

REPEAL AND REVISE FIREARMS PROVISIONS

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House Bill 4770 as referred to second committee
Sponsor: Rep. Steven Johnson

Analysis available at
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House Bill 4771 as referred
Sponsor: Rep. John Reilly

House Bill 4773 as referred
Sponsor: Rep. Matt Maddock

House Bill 4772 as referred
Sponsor: Rep. Michele Hoytenga

House Bill 4774 as referred
Sponsor: Rep. Pamela Hornberger

1st Committee: Military, Veterans and Homeland Security
2nd Committee: Judiciary
Complete to 4-23-20

SUMMARY:

House Bill 4770 would amend the Michigan Penal Code to repeal sections 227, 227a, 227c, 227d, 231a, and 234d, described as follows:

Section 227 prohibits an individual from carrying a dagger or other dangerous weapon, except a hunting knife, concealed on his or her person or, whether concealed or not, in a vehicle. The section also prohibits an individual from carrying a pistol concealed on his or her person or, whether concealed or not, in a vehicle, unless the individual is licensed to do so. The section requires a licensed individual to comply with any license restrictions. The prohibitions described above do not apply to an individual carrying a weapon or pistol at his or her home, place of business, or other property he or she possesses. They also do not apply to peace officers, security employees, members of the armed forces or reserves, certain corrections officers, or other individuals described in section 231 of the Penal Code. (See *Section 231a*, below, for further exceptions to section 227.) A violation of the section is a felony punishable by imprisonment for up to five years or a fine of up to \$2,500.

Section 231a provides that section 227 does not apply to any of the following:

- A person who is licensed by his or her state of residence to carry a concealed pistol and who is not violating any license restriction.
- An authorized agent of a firearm manufacturer while engaging in the regular and ordinary transportation of pistols as merchandise.
- A person carrying an unloaded antique firearm in a closed container in the trunk of a vehicle.
- A person transporting a licensed pistol in a closed case in the trunk of a vehicle or, if the vehicle does not have a trunk, in a closed case not readily accessible to the occupants of the vehicle.

Section 227a prohibits an individual who is licensed to carry a pistol for his or her job from having a pistol in his or her possession when not actually on the job for which he or she is licensed. The section does not apply to peace officers, railroad police officers, or members of the armed forces or if the individual has the pistol at his or her home or other property he or she possesses. The section also does not apply to the individual while carrying his or her pistol unloaded to or from work. A violation of the section is a felony punishable by imprisonment for up to four years or a fine of up to \$5,000, or both.¹

Section 227c prohibits a person from transporting or possessing a loaded firearm (other than a pistol) in a sailboat, motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means. The prohibition also applies to loaded pneumatic gun that expels a metallic BB or metallic pellet greater than .177 caliber. The prohibition does not apply to peace officers, security employees, members of the armed forces or reserves, certain corrections officers, or other individuals described in section 231 of the Penal Code. A violation of the section is a misdemeanor punishable by imprisonment for up to two years or a fine of not more than \$2,500, or both.

Section 227d prohibits a person from transporting or possessing a firearm (other than a pistol) or a pneumatic gun that expels a metallic BB or metallic pellet greater than .177 caliber in a motor vehicle or any self-propelled vehicle unless the firearm or gun is unloaded and at least one of the following: taken down, enclosed in a case, carried in the trunk of a vehicle, or inaccessible from the interior of the vehicle. The prohibition does not apply to peace officers, security employees, members of the armed forces or reserves, certain corrections officers, or other individuals described in section 231 of the Penal Code. A violation of the section is a misdemeanor punishable by imprisonment by up to 90 days or a fine of not more than \$100, or both.

Section 234d prohibits a person from possessing a firearm on the premises of any of the following:

- A bank, credit union, or other depository financial institution or its affiliates.
- A church or other house of religious worship.
- A court.
- A theater.
- A sports arena.
- A day care center.
- A hospital.
- An establishment that is licensed under the Liquor Control Code.

The prohibition does not apply to a peace officer, a person licensed to carry a concealed person in any state, a person who has the permission of the owner of the entity, or the owner or a person engaged by the owner if the firearm possession is

¹ See MCL 750.503

to provide security for the entity. A violation of the section is a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$100, or both.

The bill would also make changes to citations in the Penal Code that would be necessitated by the repeal of the above sections.

MCL 750.231 and 750.237a; repealed MCL 750.227 et seq.

House Bill 4771 would amend 1927 PA 372, also known as the handgun licensure act.

Currently, an individual must obtain a license under the act before he or she can purchase, carry, possess, or transport a pistol in this state. The bill would remove the requirement to be licensed to carry, possess, or transport a pistol; the license would still be required to purchase a pistol.

Currently, among other requirements, an applicant for a license to carry a concealed pistol must not have been convicted of certain specified misdemeanor violations within the eight years preceding the date of his or her application. The bill would remove from the list violation of sections 227c and 234d of the Penal Code, which HB 4770 would repeal. The bill would also change the reference to a violation of section 226a of the Penal Code, which was repealed by 2017 PA 96, to a violation of former section 226a. [Section 226a pertained to switchblades.]

Currently, with some exceptions, an individual who is licensed under the act to carry a concealed pistol, or who is exempt from needing such a license, is prohibited from carrying a concealed pistol on the premises of any of the following:

- A school or school property.
- A public or private child care center, day care center, child caring institution, or child placing agency.
- A sports arena or stadium.
- A bar or tavern.
- A church or other place of worship unless the presiding officials allow it.
- An entertainment facility with a seating capacity of 2,500 or more.
- A hospital.
- A dormitory or classroom of a community college, college, or university.

The bill would remove all of the above except the prohibition concerning school or school property.

The bill would also remove a provision that currently requires a person who brings a pistol into the state and who is on leave from active duty or has been discharged from active duty to obtain a license for the pistol within 30 days after his or her arrival in this state.

Additionally, the bill would revise cross-references to sections that HB 4770 would repeal.

MCL 28.422 et seq.

House Bill 4772 would amend the Natural Resources and Environmental Protection Act (NREPA). NREPA currently stipulates that the act itself or a rule or order of the Department of Natural Resources (DNR) or the Natural Resources Commission cannot be construed to prohibit an individual from transporting a pistol or carrying a loaded pistol, whether concealed or not, if any of the following apply:

- The individual has a license to carry a concealed pistol.
- The individual is exempt under 1927 PA 372 from needing to obtain a concealed pistol.
- The individual is carrying the pistol without a concealed pistol license in accordance with section 227, 227a, or 231a of the Michigan Penal Code. [These sections would be repealed by HB 4771; see above.]
- The individual is carrying the pistol without a concealed pistol license in accordance with section 231 of the Penal Code, which specifies individuals (such as peace officers and members of the armed forces) to whom specified firearm provisions of the Penal Code do not apply.

The bill would remove the above exceptions and stipulate that NREPA or a rule or order of the department or commission does not prohibit an individual from transporting a pistol or carrying a loaded pistol, whether concealed or not.

MCL 324.43510

House Bill 4773 would amend the Code of Criminal Procedure to remove from sentencing provisions references to sections that would be repealed by HB 4770 and to make a cross-reference change that would be necessitated by HB 4771.

MCL 769.12 et seq.

House Bill 4774 would amend the Corrections Code to remove a reference to a section that would be repealed by HB 4770 from provisions concerning parole eligibility.

MCL 791.233b

House Bills 4771 through 4774 are tie-barred to HB 4770, which means that they could not take effect unless HB 4770 were also enacted

FISCAL IMPACT:

House Bill 4770 would have an indeterminate fiscal impact. Depending on the number of people who would no longer be charged under provisions of the bill, the bill would result in decreased costs for the state and for local units of government. Reduced felony charges would result in reduced costs related to the state correctional system and reduced misdemeanor charges would result in reduced costs related to county jails and/or local misdemeanor probation supervision. In fiscal year 2018, the average cost of prison incarceration in a state facility was roughly \$38,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,700 per supervised offender in the same year. These costs are financed with state general fund/general purpose revenue. The costs of

local incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. There would also be a decrease in penal fine revenues which would decrease funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4771 could have a potentially significant fiscal impact on the Department of State Police and on other law enforcement agencies. The bill would likely lead to decreased administrative responsibilities and lower revenues. The net impact of the bill is presently indeterminate.

House Bill 4772 would not affect costs or revenues for the Department of Natural Resources.

House Bills 4773 and 4774 are companion bills to HB 4770. House Bill 4773 amends sentencing guidelines, and House Bill 4774 updates references in the Corrections Code. The bills would not have a direct fiscal impact on the state or on local units of government

POSITIONS:

Representatives of the following organizations testified in support of the bills:

- Great Lakes Gun Rights (10-22-19)
- Michigan Coalition for Responsible Gun Owners (10-15-19)
- Michigan Open Carry, Inc. (10-22-19)
- National Association for Gun Rights (10-22-19)

A representative of Moms Demand Action for Gun Sense in America testified in opposition to the bills. (10-15-19)

The following entities indicated opposition to the bills:

- American Association of University Women (10-15-19)
- Ascension Michigan (10-15-19)
- Every Town for Gun Safety (10-22-19)
- Michigan Catholic Conference (10-15-19)
- Michigan Health and Hospital Association (10-15-19)
- Trinity Health (10-22-19)

The following entities indicated opposition to House Bills 4770 and 4771 (10-15-19):

- Henry Ford Health System
- McLaren Health Care

Legislative Analyst: E. Best
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■ 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.