

Legislative Analysis



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REVISE DEFINITION OF "PISTOL"

Senate Bill 760 as introduced
Sponsor: Sen. Mike Green

Senate Bill 761 with Senate amendment
Sponsor: Sen. Mike Kowall

Senate Bill 762 as introduced
Sponsor: Sen. Dave Robertson

House Committee: Judiciary
Senate Committee: Judiciary

Complete to 5-16-12

A SUMMARY OF SENATE BILLS 760-762 AS PASSED BY THE SENATE 12-13-11

The bills would amend various statutes to redefine "pistol" to mean a loaded or unloaded firearm that is 26 inches or less in length (reduced from 30 inches). Senate Bill 761 would also grandfather current owners of a pistol 30 inches or less who wish to carry that firearm as a pistol. Senate Bill 762 would also revise the definition of "approved signaling device."

Senate Bills 760-762 are tie-barred to each other, meaning that none can take effect unless all are enacted. The bills would take effect January 1, 2012.

Currently, "pistol" is defined in multiple acts as a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals itself as a firearm. The bills would reduce the length requirement to 26 inches or less. This would mean that firearms between 26 and 30 inches that are now subject to the licensing requirements and regulations regarding pistols would instead be regulated as firearms similarly to rifles, shotguns, and other long guns.

Senate Bill 760 would amend the Michigan Penal Code (MCL 750.222 and 750.223).

Senate Bill 761 would amend the handgun licensure law, Public Act 372 of 1927 (MCL 28.421). In addition, the bill would allow a person who lawfully owned, possessed, carried, or transported a firearm 30 inches or less in length *as a pistol* before January 1, 2012, under a license issued under Section 2 (purchase license) or Section 5b (concealed pistol license) — or an exemption under either of those sections — to continue to own, possess, carry, or transport it *as a pistol* after that date. Further, such a person could continue to own and carry this type of firearm as a pistol under a subsequent license renewal.

Senate Bill 762 would amend the Revised Judicature Act (MCL 600.2951). In addition, the bill would revise the federal law references contained in the definition of the term "approved signaling device" (a pistol approved by the Coast Guard for use as a signaling device under specified federal regulations). Further, the bill would revise the wording of a subsection concerning strict liability for an injury or property damage caused by an approved signaling device if the person using the device did not have a reasonable belief that its use was necessary for the safety of persons on water or in an aircraft *emergency situation*. The words "emergency situation" would be removed.

FISCAL IMPACT:

The bills would have an indeterminate, but likely negligible, fiscal impact on state and local government. To the extent that bills' revisions led to a reduction in the number of misdemeanor and felony convictions related to the sale of pistols, the state and local units of government could experience a reduction in correctional costs. Any foregone penal fine revenue would affect public libraries, which are the beneficiaries of that revenue.

BACKGROUND INFORMATION:

The following is a partial list of provisions in Michigan statutes that appear to distinguish between pistols and other types of firearms and thus could be affected by the proposed change to the pistol definition:

- A license is generally required to purchase, possess, carry, or transport a *pistol* (either a purchase license under MCL 28.422(1) or a concealed pistol license under MCL 28.422(2)). A license is not needed to purchase a long gun.
- The minimum age for purchasing a *pistol* from a federal firearms licensee (FFL) dealer is 21 under MCL 28.422(3)(b), but is only 18 for purchasing a pistol from an unlicensed seller or for purchasing a long gun from either an FFL dealer or an unlicensed seller.
- A concealed pistol licensee must fill out a sales record after acquiring a new *pistol*, but not after acquiring a new long gun (MCL 28.422a(2)).
- Certain chemical analysis provisions only pertain to persons carrying a concealed *pistol* under a CPL (MCL 28.425k).
- Only a concealed *pistol* may be carried by a concealed pistol licensee in the places listed in MCL 28.425o.
- Only a legal resident of Michigan, as defined in Michigan law, may purchase a pistol in Michigan with a purchase license (MCL 28.422(3)(c)). In contrast, a Michigan resident may purchase a *rifle or shotgun* in a contiguous state, and a resident of a contiguous state may purchase a *rifle or shotgun* in Michigan under Public Act 207 of 1969 (MCL 3.111-3.112).
- It is a misdemeanor to knowingly sell a firearm more than 30 inches long (i.e., a long gun) to a person under the age of 18 under Section 223(2) of the Michigan Penal Code (MCL 750.223(2)). (As described above, Senate Bill 760 would change 30 inches to 26 inches in this provision.)

- Concealed pistol licensees must carry their CPL and driver license or Michigan identification card with them whenever they carry a concealed *pistol* and must disclose the existence of a concealed *pistol* on their person or in their vehicle when stopped by a peace officer. (MCL 324.425f)
- A concealed pistol licensee may carry a concealed *pistol* in an area frequented by game without a hunting license. (MCL 324.43510(2))
- A *pistol* may not be sold by a pawnbroker, second-hand dealer, or junk dealer (as defined in Public Act 350 of 1917, MCL 445.401 *et seq.*) under MCL 750.229.
- Under Section 227d of the Michigan Penal Code, MCL 750.227d, it is a misdemeanor to transport or possess a firearm (other than a *pistol*) in a motor vehicle or other vehicle designed for land travel, unless it is unloaded and is one or more of the following: (1) taken down, (2) enclosed in a case, (3) carried in the vehicle's trunk, or (4) inaccessible from the interior of the vehicle.
- A prosecution for carrying a concealed *pistol* in violation of MCL 750.227 does not require proof that the person was carrying a concealed pistol with "unlawful intent," whereas a prosecution for carrying a *firearm* with "unlawful intent" under MCL 750.226 does requires proof of unlawful intent, and is therefore a more difficult case for prosecutors. [See People v. Smith, 393 Mich. 432 (1975).]
- The definition of armor-piercing ammunition in MCL 750.224c refers to certain types of ammunition that may be used in a *pistol*.

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