistols as merchandise by an authorized agent of a licensed firearms manufacturer. (In addition to prescribing a penalty for knowingly selling a pistol without complying with the handgun licensure law, Section 223 prescribes penalties for a person who knowingly sells a pistol to a minor and for a seller that sells a firearm or ammunition to a person who is under indictment for a felony or who has been convicted of a felony.)

MCL 28.422 et al. (H.B. 5225)
777.11b & 777.16m (H.B. 5498)
750.223 et al. (H.B. 5499)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would eliminate the current requirements that a person obtain a license to own a pistol and that a record of the license be kept within a State database. This would reduce costs for law enforcement in general and for the Department of State Police in particular. Without the responsibility of providing licensing forms and maintaining a State pistol registry, the State Police reports that savings from its firearms record unit would include approximately 2.0 FTEs and \$300,000 to \$400,000.

In eliminating the requirement to obtain a license to own a pistol, the bills also would eliminate several crimes associated with the violation of this requirement. For example, knowingly selling a pistol without ensuring that the buyer is complying with the licensing requirement, and purchasing a pistol without complying with the licensing requirement, both 90-day and/or \$100-fine misdemeanors, would be eliminated. Additionally, forgery of a license or making a false material statement on an application for a license to purchase a pistol, both felonies with maximums of four years and/or \$2,000 fines, also would be eliminated. In the five-year period from 2006 to 2010, there were two felony dispositions for forging a license to purchase a pistol; both defendants received probation. Due to the limited number of individuals charged with crimes associated with the licensing requirement, the savings to the criminal justice system of eliminating these felonies and misdemeanors would likely be marginal, or perhaps negligible. Likewise, the elimination of these crimes could result in a marginal amount of forgone penal fine revenue, which would reduce funding contributed to public libraries.

Fiscal Analyst: Bruce Baker
Dan O'Connor