



Senate Fiscal Agency  
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## BILL ANALYSIS

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House Bill 4867 (Substitute H-1 as passed by the House)  
Sponsor: Representative James Koetje  
House Committee: Conservation and Outdoor Recreation  
Senate Committee: Judiciary

Date Completed: 5-4-04

### **CONTENT**

**The bill would amend the Natural Resources and Environmental Protection Act (NREPA) to do the following:**

- Provide that the Department of Natural Resources (DNR) could not prohibit a concealed pistol licensee, or someone exempt from licensure, from carrying a pistol on property under the DNR's control.**
- Allow a concealed pistol licensee, or someone exempt from licensure, to transport a pistol or carry a loaded pistol in an area frequented by wild animals, regardless of whether that person possessed a hunting license.**

#### Rule Promulgation & Enforcement

Part 5 (Department of Natural Resources) of NREPA requires the DNR to "promulgate rules for the protection of the lands and property under its control...to protect the lands and property from depredations and to preserve the lands and property from molestation, spoilation, destruction, or any other improper use or occupancy". The Department must issue orders necessary to implement promulgated rules. A person who violates a rule or order is responsible for a State civil infraction punishable by a maximum civil fine of \$500.

Under the bill, the DNR could not promulgate or enforce a rule that prohibited an individual who was licensed or exempt from licensure under the handgun licensure Act, from carrying a pistol in compliance with that Act on property under the DNR's control, whether the pistol was concealed or otherwise.

#### Hunting Regulations

Part 435 (Hunting and Fishing Licensing) of NREPA prohibits a person from carrying or transporting a firearm, slingshot, bow and arrow, crossbow, or a trap while in an area frequented by wild animals unless the person possesses a hunting license as required under Part 435. Under the bill, this prohibition would be subject to the following: The bill specifies that the Act, or a rule promulgated or order issued under it by the DNR or the Natural Resources Commission, could not be construed to prohibit a person from transporting a pistol or carrying a loaded pistol, whether concealed or not, if the person had in his or her possession a license to carry a concealed pistol under the handgun licensure Act, or if the person were authorized under Section 12a of that Act or under Section 227, 227a, 231, or 231a of the Michigan Penal Code to carry a concealed pistol without obtaining

a license. (Those sections are described below in **BACKGROUND**.) The bill states that it would not authorize the use of a pistol for hunting.

In addition, Part 435 does both of the following:

- Provides that a person who has a hunting, fishing, or fur harvester's license, when hunting, fishing, or trapping or while possessing firearms or other hunting, fishing, or trapping apparatus in an area frequented by wild animals or fish, must carry his or her license and exhibit it upon the demand of a conservation officer, a law enforcement officer, or the owner of the land where the person is hunting, fishing, or trapping.
- Prohibits a person from carrying or possessing afield a shotgun with buckshot, slug loads, or ball loads; a bow and arrow; a muzzle-loading rifle or black powder handgun; or a centerfire handgun or centerfire rifle during firearm deer season unless the person has a valid firearm deer license with an unused kill tag, issued in his or her name.

Under the bill, those provisions would be subject to the proposed language that would allow a person to carry or transport a pistol in an area frequented by wild animals.

(A violation of Part 435, unless another penalty is specified, is a misdemeanor punishable by imprisonment for up to 90 days, a fine of at least \$25 but not more than \$250 plus the costs of prosecution, or both.)

MCL 324.504 et al.

## **BACKGROUND**

Under Section 12a of the handgun licensure Act (MCL 28.432a), the requirements for obtaining a license to carry a concealed pistol do not apply to any of the following:

- A peace officer of a duly authorized police agency of the United States, this State, or a political subdivision of the State, who is regularly employed and paid by the United States, this State, or a political subdivision of the State, except for a township constable.
- A constable who is trained and certified under the Commission on Law Enforcement Standards Act, while engaged in, going to, or coming from his or her official duties, and who is regularly employed and paid by a political subdivision of the State.
- A person regularly employed by the Department of Corrections (DOC) and authorized by the DOC Director to carry a concealed pistol while performing, going to, or returning from his or her duties.
- A member of the United States Army, Air Force, Navy, or Marine Corps, while carrying a concealed pistol in the line of duty.
- A member of the National Guard, Armed Forces Reserves, or other duly authorized military organization, while on duty or drill, going to or returning from his or her place of assembly or practice, or carrying a concealed pistol for purposes of that military organization.
- A resident of another state who is licensed by that state to carry a concealed pistol.
- The regular and ordinary transport of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms.
- A person, while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle or, if the vehicle does not have a trunk, while transporting the pistol unloaded in a locked compartment or container that is separated from the ammunition for the pistol, from the place of purchase to his or her home or business or to or from a place of repair, or in moving goods from one residence or business to another.
- A Canadian peace officer or law enforcement officer.

Section 227 of the Michigan Penal Code (MCL 750.227) prohibits a person from carrying certain knives or other dangerous weapons, concealed on or about the person or in a vehicle operated by the person, except in his or her home or place of business, or on land he or she owns. That section also prohibits a person from carrying a concealed pistol, or carrying a pistol in a vehicle, without a license to carry the pistol, except in his or her home or business or on land he or she owns. Also, Section 227a prohibits a person who is licensed to carry a pistol because he or she is engaged in the business of protecting another's person or property, from possessing the pistol while not actually engaged in the business of that protection, except in his or her home or on land he or she owns (MCL 750.227a).

Section 231 of the Code (MCL 750.231) exempts all of the following from various weapons possession prohibitions:

- A peace officer of an authorized police agency of the United States, this State, or a political subdivision of the State, who is regularly employed and paid by the United States, this State, or a political subdivision.
- A DOC employee who is authorized by the DOC Director to carry a concealed weapon while performing, going to, or returning from his or her official duties.
- An employee of a private vendor that operates a youth correctional facility under contract with the DOC, who meets the same criteria established by the DOC Director for carrying a concealed weapon and is authorized by the Director to carry a concealed weapon while performing, going to, or returning from his or her official duties.
- A member of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard, while carrying a weapon in the line of or incidental to duty.
- An organization authorized by law to purchase or receive weapons from the United States or this State.
- A member of the National Guard, Armed Forces Reserve, Coast Guard Reserve, or any other authorized military organization, while on duty or drill, going to or returning from a place of assembly or practice, or carrying weapons used for purposes of that military organization.

Section 231a of the Code (MCL 750.231a) exempts all of the following from the prohibition against possessing or transporting a pistol:

- A person holding a valid license to carry a concealed pistol issued by his or her state of residence, unless the pistol is carried in nonconformance with a restriction on the license.
- The regular and ordinary transport of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms.
- Carrying an antique firearm, completely unloaded in a closed case or container designed for the storage of firearms, in the trunk of a vehicle.
- A person transporting for a lawful purpose a pistol that is licensed by the owner or occupant of the vehicle, if the pistol is unloaded in a closed storage case in the trunk of a vehicle.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

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

Fiscal Analyst: Jessica Runnels

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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.