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**SFA****BILL ANALYSIS**

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House Bill 4530 (Substitute H-2 as passed by the House)  
House Bills 4532 through 4536 (as passed by the House)  
House Bill 4537 (Substitute H-1 as passed by the House)  
House Bill 4538 (as passed by the House)  
House Bill 4543 (Substitute H-2 as passed by the House)  
House Bill 4545 (as passed by the House)

Sponsor: Representative Michael Green (H.B. 4530)  
Representative Steve Vear (H.B. 4532)  
Representative Gloria Schermesser (H.B. 4533)  
Representative Michael Kowall (H.B. 4534)  
Representative Sue Tabor (H.B. 4535)  
Representative Rick Johnson (H.B. 4536)  
Representative Stephen Erhardt (H.B. 4537)  
Representative Ken Bradstreet (H.B. 4538)  
Representative Raymond Basham (H.B. 4543)  
Representative Eileen DeHart (H.B. 4545)

House Committee: Conservation and Outdoor Recreation  
Senate Committee: Hunting, Fishing and Forestry

Date Completed: 5-25-99

## **CONTENT**

**House Bill 4530 (H-2)** would amend the handgun licensure Act to revise requirements for applying for a license to carry a concealed pistol; require a concealed weapon licensing board to issue a license if the requirements were met; set a \$49 application fee; require county sheriffs, local law enforcement agencies, and county clerks to provide concealed weapon application kits to individuals wishing apply for a license; require the Legislative Service Bureau to compile the State's firearms laws for distribution to applicants; require a licensing board to issue or deny a license within 13 days after receiving the applicant's fingerprint comparison report or within 43 days after the application was submitted; require the destruction of applicants' fingerprints; allow the appeal of license denials to the circuit court; require an applicant to document knowledge or training in the safe use and handling of a pistol; provide that a license would be valid for five years; provide for the issuance of a temporary license for up to 180 days; provide for licensing exemptions; require the State Police to create and maintain a computerized database of applicants, and report annually to the Legislature; allow an owner or lessee of certain establishments to prohibit concealed pistols on that property; impose penalties for violations pertaining to the carrying of concealed pistols while under the influence of liquor or a controlled substance; and repeal provisions pertaining to license fees, concealed

weapon licensing boards, firearm forfeiture, and renewal fees.

**House Bill 4532** would amend the Michigan Penal Code to delete provisions that restrict the transportation of unloaded antique firearms or pistols, and **House Bill 4537 (H-1)** would amend Part 435 (Hunting and Fishing Licenses) of the Natural Resources and Environmental Protection Act to delete provisions that restrict the transportation or possession of a firearm, a bow and arrow, or a crossbow.

**House Bill 4533** would amend the handgun licensure Act to create the "Firearm Law Enforcement Fund".

**House Bills 4534 and 4535** would amend the Michigan Penal Code to provide that a concealed pistol carried in violation of the Code by a licensed individual would be subject to seizure and forfeiture, and allow the State Police Director or authorized representative to conduct public auctions to sell forfeited firearms to individuals who could lawfully own them, respectively.

**House Bill 4536** would amend the Michigan Penal Code to prohibit a person from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm that he or she knew or had reason to know was not registered as required under law due to a material false statement. A person who violated the bill

would be guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500. (The bill would not apply to a firearm that was not required to be registered under Federal or State law.)

**House Bill 4538** would amend the Open Meetings Act to allow a public body to meet in a closed session to consider material or information submitted by an applicant for a license to carry a concealed pistol, if a closed session were requested by the applicant.

**House Bill 4543 (H-2)** would amend the Michigan Penal Code to increase penalties for violations pertaining to carrying a concealed pistol; aiming a firearm at someone intentionally but without malice; discharging a firearm or discharging from a motor vehicle, snowmobile, or off-road vehicle intentionally but without malice; possessing a firearm on prohibited premises; brandishing a firearm in public; possessing a firearm in public while under 18 years of age; maiming or injuring someone by discharging a firearm intentionally but without malice; possessing a firearm while under the influence of liquor or an exhilarating or stupefying drug; and possessing a weapon in a weapon-free school zone.

**House Bill 4545** would amend the Freedom of Information Act to allow a public body to exempt from disclosure as a public record any information contained in an application for a license to carry a concealed pistol that would identify the applicant or licensee.

House Bills 4532, 4533, 4534, 4535, 4537 (H-1), 4538, 4543 (H-2), and 4545 are tie-barred to House Bill 4530. All the bills would take effect September 30, 1999.

A detailed description of House Bills 4530 (H-2), 4532, 4533, 4537 (H-1), and 4543 (H-2) follows.

### **House Bill 4530 (H-2)**

#### **Legislative Intent**

The bill provides: "It is the intent of the legislature to create a standardized system for issuing concealed pistol licenses to prevent criminals and other violent individuals from obtaining a license to carry a concealed pistol, to allow law abiding residents to obtain a license to carry a concealed pistol, and to prescribe the rights and responsibilities of individuals who have obtained a license to carry a concealed pistol. It is also the intent of the legislature to grant an applicant the right to know why his or her application for a concealed pistol license is denied and to create a process by which an applicant may appeal that denial."

### **Concealed Weapon Licensing Board**

Each county would have a concealed weapon licensing board consisting of the county prosecuting attorney, county sheriff, and the Director of the State Police, or their designees. The board would have exclusive authority to issue or deny issuance of a license to carry a concealed pistol. The board could investigate an applicant only to determine whether he or she was eligible to receive a license. The board could require the applicant to appear before it at a mutually agreed-upon time for a conference.

### **Concealed Weapon License Application**

The bill would allow an individual to apply to the concealed weapon licensing board in his or her county for a license to carry a concealed pistol. The application would have to be filed with the county clerk, as clerk of the board, during normal business hours. The application would have to be signed under oath, and administered by an authorized employee of the Department of State Police.

The application would have to contain the applicant's name and address, and a statement of the following:

- That the applicant met all criteria for a license.
- Authority to the board to access any record pertaining to an applicant's qualifications.
- Whether the applicant had a history of mental illness that would disqualify him or her from receiving a license to carry a concealed pistol, and granting authority to the board to access the applicant's mental health records. (The applicant could request that information to be reviewed in a closed session.)
- Whether the applicant had ever been convicted in the State or elsewhere of any assaultive crime.
- Whether the applicant was dishonorably discharged from the U.S. armed forces.
- The facts supporting the issuance of a temporary license, if the applicant sought a temporary license pending issuance of a regular license.
- The names, residential addresses, and telephone numbers of two individuals who were the applicant's references.

The application form would have to contain a conspicuous warning that the application was executed under oath and that intentionally making a material false statement on the application would be a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500. The board would have to retain a copy of each application for a license to carry a concealed pistol as an official record.

### **License Requirements and Qualifications**

**Fees.** Each applicant would be required to pay a \$49

fee at the time the application was submitted. The county treasurer would have to forward \$29 to the State Treasurer, who would have to deposit it in the General Fund to the credit of the State Police. The county treasurer would have to deposit \$20 of each fee in the county general fund to the credit of the county clerk.

Criteria. The Department would be required to issue a license to an applicant if he or she properly submitted an application and the board determined that the applicant was 21 years of age or older, or was at least 18 but under 21 and was required to carry a concealed pistol in the course of employment. The board would have to determine if issuing a license would not be detrimental to the safety of the applicant or to any other individual. The board also would have to determine that the applicant was a U.S. citizen or a resident legal alien, was a current resident of this State, and had lived in Michigan for at least six months. In addition, the board would have to determine that the applicant:

- Was not the subject of an order or disposition under various sections of the Mental Health Code, the Revised Probate Code, the Revised Judicature Act, or the Code of Criminal Procedure.
- Was not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under the Michigan Penal Code.
- Had never been convicted of a felony in the State or elsewhere, and was not subject to a pending felony charge.
- Had not been dishonorably discharged from the U.S. armed forces.
- Had not been convicted of or confined after conviction for a specified criminal offense in the previous eight years.
- Had not been found guilty but mentally ill, offered a plea of not guilty of, or been acquitted of any crime by reason of insanity.
- Had never been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.
- Was not suffering from a diagnosed mental illness at the time of application regardless of the applicant was receiving treatment.
- Was not under an order of involuntary commitment, or under a court order of legal incapacity.
- Demonstrated knowledge or training in the safe use and handling of a pistol (as described below).

Safety Training. A pistol training or safety program course would meet the requirements for knowledge or training in the safe use and handling of a pistol only if the program were certified by the State or a national or State firearms training organization and provided instruction in: safe storage, use, and

handling to protect child safety; ammunition knowledge and the fundamentals of handgun shooting; handgun shooting positions; firearms and the law; avoiding criminal attack and controlling a violent confrontation; and all State laws that apply to carrying a concealed pistol. The program also would have to provide at least eight hours of instruction, including three hours of firing range time, and provide a certificate of completion that complied with the bill's requirements. The instructor would have to be certified by the State or national organization.

Under the bill, a person or entity that provided instruction or training to another person would be immune from civil liability for damages to any person or property caused by the person who was trained, unless the person or entity providing the instruction or training was grossly negligent. This provision would be in addition to, and not instead of, immunity otherwise provided by law.

A person could not grant a certificate of completion to an individual knowing that he or she did not satisfactorily complete the course, and a person could not present a certificate of completion to a concealed weapon licensing board knowing that the individual did not satisfactorily complete the course. A person who violated this provision would be guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500.

Fingerprints. Before submitting an application, an individual would be required to have two sets of fingerprints taken by the county sheriff. Within three days after the individual requested his or her fingerprints to be taken, the fingerprints would have to be forwarded to the Department of State Police and the FBI for comparison with other fingerprints on file. Within 10 days after receiving the report, the State Police would be required to provide comparison reports to the county sheriff and the concealed weapon licensing board. The State Police would have to destroy the fingerprints when it provided the comparison report to the county sheriff and the board, or after 30 days following the submission of the fingerprints.

The board could not issue a license to an applicant until it had received the fingerprint comparison reports. The board would not be required to issue a license to an applicant if that applicant's fingerprints were determined to be unclassifiable by the FBI.

### License Issuance or Denial

A concealed weapon licensing board would have to deny a license if the applicant were not qualified. If the board issued a license to an individual at least 18 but under 21, the license would have to be restricted to allow the individual to carry a concealed weapon only to and from and in the course of employment.

A license that was issued based upon an application that contained a material false statement would be void.

Further, the board would have to issue or deny a license within 30 days after receiving the fingerprint comparison report. If the board denied issuance of the license, it would have to notify the applicant within five business days in writing of the reasons for the denial, including a statement of specific and articulable facts supporting the denial and copies of any writings, photographs, records, or other documentary evidence upon which the denial was based, and inform the applicant in writing of his or her right to appeal the denial to the circuit court.

If the fingerprint board did not receive the comparison report within 30 days after it was forwarded to the State Police by the FBI, the board would have to issue a temporary license. The temporary license would be valid for 180 days or until the board received the comparison report and issued or denied issuance of a license. Upon issuance or denial, the applicant who received the temporary license would have to surrender it to the board.

A board could issue a temporary license to carry a concealed pistol to an applicant if it determined that there was probable cause to believe safety of the applicant or a member of the applicant's family was endangered by the applicant's inability to obtain immediately a license to carry a concealed pistol. A temporary license to carry a concealed pistol would have to be on a form provided by the Department of State Police, unrestricted, and valid for up to 180 days. A temporary license could be renewed for one additional period of 180 days.

### Appeal

If a concealed weapon licensing board denied or failed to issue a license, or issued a restricted license, the applicant could appeal the denial, failure to issue, or issuance of a restricted license to the circuit court in the circuit where the applicant resided. The appeal would have to be determined by a review of the record for error, except that if the decision of the board were based upon grounds of safety, that portion of the appeal would have to be by hearing de novo. A jury could not be provided in a hearing.

If the court determined that the denial, failure to issue a license, or issuance of a restricted license was

clearly erroneous, the court would have to order the board to issue a license. If the court determined that the decision of the board to deny issuance of a license to an applicant was arbitrary and capricious, the court would have to order the board to pay the applicant's actual costs and attorney fees in appealing the denial. If the court determined that the applicant's appeal was frivolous, the court would have to order the applicant to pay the board's actual costs and attorney fees in responding to the appeal.

### Concealed Weapon License

A license would have to be in a form prescribed by the State Police. The license would have to contain the licensee's full name and street address, and physical description. It also would have to contain the effective dates of the license, and a statement of any restrictions imposed.

A license would authorize the licensee to carry a concealed pistol anywhere in the State and carry a pistol, whether concealed or not, in a vehicle anywhere in the State.

### License Renewal

An individual who was licensed to carry a concealed pistol on the bill's effective date could carry a concealed pistol under the license until its expiration or until the individual's authority was terminated, and could apply for a renewal license.

A concealed pistol license would be valid for five years and could be renewed in the same manner as the original license except the renewal fee would be \$35, payable to the county, and would have to be deposited in the county general fund.

In addition, the bill provides that for an individual licensed on or after September 30, 1999, the educational requirements would be waived except that the applicant would have to present a statement certifying that he or she had completed at least three hours of training review since receiving a license, and that training included firing range time in the six months immediately preceding his or her renewal application.

### Pistol-Prohibited Areas

If the owner or lessee had properly posted a sign in a conspicuous location at each public entrance to the premises or at each public entrance to the segregated area, a licensed individual could not carry a concealed pistol on the premises of any of the following: a church or other house of religious worship, a building or part of a building owned or leased by the State or a local unit, a theater, a sports arena, a public or private day care center, child caring agency, or child placing agency, a hospital, an establishment licensed under the Michigan Liquor

Control Code in which 60% or more of the total revenue is from the sale of alcoholic liquor, a school, or a library.

#### License Suspension

A concealed weapon licensing board could revoke a license that it had issued if the board determined that the individual committed any violation of the Act other than a civil infraction, or that the individual was not eligible to receive a license.

If a concealed weapon licensing board determined that an individual had been found responsible for three or more State civil infraction violations of the Act during the license period, the board would have to conduct a hearing and could suspend the individual's license for up to one year.

If the board were notified that an licensed individual was charged with a felony or specified criminal offense, the board immediately would have to suspend the license until there was a final disposition of the charge for that offense, and send notice of that suspension to the individual.

#### Licensing Exemptions

The current Act exempts the following from concealed weapon licensing requirements: a police or correctional agency of the U.S., this State, or local unit of this State; the U.S. Army, Air force, Navy, or Marine Corps; an organization authorized to purchase or receive weapons; and the National Guard, Armed Forces Reserves, or other duly authorized military organization. The bill also would exempt a member of an authorized organization using a pistol in the course of his or her duties with that entity.

#### Employer

The State or a local unit of government (city, village, township, county, community college, college, or university) could not prohibit an employee from applying for and receiving a license to carry a concealed pistol, or carrying a concealed pistol in compliance with a license. The State or a local unit could not discipline or otherwise retaliate against an employee for providing information, including but not limited to oral testimony, regarding the propriety of issuing a license to an individual to carry a concealed pistol.

An employer could not prohibit an employee from applying for or receiving a license, or carrying a concealed pistol in compliance with a license. An employer, however, could prohibit an employee from carrying a concealed pistol in the course of employment with that employer.

#### Database and Annual Report

The State Police would have to create and maintain a computerized database of individuals who applied for a license. The database would contain the applicant's name, address, county of residence; concealed weapon license number and expiration date; any imposed restrictions; if the applicant were denied a license, the reasons for that denial; all pending criminal charges and criminal convictions obtained against the applicant; and all determinations of responsibility for pending civil infractions. This information also would be entered into the Law Enforcement Information Network (LEIN). Information in the database would be confidential and could not be disclosed to any person except for purposes of the Act or for law enforcement purposes.

In addition, the Department would be required to file an annual report with the Secretary of the Senate and the Clerk of the House of Representatives setting forth the number of concealed pistol applications received; the number of licenses issued; the number of licenses denied; categories for denial; the number of licenses revoked; categories for revocation; the number of pending applications; the mean and median amount of time and the longest and shortest amount of time used by the FBI to supply the comparison report; the number of charges of State civil infractions of the Act or charges of criminal violations; the number of pending criminal charges against licensed individuals; the number of criminal cases dismissed; the number of cases filed against licensed individuals that resulted in a finding of not responsible or not guilty; the number of suicides by licensed individuals; and the actual costs incurred per permit for each county.

The information would be subject to disclosure under the Freedom of Information Act and would have to be disclosed to the public by the board, unless the applicant was a peace officer.

#### Firearm Law Compilation

The Legislative Service Bureau would be required to compile the State's firearms laws, including laws applicable to carrying a concealed pistol, and provide copies to each licensing board for distribution. The board would be required to distribute a copy of the compilation to each individual who applied for a license. The board would have to require the applicant to sign a written statement acknowledging receipt of the compilation. An individual would be ineligible to receive a license until he or she signed the statement.

#### Concealed Weapon Application Kits

The local law enforcement agencies, county sheriffs, and county clerks would have to provide concealed weapon application kits (containing an application form, fingerprint cards, licensing and appeal procedures, and firearm training information), during

normal business hours to individuals who wished to apply for licenses. A county sheriff, local law enforcement agency, or county clerk could not deny an individual the right to receive a concealed weapon application kit. An individual who was denied an application kit and obtained an order of mandamus directing a licensing board to provide one would have to be awarded actual and reasonable costs and attorney fees for obtaining the order.

#### Carrying Concealed Pistol

The bill would require a licensed individual to have the license in his or her possession at all times when carrying a concealed pistol. In addition, a licensed individual would be required to show the license to carry a concealed pistol and driver's license or State personal identification card to a peace officer if requested, and an individual who failed to do so would be responsible for a State civil infraction and the court would have to notify the concealed weapon licensing board of that determination.

A pistol carried in violation of these requirements would be subject to seizure by a peace officer without process. If a peace officer seized a pistol, the individual would have 45 days in which to display his or her license or documentation to an law enforcement entity. The pistol would subject to forfeiture if the individual did not display his or her license.

Otherwise, a pistol carried in violation of the Act would be subject to seizure and forfeiture as provided in the Revised Judicature Act.

#### Chemical Analysis

Under the bill, an individual could not carry a concealed pistol while he or she was under the influence of intoxicating liquor or a controlled substance. A person who violated these provisions would be responsible for a State civil infraction or guilty of a crime as follows:

- A misdemeanor punishable by imprisonment for up to 93 days and/or \$100, and permanent license revocation, if the person were under the influence of intoxicating liquor and a controlled substance, or had a bodily alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- A misdemeanor punishable by imprisonment for up to 93 days and/or \$100, and license revocation for up to three years, if the person had an alcohol content of 0.08 gram or more but less than 0.10 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- A State civil infraction subject to a fine of up to \$100, and license revocation for one year, if

the person had an alcohol content of 0.02 gram or more but less than 0.08 per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

The bill provides that acceptance of a license would constitute implied consent to submit to a chemical analysis. A police officer who had probable cause to believe that an individual was carrying a concealed pistol in violation of these provisions could require the individual to submit to a chemical analysis of his or her breath, blood, or urine. The individual could refuse but the refusal could result in license revocation or suspension and the officer could obtain a court order requiring the individual to submit to chemical analysis.

#### Firearm Sale

The bill provides that if a licensed individual purchased a pistol, the seller would have to complete a sales record in triplicate on a form provided by the State Police. The record would have to include the individual's concealed weapon license number, and be signed by the individual. The seller would have to retain a copy of the record, provide a copy to the individual, and forward the original form to the State Police within 10 days following the purchase.

Under the bill, as a condition to obtaining a license or permit, a State department or agency could not prohibit a person from applying for or receiving a license to carry a concealed pistol and/or carrying a concealed pistol in compliance with a license issued under the Act.

#### Repealer

The bill would repeal Section 3 of the Act, which allows a local government to charge a concealed weapon license application fee of up to \$5; Section 6, which establishes concealed weapon licensing boards; Section 9d, which provides that a firearm possessed in violation of the Act is subject to forfeiture; and Section 12c, which provides for the waiver of renewal fees for retired police officers.

#### House Bill 4532

Under the Michigan Penal Code, a person is allowed to carry an antique firearm completely unloaded in a wrapper or container in the trunk of a vehicle while en route to or from a hunting or target shooting area or function involving the exhibition, demonstration, or sale of antique firearms. The bill would allow any person to carry an antique firearm completely unloaded in a wrapper or container in the trunk of a vehicle.

The Code also allows a person to carry a pistol unloaded in a wrapper or container in the trunk of a vehicle, while in possession of a valid State hunting license or proof of valid membership in an

organization having pistol shooting range facilities, while en route to or from a hunting or target shooting area. The bill would allow any person to carry a pistol unloaded in a wrapper or container in the trunk of a vehicle.

Under the Code, a person is allowed to carry a pistol unloaded in a wrapper or container in the trunk of the person's vehicle from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from one place of abode or business to another place of abode or business. The bill would delete this provision.

#### **House Bill 4533**

The Firearm Law Enforcement Fund would be created in the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund, would have to direct the Fund's investment, and would have to credit to the Fund interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year would have to remain in the Fund and could not lapse to the General Fund.

The State Police Director would have to spend money from the Fund only to reimburse county prosecuting attorneys for their actual and reasonable expenses in prosecuting persons for crimes involving the unlawful possession, use, transportation, sale, purchase, carrying, shipment, reception, or distribution of firearms.

Distributions would have to be made on a pro rata basis among all county prosecuting attorneys who applied to the Director for a reimbursement based upon the number of the convictions. An application for reimbursement would have to be made in the manner required by the Director.

#### **House Bill 4537 (H-1)**

The bill provides a person could transport or possess a firearm, a bow and arrow, or a crossbow in a vehicle without a hunting license if the firearm were unloaded in both barrel and magazine, or the bow or crossbow were unstrung, and were carried in the trunk of a vehicle or in a location not readily accessible to the operator or passengers of the vehicle if it did not have a trunk.

The bill would delete the requirement that the person be going to and from a recognized rifle or target range, trap or skeet shooting ground, or archery range to be carrying, transporting or possessing a firearm, bow, or crossbow without a hunting license.

#### **House Bill 4543 (H-2)**

Under the Michigan Penal Code, a person may not

carry a dagger, dirk, stiletto, a double-edged nonfolding stabbing instrument of any length, or any other dangerous weapon, except a hunting knife, concealed on or about his or her person or in any vehicle, except in his or her home, place of business, or land. A person also may not carry a concealed pistol without a license. A person who violates this provision is guilty of a felony punishable by imprisonment for up to five years and/or a fine of up to \$2,500. The bill provides that a person who carried a concealed pistol without a license would be guilty of a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$5,000 for a first violation; imprisonment for up to 15 years and/or a fine of up to \$5,000 for a second violation; and for a third or subsequent violation, imprisonment for up to 20 years and/or a fine of up to \$10,000.

Under the Code, a person who intentionally aims without any malice any firearm at or toward any other person is guilty of a misdemeanor. The bill provides that a person who violated this provision would be guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$100; or a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500 for a second or subsequent violation, or if the individual were licensed to carry a concealed pistol and were carrying a pistol at the time of the violation.

Currently, an individual who intentionally discharges a firearm from a motor vehicle, a snowmobile, or an off-road vehicle so as to endanger the safety of another individual is guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,000. The bill provides an individual would be guilty of a felony punishable by imprisonment for up to eight years and/or a fine of up to \$5,000, for a second or subsequent violation, or if the individual were licensed to carry a concealed pistol and carried the pistol at the time of the violation.

The Code prohibits a person from possessing a firearm on certain premises. A person who violates this provision is guilty of a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$100. The bill would increase the imprisonment to 93 days and provides that an individual who committed a second or subsequent violation would be guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500.

Under the Code, a person who knowingly brandishes a firearm in public is guilty of a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$100. The bill would increase the imprisonment to 93 days. An individual who committed a second or subsequent violation, or who was licensed to carry a concealed pistol and carried a pistol at the time of the violation, would be guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500.

The Code prohibits an individual less than 18 years of age from possessing a firearm in public except under the direct supervision of an individual 18 years of age or older. An individual who violates this provision is guilty of a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$100. The bill would increase the imprisonment to 93 days and provides that an individual who committed a second or subsequent violation would be guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500.

Under the Code, a person who maims or injures any other person by the discharge of any firearm aimed intentionally, without malice, is guilty of a misdemeanor, punishable by imprisonment in the county jail for up to one year or by a fine of up to \$500. The bill provides that an individual who violated this provision would be guilty of a misdemeanor punishable by imprisonment for up to two years and/or a fine of up to \$1,000; and guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500, for a second or subsequent offense, or if the individual were licensed to carry a concealed pistol and carried a pistol at the time of the violation.

The bill provides that a person who carried or had a firearm while he or she was under the influence of intoxicating liquor or an exhilarating or stupefying drug, or while having a bodily alcohol content of .08 or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, would be guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$100. A person in that condition who discharged a firearm would be guilty of a felony punishable by imprisonment for up to two years and/or a fine of up to \$2,500. If the person were licensed to carry a concealed pistol, he or she would be guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500.

Under the Code, an individual who possesses a weapon in a weapon free school zone is guilty of a misdemeanor punishable by imprisonment for up to 93 days, community service for up to 100 hours, and/or a fine of up to \$2,000. The bill provides that a person would be guilty of a felony punishable by imprisonment for up to 15 years and/or a fine of up to \$5,000 for a second violation, and imprisonment for up to 20 years and/or a fine of up to \$10,000 for a third or subsequent violation. ("Weapon free school zone" means school property and a vehicle used by a school to transport students to or from school property.)

MCL 28.421 et. al (H.B. 4530)  
750.231a (H.B. 4532)  
750.239 (H.B. 4534 & 4535)  
Proposed MCL 750.23a (H.B. 4536)

MCL 324.43513 (H.B. 4537)  
15.268 (H.B. 4538)  
750.227 (H.B. 4543)  
15.243 (H.B. 4545)

Legislative Analyst: N. Nagata

## **FISCAL IMPACT**

### **House Bill 4530 (H-2)**

The bill would require the Department of State Police to create and maintain a computerized database of applicants, which could result in the Department having to assume computer programming and labor costs of approximately \$100,000. In addition, the bill provides that the Department would receive funds from license applications (\$29 of a \$49 fee), which falls \$8 short of the cost involved in providing required fingerprint comparisons. Should concealed license applications reach 100,000 in a given year, this would result in an added cost to the Department of \$800,000.

The bill also would require that local county sheriffs verify an applicant's eligibility for a license, at a cost that cannot be determined. However, the bill specifies that \$20 of each \$49 application fee would go to the county's general fund. The county also would receive \$35 for each license renewal fee.

The bill also would have an indeterminate fiscal impact on State and local government due to the cost of incarceration and/or the receipt of fine revenue. There are no data available to indicate how many people would be convicted of the following acts prohibited by the bill:

- Making a false statement on a sales record.
- Intentionally making a material false statement on an application for a concealed pistol permit.
- Granting a certificate of completion to an individual who did not satisfactorily complete training or presenting a certificate to the licensing board.

Conviction for these crimes would result in a felony with a maximum term of four years' incarceration and/or a fine of \$2,500.

The bill also would criminalize carrying a concealed weapon while being intoxicated or under the influence of a controlled substance. The sanction for this offense would vary according to bodily alcohol content, with a maximum sentence of 93 days and/or a fine of \$100 and revocation of the concealed pistol permit. There are no data to indicate how many individuals could be convicted of this crime.

In addition, there are no data available to indicate how many people could be convicted of carrying a concealed weapon on premises such as a school,



church, library, or business that received 60% or more of its revenue from the sale of alcoholic liquor, if the owner had posted signs that concealed weapons were prohibited. The sanction for a first violation would be up to 93 days in jail and/or a fine of \$100, for a second conviction up to one year in jail and/or \$500, and for a subsequent conviction up to four years and/or \$2,500.

**House Bills 4532 4534, 4537 (H-1),  
4538, and 4545**

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

**House Bill 4533**

The bill would have an indeterminate fiscal impact on State and local government. There is currently no proposed source of funding for the Firearm Law Enforcement Fund that would be established under this bill.

**House Bill 4535**

The bill would have an indeterminate fiscal impact on the State. The amount of funds obtained from a public auction of firearms forfeited to the State cannot be determined at this time.

**House Bill 4536**

The bill would have an indeterminate fiscal impact on State and local government for the cost of incarceration. There are no data available to indicate how many offenders could be convicted of possessing, selling, or transporting an unregistered firearm.

**House Bill 4543 (H-2)**

House Bill 4543 (H-2) would have an indeterminate fiscal impact, yet potential increased cost for State and local government.

The bill would create a new penalty for carrying a concealed pistol with a maximum sentence of 10 years and/or a fine of \$5,000 for a first offense, a maximum sentence of 15 years and/or a fine of \$5,000 for a second offense, and a maximum sentence of 20 years and/or a fine of \$10,000 for a subsequent offense. Disposition data from 1997 show that 2,270 people were convicted of possessing a concealed weapon without a permit or an attempt of this crime. Of those convicted, 316 were sentenced to prison, and based on the minimum sentence of those entering prison, the average minimum sentence was two years. To the extent that

the data do not indicate if these offenders were carrying a concealed knife-type weapon or a pistol, the fiscal impact of the bill is indeterminate. However, assuming that half of the offenders sentenced to prison were carrying a concealed pistol without a license and therefore subject to the change in maximum sentence, and assuming that the average minimum sentence served by these offenders was two-thirds of the maximum sentence and currently offenders serve the full minimum sentence, and assuming that all of the offenders in this example were first-time offenders under this statute, given that the average annual cost of incarceration in a State correctional facility is \$22,000, the cost to the State for incarceration would increase from \$6,952,000 to \$23,173,333.

In addition, any term of imprisonment imposed for carrying a concealed pistol would be served consecutively with any other term of imprisonment imposed.

The bill would similarly create graduate sanctions for intentionally pointing a firearm at another person without malice, discharging a firearm at another person, discharging a firearm from a vehicle, possessing a firearm on certain prohibited properties, brandishing a firearm in public, possession by an individual less than 18 years of age, maiming or injuring a person, or carrying a firearm under the influence of alcohol. According to 1997 data, there was one conviction or less for most of these crimes, with the exception of discharging a weapon from a vehicle, for which there were 17 convictions with five sentenced to prison.

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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.