

NO-CARRY ZONE PROVISIONS: EXPAND EXEMPTIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4838 (proposed substitute H-1)

Sponsor: Rep. Daire Rendon

Committee: Judiciary

Complete to 11-27-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4838 would expand the list of those who may carry a concealed pistol in a “no-carry” zone to include qualified retired law enforcement officers and to specify the acceptable proof a qualified retired law enforcement officer must carry when carrying a concealed pistol.

Currently, even if a person holds a concealed pistol license issued by Michigan or by his or her other state of residence, he or she cannot carry the pistol concealed into certain places—such as a day care center, church, or bar—known as *no-carry zones* or *weapon-free zones*, unless specifically allowed by statute.

House Bill 4838 would amend Act 372 of 1927, the handgun licensing law, to specifically authorize a qualified retired law enforcement officer to carry a concealed pistol in a no-carry zone. The term is defined in the federal Law Enforcement Officers’ Safety Act (LEOSA), 18 USC 926c. LEOSA exempts active and retired law enforcement officers from local and state laws prohibiting the carrying of concealed firearms.

Under LEOSA and the bill, a qualified retired law enforcement officer is an individual who separated in good standing from service with a public agency after having served for at least 10 years as a law enforcement officer, or for less time if the separation is due to a service-connected disability. Among other requirements (see “Background Information,” below), a qualified retired law enforcement officer must also meet the standards for qualification in firearms training for active law enforcement officers and not have any mental health reasons to be found unqualified.

Under LEOSA and the bill, a qualified retired law enforcement officer must carry a photographic ID issued by the agency from which the individual separated from service that identifies the individual as having been employed as an officer. The individual must also carry documentation issued by his or her former agency, by his or her state of residency, or by a certified firearms instructor certifying that the individual has met, within the most recent 12-month period, the active duty law enforcement standards in firearms training for qualification for a firearm of the same type as the individual intends to carry concealed.¹

House Bill 4838 would also delete a reference to former Section 228 of the Michigan Penal Code. That section was repealed by Act 196 of 2008. A provision enacted by Act 242 of 2012 was subsequently compiled as Section 228.

MCL 28.421, 28.425b, and 28.425o

¹ Information derived from 18 USC 926c and also from information posted online by the Fraternal Order of Police at <https://www.fop.net/legislative/issues/hr218/hr218faq.pdf>

BACKGROUND INFORMATION:

The term “qualified retired law enforcement officer” is defined under LEOSA (18 USC 926c) to mean an individual who:

- (1) separated from service in good standing from service with a public agency as a law enforcement officer;
- (2) before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice);
- (3) (A) before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or
(B) separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- (4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;
- (5) (A) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or
(B) has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);
- (6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- (7) is not prohibited by Federal law from receiving a firearm.

FISCAL IMPACT:

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

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Kent Dell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.