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BILL ANALYSIS

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Senate Bill 370 (as enacted)
House Bills 4490 and 4491 (as enacted)
Sponsor: Senator Randy Richardville (S.B. 370)
Representative Paul Opsommer (H.B. 4490)
Representative Joel Sheltrown (H.B. 4491)
Senate Committee: Judiciary
House Committee: Tourism, Outdoor Recreation and Natural Resources

PUBLIC ACT 194 of 2008
PUBLIC ACTS 195 & 196 of 2008

Date Completed: 7-27-09

CONTENT

Senate Bill 370 amended the handgun licensure law to do the following:

- Revise requirements concerning the completion, handling, and retention of records when an individual who is licensed to carry a concealed pistol purchases a pistol.
- Extend the requirements to the acquisition of a pistol other than by purchase.
- Make a purchaser's failure to comply with the requirements a State civil infraction.
- Require law enforcement agencies to enter information into a pistol entry database, or otherwise provide information to the State Police.
- Provide that a purchaser has the right to obtain a copy of information in the pistol entry database.
- Delete a requirement that certain licensed individuals be on duty in order to carry a concealed pistol in a no-carry zone.

House Bill 4490 repealed Section 9 of the handgun licensure law, which required a person to present a pistol to a law enforcement agency for a safety inspection. The bill also amended the law to do the following:

- Revise requirements concerning the completion, handling, and retention

of records when an individual purchases a pistol.

- Extend the requirements to the acquisition of a pistol other than by purchase.
- Make a purchaser's failure to comply with the requirements a State civil infraction.
- Require licensing authorities to enter information in the pistol entry database, or otherwise provide information to the State Police.
- Provide that a purchaser has the right to obtain a copy of information in the pistol entry database.

House Bill 4491 repealed Section 228 of the Michigan Penal Code, which made it a misdemeanor, punishable by up to 90 days' imprisonment and/or a maximum fine of \$100, to fail to have a pistol inspected as required by the handgun licensure law.

All of the bills were tie-barred to each other and took effect on January 7, 2009.

Senate Bill 370 and House Bill 4490 are described in detail below.

Senate Bill 370

Pistol Purchase or Acquisition

The following provisions apply to the purchase of a pistol by an individual who is

licensed under Section 5b of the handgun licensure law to carry a concealed pistol. Under the law, such an individual is not required to obtain a license under Section 2 (the section House Bill 4490 amended) to purchase, carry, or transport a pistol, or, under the Senate bill, to possess a pistol.

The law requires the seller to complete a record on a form provided by the Michigan Department of State Police (MSP) if an individual licensed under Section 5b purchases a pistol. Under the bill, this requirement also applies when a licensed individual otherwise acquires a pistol. The record must be completed in quadruplicate, rather than triplicate as previously required.

Previously, the seller was required to retain one copy of the record, provide one copy to the individual purchaser, and forward the original to the MSP within 10 days after the purchase. Under the bill, the seller may retain one copy and the purchaser must receive three copies of the record. Within 10 days after the purchase or acquisition, the purchaser must forward two copies to the police department of the city, village, or township where he or she resides. If the purchaser does not reside in a city, village, or township with a police department, he or she must forward two copies to the county sheriff. The return of the copies to the police department or county sheriff may be made in person or by first-class or certified mail sent within the 10-day period.

A purchaser who fails to comply with these requirements is responsible for a State civil infraction and may be fined up to \$250. If a purchaser is found responsible for a State civil infraction, the court must give notice of the determination to the MSP and the concealed weapon licensing board that issued the license.

Within 48 hours after receiving the record copies, the police department or county sheriff must forward one copy of the record to the MSP, and must retain the other copy as an official record for at least six years.

Within 10 days after receiving the record copies, the police department or county sheriff must electronically enter the information into the pistol entry database as required by the MSP, if the police department or sheriff has the ability to do so. If not, the police department or sheriff

must provide the information to the MSP in a manner otherwise required by the Department.

The purchaser has the right to obtain a copy of the information placed in the pistol entry database to verify its accuracy. The police department or county sheriff may charge a maximum fee of \$1 for the cost of providing the copy.

The purchaser may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the record. The purchaser is not required to have the record in his or her possession while carrying, using, possessing, or transporting the pistol after that period.

Any police department or county sheriff that provided pistol descriptions to the MSP under former Section 9 of the law must continue to do so under these provisions.

License Possession & Display

Under the handgun licensure law, when an individual licensed under Section 5b is carrying a concealed pistol, he or she must have his or her license in his or her possession and must show both of the following to a peace officer upon request: his or her license to carry and his or her driver license or Michigan personal identification card.

If a licensed individual is carrying a concealed pistol and is stopped by a peace officer, the individual immediately must disclose to the officer that he or she is carrying a pistol concealed upon his or her person or in his or her vehicle.

If a person violates any of these requirements, he or she is responsible for a State civil infraction and his or her pistol is subject to immediate seizure by a peace officer.

The bill specifies that, as used in these provisions, "peace officer" includes a motor carrier officer appointed under Section 6d of Public Act 59 of 1935, and security personnel employed by the State under Section 6c of that Act. (Public Act 59 of 1935 governs the Department of State Police. Section 6d authorizes the MSP

Director to appoint officers with limited arrest powers for motor carrier enforcement. Under Section 6c, the Director may authorize limited arrest powers for State-employed security personnel for the protection of property and facilities owned or leased by the State in the City of Lansing and Windsor Township.)

No-Carry Zone Exception

The handgun licensure law contains a list of places where a person who is licensed to carry a concealed pistol, or who is exempt from licensure, is prohibited from carrying a concealed pistol (commonly called "no-carry zones"), such as hospitals, schools, day care centers, and houses of worship. The prohibition does not apply, however, to certain licensees, including the following:

- A corrections officer of a county sheriff's department.
- A motor carrier officer or capitol security officer of the MSP.
- A member of a sheriff's posse.
- An auxiliary officer or reserve officer of a police or sheriff's department.
- A parole or probation officer of the Department of Corrections.

Previously, these individuals had to be on duty and in the course of employment when carrying a concealed pistol in a no-carry zone. The bill deleted that condition.

House Bill 4490

Pistol Purchase or Acquisition

Section 2 of the handgun licensure law governs the issuance of licenses to purchase, carry, and transport a pistol. Under the bill, these provisions also apply to the possession of a pistol.

The bill requires a license to be executed in quadruplicate upon forms provided by the MSP and be signed by the licensing authority, which must deliver four copies to the applicant. Previously, licenses had to be executed in triplicate, and the licensing authority had to deliver three copies to the applicant. (A licensing authority is a city, township, or village police department or, in parts of a county where there is none, the county sheriff.)

Under the bill, if an individual purchases or otherwise acquires a pistol, the seller must fill out the license forms describing it, and sign his or her name indicating that the pistol was sold to or otherwise acquired by the purchaser. The purchaser also must sign his or her name indicating the purchase or other acquisition of the pistol from the seller, who may retain a copy of the license as a record of the transaction. The purchaser must return two copies of the license to the licensing authority within 10 days after the pistol is purchased or acquired. Previously, these provisions applied only to the purchase and sale of a pistol.

The bill specifies that the return of the copies to the licensing authority may be made in person or by first-class or certified mail sent within the 10-day period.

Under the bill, a purchaser who fails to comply with these requirements is responsible for a State civil infraction and may be fined up to \$250. If a purchaser is found responsible for a State civil infraction, the court must give notice of the determination to the MSP.

The licensing authority must retain one copy of the license as an official record for at least six years, and forward the other copy within 48 hours to the MSP. (Previously, the retention period was six years, not a minimum of six years.)

Also, under the bill, the licensing authority must electronically enter the information into the pistol entry database as required by the MSP, if the licensing authority has the ability to do so. If not, the licensing authority must provide the information to the MSP in a manner otherwise required by the Department.

The purchaser has the right to obtain a copy of the information placed in the pistol entry database to verify its accuracy. The licensing authority may charge a maximum fee of \$1 for the cost of providing the copy.

The licensee may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the license, but is not required to have the license in his or her possession

while carrying, using, possessing, or transporting the pistol after that period.

Any licensing authority that provided pistol descriptions to the MSP under former Section 9 of the law must continue to do so under these provisions.

Section 9 Repeal

Under Section 9, which the bill repealed, a person who owned or came into possession of a pistol in Michigan had to present it for a safety inspection to the commissioner or chief of police of the city, township, or village police department, if he or she resided in a city, township, or village with an organized police department. If not, the person had to present the pistol for a safety inspection to the county sheriff. If the person was eligible to possess a pistol under Section 2(1) (which requires licensure), a certificate of inspection had to be issued in triplicate on a form provided by the MSP, containing the name, age, address, description, and signature of the person, as well as a full description of the pistol.

The original of the certificate had to be delivered to the registrant. The duplicate had to be mailed within 48 hours to the MSP, which had to keep it as an official record. The triplicate had to be kept in the office of the commissioner, police chief, or sheriff.

MCL 28.422a (S.B. 370)
28.422 (H.B. 4490)
750.224b (H.B. 4491)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 370 & House Bill 4990

The bills will result in minor additional costs to local and State police agencies to accommodate the additional number and record-keeping of pistol license applications.

House Bill 4491

The bill will have an indeterminate fiscal impact on local government. There are no data to indicate how many individuals will not be convicted of failing to have a pistol inspected as previously required. To the extent that the bill results in decreased

convictions, local governments will incur decreased costs of incarceration in local facilities, which vary by county. Public libraries will receive less penal fine revenue.

Fiscal Analyst: Bruce Baker
Lindsay Hollander

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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.