



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bills 225 and 226 (as enacted)
Sponsor: Senator Mike Shirkey
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACTS 200 & 201 of 2015

Date Completed: 1-19-16

CONTENT

Senate Bill 225 amends the handgun licensure law to revise a provision dealing with the transfer of ownership of a pistol by inheritance.

Senate Bill 226 amends the Code of Criminal Procedure to revise the MCL citation in the sentencing guidelines for forgery on a pistol license application. The violation is a Class F public safety felony, with a statutory maximum sentence of four years' imprisonment.

The bills will take effect on February 22, 2016.

A more detailed description of Senate Bill 225 follows.

Section 2 of the handgun licensure law generally prohibits a person from purchasing, carrying, possessing, or transporting a pistol in Michigan without first obtaining a license for the pistol, and outlines the requirements and procedures for licensure. Section 2 states that it does not prevent the transfer of ownership of a pistol that is inherited if the license to purchase is approved by the commissioner or chief of police, sheriff, or authorized deputy, and signed by the personal representative of the estate or by the next of kin having authority to dispose of the pistol. The bill deletes this provision regarding an inherited pistol.

The bill specifies that Section 2 does not prevent the transfer of ownership of pistols to an heir or devisee, whether by testamentary bequest or by the laws of intestacy, regardless of whether the pistol is registered with the State. An individual who inherits a pistol must obtain a license within 30 days of taking physical possession of the pistol. If the heir or devisee is not qualified for a license under Section 2, he or she may direct the decedent's next of kin or the person authorized to dispose of the estate's property to dispose of the pistol in any manner that is lawful and the heir or devisee considers appropriate. The person authorized to dispose of property will not have to obtain a license if he or she takes temporary lawful possession of the pistol in the process of disposing of it pursuant to the decedent's testamentary bequest or the laws of intestacy.

The bill provides that a law enforcement agency may not seize or confiscate a pistol being transferred by testamentary bequest or the laws of intestacy unless the heir or devisee does not qualify for obtaining a license and the next of kin or person authorized to dispose of estate property is unable to retain his or her temporary possession of the pistol or find alternative lawful storage. If a law enforcement agency seizes or confiscates a pistol, the heir or devisee will retain ownership interest in the pistol and, within 30 days of being notified of the seizure or confiscation, may file with a court to direct the agency to lawfully transfer or otherwise dispose of the pistol. A pistol seized under this provision may not be destroyed, sold, or used

while in possession of the seizing entity until 30 days have passed since the heir or devisee has been notified of the seizure and no legal action regarding the lawful possession or ownership of the pistol has been filed in any court and is pending.

Under the bill, "heir" means that term as defined in Section 1104 of the Estates and Protected Individuals Code (EPIC) and "devisee" means that term as defined in Section 1103 of EPIC. (Under those sections, "heir" means a person, including the surviving spouse or the State, that is entitled to a decedent's property under the statutes of intestate succession; and "devisee" means a person designated in a will to receive a devise.)

MCL 28.422 (S.B. 225)
777.11b (S.B. 226)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Bruce Baker
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