



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 584 and 585 (as introduced 9-20-17)
Sponsor: Senator Arlan Meekhof (S.B. 584)
Senator Phil Pavlov (S.B. 585)
Committee: Government Operations

Date Completed: 11-7-17

CONTENT

Senate Bill 584 would amend provisions of the handgun licensure law regarding the prohibition against carrying a concealed pistol on certain premises (commonly called no-carry zones) and exemptions to the prohibition, to do the following:

- Add an exemption an individual who held a concealed pistol license (CPL), or was applying for an initial or renewal CPL or an exemption, if he or she requested the exemption on his or her license application and met certain educational requirements.
- Require the individual either to certify that he or she had completed at least eight hours of training that met specified conditions, or to be certified as a firearms instructor.
- Require at least three hours of review, instead of eight hours of training, if the individual had been granted an exemption and were applying for a renewal license with an exemption, or if he or she were an firearms instructor.
- Require the county clerk to issue or deny the exemption within 10 days after receiving the application.
- Provide that an individual who was granted an exemption at the time he or she applied for an original or renewal license would not be required to pay an additional fee.
- Provide that an individual could be required to pay up to \$20 if he or she applied for an exemption at any time other than when he or she applied for an original or renewal license.
- Require the application for a CPL to allow the applicant to designate whether he or she was seeking an exemption from the no-carry zone prohibition.
- Require a no-carry zone exemption to appear as an indorsement on the face of a license.
- Allow an applicant for an exemption to appeal to the circuit court if a clerk failed to provide an exemption, and require the court to order the clerk to pay the applicant's costs and attorney fees if the court found that the failure was arbitrary and capricious.

Senate Bill 585 would amend the sentencing guidelines in the Code of Criminal Procedure to change a Michigan Compiled Laws citation to a section of the handgun licensure law that Senate Bill 584 would amend.

Senate Bill 585 is tie-barred to Senate Bill 584.

A more detailed description of Senate Bill 584 follows.

No-Carry Zone Exemption; Educational Requirements; Issuance or Denial

Section 5o of the law prohibits a person who is licensed to carry a concealed pistol, or who is exempt from licensure, from carrying a concealed pistol or a taser on the premises (excluding the parking areas) of any of the following (commonly called weapon-free or no-carry zones):

- A school or school property, except for a student's parent or legal guardian while in a vehicle on school property, if he or she is dropping off or picking up the student.
- A public or private child care center or day care center, child caring institution, or child placing agency.
- A sports arena or stadium.
- A licensed bar or tavern whose primary source of income is the sale of liquor by the glass for on-premises consumption.
- Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless its presiding official or officials permit the carrying of a concealed pistol on the property or facility.
- An entertainment facility with a seating capacity of 2,500 or more that the person knows or should know has such a seating capacity or that has a sign stating that capacity.
- A hospital.
- A dormitory or classroom of a community college, college, or university.

A violation is a State civil infraction punishable by a maximum fine of \$500, and a mandatory six-month suspension of the individual's license to carry a concealed pistol. A second violation is a misdemeanor punishable by a maximum fine of \$1,000, and revocation of the individual's CPL. A third or subsequent violation is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000, and license revocation.

Section 5o lists categories of individuals to whom the no-carry zone prohibition does not apply. These include, among others, individuals who are licensed under the law and are peace officers, court officers, corrections officers, or State court judges; retired law enforcement officers, retired judges, and retired corrections officers who are licensed under the law; and individuals who are licensed as private investigators.

Under the bill, the prohibition also would not apply to a person who applied for and was granted an exemption by the county clerk. A person would be eligible for an exemption only if he or she requested an exemption on his or her license application and one or more of the following applied:

- Except as provided below for someone who would be required to complete at least three hours of review, the individual was a licensee or was applying for an initial or renewal license or an exemption under these provisions, who provided a certificate indicating on its face that he or she had completed at least eight hours of training in addition to the pistol safety training otherwise required by the handgun licensure law.
- The individual was certified as a firearms instructor by the State or by a national or State firearms training organization, and was eligible under the law to provide pistol safety training to applicants for a CPL.

The eight hours of training would have to satisfy all of the following conditions:

- Include both classroom and range time.
- Include the firing of at least an additional 94 rounds.

- Focus on the pistol safety training principles as they apply to public places and premises listed as no-carry zones, subject to the exclusion of parking areas.
- Be provided by an agency of the State or by a national or State firearms training organization.
- Be completed within five years immediately before the date of the application for an original or renewal license or an exemption.

In addition, the training instructor would have to be certified as a firearms instructor by the State or by a national or State firearms training organization and be eligible to provide the pistol safety training required by the law.

Regarding an individual who was certified as a firearms instructor, it would be prima facie evidence that the individual was eligible for an exemption if he or she possessed a certificate as a firearms instructor issued by the State or by a national or State firearms training organization that met the law's requirements. ("Prima facie" is sufficient to establish a given fact or raise a presumption unless disproved or rebutted.)

The requirement for eight-hours of training would be waived for an individual who had been granted an exemption from the no-carry zone prohibition and was applying for a renewal license with an exemption, but the individual would have to certify that he or she had completed at least three hours of review of that training. The requirement for eight hours of training also would be waived for an individual who was a firearms instructor eligible to provide pistol safety training, but the individual would have to certify that he or she had completed at least three hours of review of the training required to become a firearms instructor. These educational requirements would be met if the applicant certified on the renewal application form that he or she had complied with the training review requirements. The county clerk could not otherwise require verification of the statements made under these provisions and could not require an applicant to obtain a certificate or undergo training other than as required by the bill.

Within 10 days after receiving an application for an exemption, the county clerk would have to issue or deny the exemption and send to the applicant by first-class mail in a sealed envelope either a replacement license with the exemption indorsement or, if the exemption were denied, a notice of denial. A notice of denial would have to specifically state the statutory authority for the denial. The bill specifies that nothing in these provisions would prohibit the clerk from making a determination regarding the exemption at the time the application was submitted and immediately either issuing a replacement license that contained the exemption indorsement or denying the exemption and immediately providing the written notice of denial, including the statement of statutory authority.

If an individual were licensed to carry a concealed pistol at the time he or she was granted an exemption under the bill, the applicant would have to surrender his or her CPL to the county clerk by mail or in person immediately upon receiving his or her replacement license containing the exemption indorsement.

License Application; Indorsement

Under the handgun licensure law, to obtain a license to carry a concealed pistol, an individual must apply to the clerk of the county where the applicant resides. The application must allow the individual to designate whether he or she is seeking an emergency license. Under the bill, the application also would have to allow the individual to designate whether he or she was seeking an exemption from the prohibition against carrying a concealed pistol in a no-carry zone.

Currently, the county clerk must include an indication on a license of an individual who is exempt from the prohibition, if the individual provides acceptable proof that he or she qualifies for the exemption. The bill also would require the county clerk to include an indication on the license if the applicant requested the exemption indorsement on his or her application form and were eligible for the exemption proposed by the bill.

The bill specifies that an individual who applied for and was granted an exemption from Section 50 at the time he or she applied for an original or renewal license would not be required to pay any additional fee. An individual who held a valid license and who applied for an exemption at a time other than when he or she applied for an original or renewal license could be required to pay a fee of not more than \$20 for the receipt and processing of the exemption application and for the issuance of a replacement license. The county clerk would have to deposit the fee in the concealed pistol licensing fund of that county.

Failure to Provide Exemption; Appeal

Under the law, if the county clerk issues a notice of statutory disqualification for a CPL, fails to provide a required receipt, or fails to issue a CPL, the applicant may appeal to the circuit court. If the court determines that the notice or failure was clearly erroneous or was arbitrary or capricious, the court must order the clerk to issue a license or receipt as required by the law. If the court determines that the notice or failure was clearly erroneous, the court may order the clerk to refund any filing fees the applicant incurred in filing the appeal. If the court determines that the notice or failure was arbitrary and capricious, the court must order the county clerk to pay the applicant's actual costs and actual attorney fees in appealing the notice or failure.

Under the bill, these provisions also would apply to a county clerk's failure to provide an exemption from the no-carry zone prohibition.

MCL 28.425a et al. (S.B. 584)
777.11b (S.B. 585)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 584

The bill would increase the responsibilities of county clerks related to concealed weapons licenses and would provide an option for additional revenue to pay for those costs. It would increase State costs by a minimal amount.

County clerks would be authorized to charge a fee of not more than \$20 that would cover both processing an application for a no-carry zone license indorsement and issuing a replacement license within 10 days if the application were submitted except with an application for an original or renewal concealed pistol license. Any additional revenue collected due to the new fee would have to be deposited in the county's concealed pistol licensing fund, which may be used only for costs related to the administration of the handgun licensure law. The cost and revenue associated with the proposal would depend on the volume of applications, the local decision to charge a fee of up to \$20 per application, and the level of the fee established.

The bill also would allow appeals to the circuit court based on denial of an application for an exemption from the no-carry zone prohibition. If a county lost the appeal because the court found an error by the county, the court could order the refund of the appellant's filing fees. If the court found that the denial of the exemption was arbitrary and capricious, the court would

have to order the county to pay costs and attorney fees for the appellant. This provision could increase the costs of courts and counties by an indeterminate but likely minimal amount, depending on the number and outcome of appeals.

The bill also would increase the costs of the Department of State Police, which would be required to change forms for applications for concealed pistol licenses to include the request for an exemption from the prohibition against carrying concealed pistols in no-carry zones. This one-time minimal cost likely would be absorbed within the Department's existing appropriations.

Senate Bill 585

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.