

Legislative Analysis



MICHIGAN FIREARMS ACT: ALLOW EMPLOYEES TO KEEP FIREARMS IN PARKED MOTOR VEHICLE

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House Bill 5302

Sponsor: Rep. Paul Opsommer

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 10-19-09

A SUMMARY OF HOUSE BILL 5302 AS INTRODUCED 9-2-09

The bill would amend Public Act 372 of 1927 (and rename it the "Michigan Firearms Act") to allow a person lawfully possessing a firearm or ammunition (1) to transport the firearm or ammunition in a privately-owned motor vehicle, and (2) to store it in a privately-owned motor vehicle parked and locked in the parking lot, parking garage, or other parking area of any business, commercial enterprise, employer, or state service agency if stored out of plain view in accordance with Michigan Penal Code requirements or as otherwise allowed by law. In addition:

- An employer, business, commercial enterprise, or state service agency could not enforce a policy to the contrary, except where allowing the transportation or storage of the firearm or ammunition would cause it to violate another state or federal law or regulation. An employer could, however, prohibit the transportation and storage of firearms and ammunition in a motor vehicle it owns or leases for employees to use in the course of their employment.
- Injunctions would be available to address violations and threatened violations of the law. A person who successfully brought a court action to obtain an injunction would be entitled to costs and attorney fees.
- An employee terminated by an employer in violation of the bill would be entitled to reinstatement and compensation for lost wages, fringe benefits, costs, and attorney fees.
- In this bill, "motor vehicle" includes automobiles, trucks, minivans, sports utility vehicles, and snowmobiles.

MCL 28.421b & 28.436

DETAILED SUMMARY:

Transportation of a lawfully-possessed firearm or ammunition. A person lawfully possessing a firearm or ammunition would be allowed to transport it in a privately-owned motor vehicle.

Storage of lawfully-possessed firearms and ammunition in parked vehicles. A person lawfully possessing a firearm or ammunition would be allowed to store it in a parked and locked privately-owned motor vehicle in the parking lot, parking garage, or other parking

area of a business, commercial enterprise, employer, or state service agency so long as the firearm was kept out of plain view in a manner described in Chapter XXXVII of the Michigan Penal Code or in another lawful manner.

Ban on disallowing lawfully-possessed firearms and ammunition from being transported or stored in parking lots and garages. The bill would prohibit a business, commercial enterprise, employer, or state service agency from disallowing someone who lawfully possessed a firearm or ammunition from transporting or storing it in a locked privately-owned motor vehicle in the business or agency's parking lot, parking garage, or other parking area; the entity would, however, be allowed to adopt a policy requiring the firearm and ammunition to be stored out of plain view.

No new duty. The bill would not create a new duty on the part of any business, commercial enterprise, employer or state service agency beyond the duty specified in this section.

Immunity from liability. The bill would confer immunity from liability on businesses, commercial enterprises, employers, or state service agencies for damages relating to another person's actions with respect to a firearm or ammunition transported or stored as allowed under the bill, except in cases of gross negligence on the part of the business, commercial enterprise, employer, or state service agency.

Injunctions. The bill would allow someone who was or would be denied the ability to transport or store a firearm or ammunition as allowed under the bill to seek an injunction against the person, business entity, commercial enterprise, employer, or state service agency violating or intending to violate the bill. If successful, such a plaintiff would be entitled to costs and attorney fees.

Unlawful discharge or penalty. A business, commercial enterprise, employer, or state service agency could not discharge or otherwise penalize an employee for transporting or storing a firearm or ammunition as allowed by the bill. An employee who was unlawfully discharged in violation of the bill could demand (1) reinstatement to the same or equivalent position as was held at the time of termination; (2) reinstatement of full fringe benefits and seniority rights, if any; (3) compensation for lost wages, benefits, or other lost remuneration, including, unpaid leave or furlough; and (4) payment of reasonable attorney fees and costs incurred by the employee in seeking redress of the violation.

Irreconcilable conflict defense. It would be a complete defense to an action under the bill that complying with the bill would require the business, commercial enterprise, employer, or state service agency to violate another applicable federal or state law or regulation. If, however, the bill and the other law or regulation could be reconciled, the business, commercial enterprise, employer, or state service agency would have to comply with the requirements of the bill.

Application to employer's motor vehicles. The bill would not apply if the motor vehicle was owned or leased by the employer and used by an employee in the course and scope of the employee's employment unless the employee was required to transport or store a firearm to do his or her job.

Application to CPL holders. The bill does not authorize a person who holds a concealed pistol license to possess the concealed pistol in a concealed manner other than as prescribed under this act.

Definition of motor vehicle. The bill defines the term "motor vehicle" as "any vehicle that is required to be registered with the Secretary of State, including but not limited to, an automobile, truck, minivan, sports utility vehicle, or motorcycle."

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact, since police agencies may experience some costs involved with investigating whether an employee was unlawfully fired for having a pistol in 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.