

Legislative Analysis



NO CARRY ZONE PROVISIONS: EXPAND EXEMPTIONS

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**House Bill 4159 as enacted
Public Act 206 of 2015
Sponsor: Rep. Joel Johnson**

Analysis available at
<http://www.legislature.mi.gov>

**Senate Bill 516 as enacted
Public Act 207 of 2015
Sponsor: Sen. Rick Jones**

**House Committee: Judiciary
Senate Committee: Judiciary
Complete to 7-12-16**

BRIEF SUMMARY:

House Bill 4159 expands the list of those who may carry a concealed pistol in a "no-carry" zone to include certain active and retired law enforcement officers and employees of the Department of Corrections.

Senate Bill 516 adds several definitions, including a definition for "acceptable proof" of the qualifications needed for active and retired individuals of several law enforcement-related occupations to be exempt from the prohibition on carrying a concealed pistol in a no-carry zone. The bill also revises the process by which a concealed pistol license is suspended if the holder is charged with a criminal offense and is reinstated if the individual is acquitted or the charges dropped.

Both bills amended the Handgun Licensure Law, Public Act 372 of 1927, were tie-barred to each other, and took effect December 1, 2015.

FISCAL IMPACT: House Bill 4159 would have no significant fiscal impact on the state or local units of government.

Senate Bill 516 would impose indeterminate, but likely nominal, costs on the Department of Corrections and local sheriff's offices. These would include the costs of processing letters indicating proof of approved weapons training, having obtained a Department of Corrections weapons permit, and retirement in good standing. The extent of these costs would be determined by the number of individuals who subsequently request these documents. This bill would also reduce costs to local courts by an indeterminate, but likely nominal amount by removing the requirement that courts notify county clerks to reinstate suspended concealed pistol licenses when charges against a CPL holder are dropped or the individual is acquitted.

DETAILED SUMMARY:

House Bill 4159

Briefly, the bill allows the following individuals who have a license to carry a concealed pistol to carry that pistol in a "no-carry" zone:

- A retired corrections officer of a county sheriff's department—if that individual has received county sheriff-approved weapons training.
- An active or retired parole, probation, or corrections officer, or absconder recovery unit member, of the Michigan Department of Corrections (MDOC)—if that individual has obtained an MDOC weapons permit.

Currently, even if a person holds a concealed pistol license (CPL), he or she cannot carry the concealed pistol into certain places such as day care centers or bars – known as *no-carry zones* or *weapon-free zones* – unless specifically allowed by statute (e.g., a retired police or law enforcement officer). The bill specifically authorizes an active or retired corrections officer or absconder recovery unit member of the Department of Corrections (DOC) who holds a concealed pistol license (CPL) to carry a pistol in a no-carry zone. In addition, probation and parole officers of the MDOC, and corrections officers of a county sheriff's department, were already allowed to carry a pistol under a CPL in a no-carry zone; the bill extended this authority to a retired probation or parole officer or a retired corrections officer of a county sheriff's department. (MCL 28.425o)

Senate Bill 516

Under provisions of Public Act 3 of 2015 (enrolled Senate Bill 34), beginning December 1, 2015, county clerks assumed responsibility for issuing concealed pistol licenses (CPL). The county clerk must include an indication on the license if an individual is exempt from the prohibitions against carrying a concealed pistol on premises described in Section 5o of the act as no-carry zones *if* the applicant for the CPL provides *acceptable proof* of qualifying for the exemption. Senate Bill 516 adds what constitutes acceptable proof for applicants in the following occupations:

- ❖ *Active corrections officer of a county sheriff's department*—a letter stating that the individual has received county sheriff-approved weapons training (this is in addition to employee identification, which is currently required).
- ❖ *Retired corrections officer of a county sheriff's department*—a letter from the county sheriff's office stating that the individual retired in good standing and received county sheriff-approved weapons training.
- ❖ *Active corrections officer or absconder recovery unit member of the Department of Corrections*—the individual's employee identification and proof of obtaining a DOC weapons permit.
- ❖ *Retired parole, probation, or corrections officer, or retired absconder recovery unit member, of the DOC*—a letter from the DOC that the individual retired in good standing and proof of obtaining a DOC weapons permit.

License suspensions. Prior to enactment of SB 516, if a CPL holder was charged with a felony or misdemeanor offense, the court had to immediately order the county clerk of the county issuing the CPL to suspend the individual's license until there was a final disposition in the case. If the charges were dismissed or the individual acquitted, the court had to notify the county clerk who was then required to automatically reinstate the CPL, if not expired and the individual was otherwise qualified to carry a concealed pistol (as verified by the Department of State Police, MSP).

The bill no longer requires a court to order the county clerk to suspend the license when a CPL holder is charged with a criminal offense; the county clerk must immediately suspend the license upon notification by a law enforcement agency, prosecuting official, or court that a CPL holder is charged with a felony or misdemeanor.

In addition, instead of the court notifying the county clerk to reinstate the license if the criminal charges were dismissed or the person acquitted, the CPL holder has the responsibility of notifying the clerk.

Further, the bill eliminates a provision requiring the court to notify the county clerk of each statutory provision with which the individual had been charged and a provision requiring, in certain circumstances, a written complaint and an opportunity to request the county clerk to conduct a review of a court-ordered suspension or revocation of a license before the license could be suspended or revoked.

Definitions. "Parole or probation officer" of the DOC means any individual employed by the DOC to supervise felony probationers or parolees or that individual's immediate supervisors.

"Retired corrections officer" of the DOC means an individual who was a corrections officer of the DOC and who retired in good standing from employment as a corrections officer of the DOC.

"Retired parole or probation officer" of the DOC means an individual who was a parole or probation officer of the department and who retired in good standing from his or her employment as a parole or probation officer of the DOC.

"Local corrections officer" means that term as defined in Section 2 of the Local Corrections Officers Training Act.

MCL 28.421 et al.

BRIEF DISCUSSION OF THE ISSUES:

House Bill 4159 expands the list of individuals who may carry a concealed pistol into a no carry zone so as to include individuals who work in or retired from professions that put them in greater contact with criminals; such individuals are said to carry a greater risk of harm from someone seeking retribution. Proponents of the bill say that these individuals are most vulnerable when dropping their children off at day care or school, attending

church, or when entering any of the current gun-free zones. The bill will enable them to protect themselves and their families, and also provides a deterrent for those who would endanger others by targeting them in no carry zones.

Further, state and local corrections officers are trained in a manner similar to other exempt professionals. Reportedly, there have been several incidents over the past few years of corrections officers (active and retired) or their family members being the target of verbal and/or physical threats, including have shots fired at them. In 2012, a state corrections officer was shot and killed while on the way home. Had the officer been covered under the CPL no carry zone exemptions, he would most likely have had his concealed pistol with him and possibly been able to defend himself.

Senate Bill 516, as a companion piece to House Bill 4159, includes the type of proofs needed by a county clerk to verify that a particular individual has the statutory authority to carry a concealed weapon in a no carry zone. The bill also revises the process by which a concealed pistol license is suspended or reinstated if criminal charges are brought, or dropped, against a CPL holder; these changes are necessary in order to conform with changes made to the Handgun Licensing Act by Public Act 3 of 2015, which, among many changes, abolished county concealed weapon licensing boards.

Opponents to this piecemeal expansion of exemptions from the no carry zone prohibition say that all CPL holders should be able to carry their pistols at all times. They point out that most of the exempted individuals are not better shots than the average CPL holder and therefore should not get the exemption without demonstrated ability that would offer some assurance that bystanders would not be injured should they fire or return fire at an assailant. Further, critics say there are no data to support that the individuals highlighted in the legislation are being targeted while in no carry zones. Most of the reported incidents happened outside of no carry zones, such as while at home, or were threats directed at other family members—none of whom would have been made safer by the provisions of these bills.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.