



Senate Fiscal Agency  
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## BILL ANALYSIS



Telephone: (517) 373-5383  
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House Bill 4715 (Substitute H-1 as passed by the House)  
House Bill 4716 (Substitute H-1 as passed by the House)  
House Bill 4717 (Substitute H-1 as passed by the House)  
Sponsor: Representative Kurt Heise (H.B. 4715)  
Representative Joseph Graves (H.B. 4716)  
Representative Klint Kesto (H.B. 4717)

House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 1-14-14

**CONTENT****House Bill 4715 (H-1) would amend the Michigan Penal Code to do the following:**

- Prohibit a person convicted of a felony or a specified felony from possessing, using, transporting, selling, carrying, shipping, or distributing ammunition until either three years or five years after meeting certain criteria.
- Prescribe a felony penalty for a violation of that prohibition.
- Specify that a single criminal transaction of possessing, using, transporting, selling, carrying, shipping, or distributing ammunition would be one offense.

**House Bill 4716 (H-1) would amend the Code of Criminal Procedure to include the felony penalty proposed by House Bill 4715 (H-1) in the sentencing guidelines.**

**House Bill 4717 (H-1) would amend the handgun licensure law to provide for the restoration of the rights of a person to possess, use, transport, sell, carry, ship, or distribute ammunition, if he or she had been prohibited from doing so under the Penal Code (pursuant to House Bill 4715 (H-1)).**

House Bills 4716 (H-1) and 4717 (H-1) are tie-barred to House Bill 4715.

**House Bill 4715 (H-1)**

Under the Penal Code, a person convicted of a "felony" may not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in Michigan until three years after he or she does all of the following:

- Pays all fines imposed for the violation.
- Serves all terms of imprisonment imposed for the violation.
- Successfully completes all conditions of probation or parole.

A person convicted of a "specified felony" may not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in Michigan five years after he or she meets those criteria, and his or her rights are restored under the handgun licensure law.

As used in those provisions, "felony" means a violation of a law of this State, another state, or the United States that is punishable by imprisonment for four years or more, or an attempt to violate such a law. "Specified felony" is defined as a felony in which one or more of the following circumstances exist:

- An element of the felony is the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature involves a substantial risk that physical force may be used in the course of committing the felony.
- An element of the felony is the unlawful manufacture, possession, importation, exportation, distribution, or dispensing of a controlled substance.
- An element of the felony is the unlawful possession or distribution of a firearm.
- An element of the felony is the unlawful use of an explosive.
- The felony is burglary of an occupied dwelling, breaking and entering of an occupied dwelling, or arson.

Under the bill, a person convicted of a felony could not possess, use, transport, sell, carry, ship, or distribute ammunition in Michigan until three years after he or she met the criteria listed above. A person convicted of a specified felony could not possess, use, transport, sell, carry, ship, or distribute ammunition in Michigan until five years after he or she met the criteria listed above, and his or her rights were restored under the handgun licensure law (as House Bill 4717 (H-1) would amend it). The bill would define "ammunition" as any projectile that, in its current state, may be expelled from a firearm by an explosive.

Under the Penal Code, a person who possesses, uses, transports, sells, purchases, carries, ships, receives, or distributes a firearm in violation of the provisions described above is guilty of a felony punishable by up to five years' imprisonment and/or a maximum fine of \$5,000. The bill would apply the same penalty to a person who possessed, used, transported, sold, carried, shipped, or distributed ammunition in violation of the proposed provisions.

The bill specifies that any single criminal transaction in which a person possessed, used, transported, sold, carried, shipped, or distributed ammunition, regardless of the ammunition involved, would constitute one offense.

#### **House Bill 4716 (H-1)**

Under the sentencing guidelines, possession or sale of a firearm by a felon is a Class E public safety felony with a statutory maximum sentence of five years' imprisonment. The bill would include the same sentencing guidelines designation for possession or sale of ammunition by a felon.

#### **House Bill 4717 (H-1)**

Under the handgun licensure law, a person who is prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under the Penal Code because he or she was convicted of a specified felony may apply to the concealed weapons licensing board in the county in which he or she lives for restoration of those rights.

Under the bill, a person who was prohibited from possessing, using, transporting, selling, carrying, shipping, or distributing ammunition under House Bill 4715 (H-1) because he or she was convicted of a specified felony also could apply to the concealed weapons licensing board in the county in which he or she lived for restoration of those rights.

Currently, not more than one application may be submitted in any calendar year for restoration of rights regarding a firearm. The concealed weapons licensing board may

charge a maximum fee of \$10 for the actual and necessary expenses of each application. The bill would extend those provisions to an application for restoration of rights regarding ammunition.

The law requires the board to restore the rights of a person to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm if it determines that the person properly submitted an application for restoration of those rights; his or her record and reputation are such that he or she is not likely to act in a manner dangerous to the safety of others; and five years have expired after all of the following circumstances:

- The person has paid all fines imposed for the violation resulting in the prohibition.
- The person has served all terms of imprisonment imposed for the violation resulting in the prohibition.
- The person has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition.

If the concealed weapons licensing board refuses to restore a person's right to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm, the person may petition the circuit court for review of the decision.

Under the bill, those provisions also would apply to an application for restoration of rights to possess, use, transport, sell, carry, ship, or distribute ammunition.

MCL 750.224f (H.B. 4715)  
777.16m (H.B. 4716)  
28.424 (H.B. 4717)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

#### House Bills 4715 (H-1) and 4716 (H-1)

The bills would create a new felony offense with a sentence of up to five years and a fine of up to \$5,000. While it is impossible to estimate the number of people who would be convicted of this offense or the average sentence, each prisoner year of incarceration would have a cost of approximately \$35,000 to the State. Fine revenue would benefit public libraries.

#### House Bill 4717 (H-1)

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Steve Angelotti  
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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.