

Legislative Analysis



PISTOL SAFETY CERTIFICATES

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House Bill 5039

Sponsor: Rep. Rick Jones

House Bill 5040

Sponsor: Jeff Mayes

Committee: Tourism, Outdoor Recreation, and Natural Resources

Complete to 10-15-07

A SUMMARY OF HOUSE BILLS 5039 AND 5040 AS INTRODUCED 7-19-07

In Michigan, people who do not already have a concealed weapon permit must obtain a purchase license before purchasing or taking possession of a pistol they have been given or have inherited. Whether they have a purchase license or a concealed weapon permit, people must also obtain a safety inspection certificate for each pistol they own or acquire. House Bill 5039 would amend the exemption provision in the handgun licensure law and adopt procedures specifying what happens when a person without a license (who is not otherwise exempt) presents a pistol for a safety inspection. House Bill 5040 would amend the Michigan Penal Code to allow a person without a license to transport a pistol for a safety inspection.

Tie bars. The bills are tie-barred, meaning that unless both are enacted, neither will take effect.

More details are provided below.

House Bill 5039

House Bill 5039 would amend exception language found in Section 2 of the handgun licensure law and establish procedures for the situation in which a person without a license (who is not otherwise exempt) presents a pistol for a safety inspection. Whether the unlicensed individual may keep possession of the pistol while seeking a license would depend on whether the police or the sheriff's department have reason to believe that the person was ineligible to possess a pistol.

Amend exceptions for pistol license. Under Section 2 of the handgun licensure law, "[e]xcept as provided in subsection (2)," a person is prohibited from purchasing, carrying, or transporting a pistol in Michigan without first having obtained a license for the pistol. Subsection (2) allows a person on leave from active duty or who has been discharged from active duty 30 days to obtain a license for his or her pistol. The bill would change "except as provided in subsection (2)" to "[e]xcept as provided in this act," so that any exemption from licensure provided anywhere in the act would apply here, not just the

military exception described above. Presumably, this would include the exception already provided for persons with a concealed weapons permit found in Section 2a.

Temporary seizure of pistols from unlicensed persons believed to be ineligible. If a person without a license who is not exempt from needing one presents a pistol for a safety inspection, the police department or county sheriff's department would be required to seize the pistol *if the department has reason to believe that the person is not eligible to possess it*. In general, the department would retain the pistol for 30 days to give the individual a chance to obtain a license and have the weapon inspected. If the person obtained a license within 30 days, the department would issue the safety certificate and return the pistol.

The department could dispose of a seized pistol immediately (that is, without waiting 30 days) if it determined that it was otherwise carried or possessed unlawfully. In addition, the department could immediately return a stolen pistol to its rightful owner.

Dated safety certificate issued to unlicensed person not believed to be ineligible would operate as limited license. If a person without a license who is not exempt from needing one presents a pistol for a safety inspection *and the police or sheriff's department has no reason to believe that the person is ineligible for licensing*, the department would inspect the pistol and issue a *dated* safety certificate. If the person is not otherwise prohibited from carrying or possessing a pistol, the certificate would operate as a limited license to possess the pistol good for at least 30 days (unless the person's application for a license is denied in less than 30 days). If the person applies for a license promptly but his or her application is not acted on within 30 days, the dated safety certificate would continue to operate as a limited license until the application was approved or denied. A safety certificate serving as a limited license would not authorize the person to possess the pistol for any purpose other than storage pending the issuance of a license.

Application for a license at the same time as presenting a pistol for a safety inspection. The bill would allow a person to apply for a license under Section 2 and a safety certificate at the same time.

No arrest or prosecution. A person could not be arrested or prosecuted under Section 2 if he or she presents for inspection, transports, or stores a pistol in accordance with Section 9.

House Bill 5040

House Bill 5040 would amend the Michigan Penal Code to allow the transport of an unloaded pistol en route to or from a law enforcement agency for the purpose of obtaining a safety certificate if the pistol is (1) in a closed case or container designed for the storage of firearms, and (2) is in the vehicle's trunk or not readily accessible to the occupants of a vehicle that does not have a trunk.

FISCAL IMPACT:

House Bill 5039 would have an indeterminate fiscal impact on the state and local governments. The State Police and local law enforcement agencies could incur some administrative costs for issuing the safety inspection certificates, inspecting pistols, storing and disposing of the pistols if they are seized under the provisions of this bill, and investigating any possible criminal activity associated with the pistols or the persons presenting the pistols for inspection. Typical law enforcement arrest costs and court costs may also be saved due to a person not being subject to arrest or prosecution for transporting a pistol for inspection and storing a pistol under the provisions of this bill.

House Bill 5040 would also have an indeterminate fiscal impact on the state and local governments. As with House Bill 5039, typical law enforcement arrest costs and court costs may be saved due to a person not being subject to arrest or prosecution for transporting an unloaded pistol to a law enforcement agency for inspection, if the pistol is in a closed case or container designed for firearms storage either in the trunk of a vehicle or in a place not readily accessible to the occupants of the vehicle.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.