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SFA**BILL ANALYSIS**

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House Bill 6337 (Substitute H-4 as passed by the House)
Sponsor: Representative Scott Hummel
House Committee: Civil Law and the Judiciary
Senate Committee: Judiciary

Date Completed: 12-10-02

CONTENT

The bill would amend the handgun licensure law to do the following:

- **Limit the misdemeanors that disqualify an applicant for a license to carry a concealed pistol; and make other changes regarding license application procedures.**
- **Revise the fees that an applicant must pay, and provide for five-year, instead of three-year, licensure.**
- **Revise the provisions that prohibit licensees from carrying concealed pistols on certain premises, by including courtrooms, excluding parking lots, limiting the provision for places where liquor is served, and making exceptions for retired police officers, private investigators, and other officers.**
- **Delete criminal penalties and mandatory license sanctions for violations of the restricted premises provisions.**
- **Revise the penalties for an applicant's failure to show his or her license to a peace officer or to disclosure that he or she is carrying a concealed pistol.**

The bill would take effect on July 1, 2003.

Licensing Process & Criteria

Under the law, a person may apply to the concealed weapon licensing board in his or her county for a license to carry a concealed pistol. The board must determine that the applicant meets specific conditions. Among other things, the applicant must not have been convicted of certain misdemeanors within the eight years preceding application,

or any other misdemeanor within the preceding three years.

Under the bill, in addition to the misdemeanors that are currently listed, an applicant could not have been convicted, within the previous eight years, of failing to stop when involved in a personal injury accident, operating a vessel under the influence, or entering without breaking. Instead of disqualifying an applicant who has been convicted of any other misdemeanor within the previous three years, the bill would disqualify an applicant who had been convicted of a specific misdemeanor (listed below) in the three years preceding application.

The law requires an applicant to give the licensing board a statement authorizing the board's access to any record pertaining to the applicant's qualifications for a license. The bill specifies that "any record" would include any medical record. Under the bill, an applicant could request the board to review the information it received under this provision in a closed session, at which the applicant and his or her representative would have the right to be present. Information received by a board would be confidential and not subject to the Freedom of Information Act, and could not be disclosed to any person except for purposes of the handgun licensure law or for law enforcement purposes.

The bill would require an application to include a certificate stating that the applicant had completed the training course prescribed by the law.

Currently, if a board does not receive an applicant's fingerprint comparison report within 30 days after the FBI forwards it to the State Police, the board must issue a temporary license to the applicant, if he or she is otherwise qualified. The bill would expand this time frame to 60 days.

The law requires a concealed weapon licensing board to keep a copy of each application as an official record. Under the bill, one year after a license expired, the county clerk could destroy the record and maintain only a name index of it.

The following are the misdemeanors that would disqualify an applicant for a license, if he or she had been convicted within the previous three years:

- Operating a motor vehicle, aircraft, off-road vehicle (ORV), or snowmobile under the influence.
- Refusing to submit to a chemical test (if the applicant were a commercial vehicle driver).
- Negligently failing to comply with the requirement that the manufacturer of an ignition interlock device notify the State when the manufacturer no longer meets statutory requirements.
- Circumventing an ignition interlock device.
- Operating a commercial vehicle with an unlawful bodily alcohol content.
- Operating an ORV having consumed a controlled substance.
- Violating Part 74 (Controlled Substances) of the Public Health Code.
- Embezzlement.
- False pretenses.
- Larceny, larceny in a vacant building, or larceny by conversion.
- Retail fraud.
- Malicious destruction of personal or real property.
- Failure to obey a police officer's direction.
- Receiving stolen property.
- Malicious use of a telephone.

Fees

The law requires applicants to pay a \$55 fee plus an additional \$5 assessment, and allows sheriffs to charge up to \$15 for fingerprinting. A license expires after three years and may be renewed for \$35. Table 1 shows the current fees and their allocation.

Table 1

<u>Current Fee Structure</u>		
	Fee	Allocation
Application for 3-year license	\$55	\$10 to county clerk \$45 to State Police
Additional Assessment	\$5	Concealed Weapon Enforcement Fund
Fingerprinting Fee	\$15	County sheriff
Renewal for 3 years	\$35	County general fund

The bill, instead, would require a person to pay a \$105 fee upon application for a five-year license. The bill would delete the separate \$5 assessment and fingerprinting fee, and would allocate the \$105 as shown in Table 2.

Table 2

<u>Proposed Fee Structure</u>	
County clerk	\$26
County sheriff	\$15
State Police	<u>\$ 64</u>
Total	\$105

The Department of State Police would have to use the money to process applicants' fingerprints and to reimburse the FBI for the costs associated with processing fingerprints. The balance would have to be credited to the State Police.

The bill provides that a renewal license would have to be issued in the same manner as an original license.

Displaying or Disclosing License

The law requires a licensee to show both his or her concealed pistol license and his or her driver license or personal identification card, upon request by a peace officer. A licensee who is stopped by a peace officer also must disclose that he or she is carrying a concealed pistol. Under the bill, these requirements would apply *if* the licensee were carrying a concealed pistol.

A violation of either requirement is a State

civil infraction subject to a maximum fine of \$500 and/or a license suspension of up to six months for a first offense; or a maximum fine of \$1,000 and license revocation for a second or subsequent offences. Under the bill, the penalty for a subsequent offense would apply if it were committed within three years of a prior offense.

Restricted Premises; Penalties

The law prohibits a licensed individual from carrying a concealed pistol on certain premises. The bill specifies that "premises" would not include parking areas of the places identified in these provisions.

Currently, a concealed pistol may not be carried on the premises of a dining room, lounge, or bar area of a business licensed under the Michigan Liquor Control Code. The bill would refer, instead, to a bar or tavern licensed under that Code where the primary source of income of the business was the sale of alcoholic liquor by the glass and consumed on the premises.

The bill would include courtrooms in the premises where concealed pistols are not allowed.

The bill would exclude the following from these restrictions:

- A licensee who was a retired police officer or retired law enforcement officer, who had retired in good standing.
- A licensee who was employed or contracted to provide security services by an entity where concealed pistols are not allowed, and who was required by his or her employer or by the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.
- A licensed private investigator or private detective.
- Any of the following who was licensed under the handgun licensure law while on duty and in the course of his or her employment: a corrections officer of a county sheriff's department; a State Police motor carrier officer or Capitol security officer; a member of a sheriff's posse; or an auxiliary officer or reserve officer of a police or sheriff's department.
- A parole or probation officer of the Department of Corrections.

-- A court officer.

The law prescribes penalties and license sanctions for an individual who violates the restricted premises provisions. A first offense is subject to a maximum civil fine of \$500 and mandatory license suspension for six months. A second offense is a misdemeanor punishable by a maximum fine of \$1,000 and mandatory license revocation. A third or subsequent offense is a felony punishable by imprisonment for up to four years and/or a maximum fine of \$5,000, plus mandatory license revocation.

The bill would retain the maximum fine for a first offense but delete the suspension requirement. A subsequent offense within three years of a prior violation would be a State civil infraction subject to a maximum fine of \$1,000, and the person's license could be suspended for up to one year.

Educational Requirements

A license applicant must have successfully completed a pistol safety training course that meets the law's requirements. A course must provide at least eight hours of instruction, including three hours on a firing range, and provide instruction in specific subjects, including firearms and the law. Under the bill, the firing range instruction would have to require firing at least 30 rounds of ammunition, and instruction in firearms and the law would have to include the use of deadly force, taught by an attorney or an individual trained in the use of deadly force.

The law waives the educational requirements for a person who is renewing a license, but requires the renewal applicant to present a statement certifying that he or she has completed at least three hours of review of the required training since becoming licensed, and that the training included firing range time in the six months immediately preceding the application. The bill would require an applicant to certify that she or she had completed at least three hours' review and had had at least one hour of firing range time in the previous six months.

The bill also would waive the educational requirements for an applicant who was a retired police officer or a retired law enforcement officer.

Other Provisions

Under the bill, if a licensed individual moved to a different county within the State, his or her license would remain valid until it expired or was otherwise suspended or revoked under the handgun licensure law.

A county could replace a lost, stolen, or defaced license for a \$10 replacement fee.

If a board suspended or revoked a license, it would be forfeited and would have to be returned to the board.

The bill would require a license to have the same dimensions as a Michigan operator license. In addition to the information that a license currently must include, the bill would require it to indicate exceptions authorized by the law applicable to the licensee, and indicate whether the license was a duplicate.

Under the law, if a board denies or fails to issue a license, the applicant may appeal to the circuit court. The court must make its determination on the record, although it must hold a hearing if the board had determined that issuing a license would be detrimental to the safety of the applicant or any other individual. The bill would delete a requirement that a verbatim record be made.

The bill would delete a requirement that each county report annually to the House and Senate Fiscal Agencies on the county's cost per applicant to implement the law's licensing requirements.

MCL 28.425b et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would change the application and renewal costs for a concealed weapon license as shown in Table 3. The bill also would lengthen the renewal period for licenses from three years to five. Over a 15-year period, beginning with the initial application fee, this change is compared in Table 4 for a single licensee.

The bill would eliminate the \$5 assessment for concealed weapon enforcement training by the State Police, a fee that generated \$203,000 in FY 2001-02.

Lengthening the licensing period from three to five years also would reduce the processing and administration costs incurred by local and State agencies.

The total revenue received annually from the fee structure would depend upon the number of licenses applied for in a given year. For the period of July 1, 2001, through June 30, 2002, the State received 62,900 concealed pistol applications.

There are no data available to indicate how many, if any, offenders have been convicted of violating the restricted premises provisions since their implementation in 2001.

Eliminating the criminal penalties would potentially decrease State and local criminal justice costs.

Table 3

	Current Initial Application	House Bill 6337 (H-4)	Current Renewal	House Bill 6337 (H-4)
County General Fund	\$10	\$26	\$35	\$26
County Fingerprint Charge ¹⁾	15	26	15	0
County Sheriff	0	15	0	15
State Police	45	64	30	64
State Police Federal Costs	24	0	24	0
Concealed Weapon Enforcement Fund	5	0	0	0
Total	\$99	\$105	\$104	\$105
¹⁾ Optional; the county sheriff, under the handgun licensure law, is permitted to charge up to \$15 for taking fingerprints.				

Table 4

	<u>Current</u>	<u>House Bill 6337 (H-4)</u>
County General Fund	\$15	\$78
County Fingerprint Charge	75	0
County Sheriff	0	45
State Police	165	192
State Police Federal costs	120	0
Concealed Weapon Enforcement Fund	5	0
Total	\$515	\$345

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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.