

## CONCEALED WEAPON LICENSES

**House Bill 4530 as enrolled**  
**Public Act 381 of 2000**  
**Sponsor: Rep. Michael Green**

**House Bill 4532 as enrolled (vetoed)**  
**Sponsor: Rep. Steve Vear**

**House Committee: Conservation and  
Outdoor Recreation**  
**Senate Committee: Hunting, Fishing  
and Forestry**

**Third Analysis (1-04-01)**

### ***THE APPARENT PROBLEM:***

Many citizens view as unfair current laws which grant county "gun boards" the entire authority for reviewing applications for carrying concealed weapons (CCW). They cite the fact that not only must a person who applies for a license establish that he or she is qualified, he or she also has the burden of establishing that there is a special need for such a license. Also, it is maintained that, while some county gun boards have liberal policies and grant thousands of licenses each year, other boards are extremely restrictive in their policies and grant licenses only to certain citizens, such as elected officials or former police officers.

Under current law, there are 83 separate county CCW licensing boards. Each board has three members, representing the sheriff, prosecutor, and state police. (For details on current requirements, see *Background Information*.) Many people believe that each of these gun boards should be required to use uniform standards for granting CCW licenses. In response, legislation has been introduced to require that specific criteria be used to determine whether a CCW license should be granted.

The legislation on CCW licensing boards is intended to provide uniform standards across the state. However, since it is anticipated that it would have the effect of increasing the number of CCW permits issued in the state, some people maintain that such proposals should be "balanced" by legislation that would provide "gun-free" zones where guns would be prohibited, and that would require license applicants to complete firearm safety education courses. In addition, some gun owners maintain that current restrictions under the Penal Code regarding the transportation of firearms is confusing. For example, under the code a person may

transport firearms for certain purposes, but only if a person has a hunting license, to and from a place of repair, from the place of purchase, or from one place of business, or a home, to another. It has been suggested that the law be changed to allow people to carry unloaded guns in their vehicles.

### ***THE CONTENT OF THE BILLS:***

Currently, licenses to carry concealed weapons are issued by one of 83 separate county "gun boards." An applicant has the burden of establishing that he or she has a special need for such a license. House Bill 4530 would amend the handgun licensure act (MCL 28.421 et al.) to change the rules and procedures by which citizens may apply for and receive licenses to carry concealed weapons. House Bill 4532 would amend the Michigan Penal Code to delete current restrictions regarding the transportation of firearms. The bill would specify, instead, that a pistol could be transported in a container or wrapper inside a vehicle's trunk or, if the vehicle didn't have a trunk, in the passenger compartment. House Bill 4530 would take effect on July 1, 2001; and House Bill 4532 would take effect on April 1, 2001.

House Bill 4530 would amend the title of the handgun licensure act to specify that certain conduct against individuals applying for or receiving concealed weapon licenses would be prohibited, to provide for a \$1 million appropriation to the Department of State Police, and to prescribe conditions for that appropriation. In addition, among other provisions, the bill would replace current provisions concerning concealed weapons licenses with provisions that would:

- Require that each county have a concealed weapon licensing board with exclusive authority over issuing or denying licenses.
- Require that the Department of State Police provide license application kits -- at no cost -- to county sheriffs, local law enforcement agencies, and county clerks for disbursement to licence applicants.
- Require that each handgun licensing board issue a license if a person is a U.S. citizen, is 21 years of age, has completed a pistol safety training course, has never been convicted of a certain crimes, has never been committed due to mental illness or found guilty but mentally ill of a crime, and meets other specific requirements.
- Require fingerprinting as part of the license application process.
- Permit an applicant to appeal a denial or restriction to the circuit court for the judicial district in which the applicant lived.
- Require that the Department of State Police create and maintain a computerized data base to keep track of applicants.
- Require that a license be revoked if a licensee is charged with legal intoxication, require license suspension for other misdemeanors involving intoxication, and for violent felonies or other criminal offenses.
- Prohibit a licensee from carrying a concealed weapon in certain public places, such as a school, theater, sports arena, library, or hospital.
- Require that the prosecuting attorney notify the concealed weapon licensing board that had issued the license if a license holder was charged with having committed a violent felony or other criminal offense.

Legislative Intent. The legislation states that: "It is the intent of the legislature to create a standardized system for issuing concealed pistol licenses to prevent criminals and other violent individuals from obtaining licenses to carry a concealed pistol, to allow law abiding residents to obtain a license to carry a concealed pistol, and to prescribe the rights and responsibilities of individuals who have obtained a license to carry a concealed pistol. It is also the intent of the legislature to grant an applicant the right to know why his or her application for a concealed pistol license

is denied and to create a process by which an applicant may appeal that denial."

County Concealed Weapon Licensing Boards. The bill would repeal and replace current provisions regard concealed weapon licensing boards. Under House Bill 4530, each county would continue to have a concealed weapon licensing board with exclusive authority over issuing, revoking, suspending, or denying licenses to carry a concealed pistol to residents of that county. The boards would continue to have the following persons or their designees as members: the county prosecuting attorney, the county sheriff, and the director of the Department of State Police. However, if the county prosecuting attorney decided not to become a member, the board would appoint as a replacement a person who was a certified firearms instructor for the balance of the prosecuting attorney's term in office. Also, if the county prosecuting attorney chose not to be a member, then he or she would still be notified of all applications received by the board; and given an opportunity to object and present evidence or actual knowledge bearing on an applicant's suitability. Should a vacancy occur on the board, the replacement, appointed by the county board of commissioners, would also have to be a certified firearms instructor.

The boards would review the concealed weapon license applications of county residents, determine whether or not to issue a license, and perform other duties as required by law. In addition, the board could convene not more than three panels to assist in evaluating applicants. The prosecuting attorney or his or her designee would act as the board's chairperson, unless he or she chose not to be a member, in which case the board would elect its chairperson. The county clerk would serve as the clerk of the board. Two members would constitute a quorum; however, the business of the board would be conducted by a majority vote of all of its members.

The boards would be allowed to investigate an applicant, including, where possible, contacting his or her local police department, provided that the investigation was restricted only to an applicant's eligibility, and the investigation would end after that determination was made. The boards could also contact references provided by the applicant. The boards could also require the applicant to appear before the board at a mutually agreed upon time for a conference. The applicant's failure or refusal to appear for such a conference, without good reason, would be grounds for denial of a license.

Record Purchase Requirements. An individual who received a license to carry a concealed pistol under the bill would not be required to also get a license to purchase, carry, or transport a pistol. If a person with a license purchased a pistol, the seller would have to complete a sales record in triplicate as provided by the state police, including the individual's concealed weapon license number. The seller would retain one copy of the record, provide a copy to the purchaser and forward the original to the state police within 10 days of the purchase. The state police would be able to promulgate rules to implement this. The triplicate record purchase requirements would not apply to wholesalers or those purchasing antiques. A person who made a materially false statement on a sales record would be guilty of a felony punishable by imprisonment for up to four years, a fine of up to \$2,500, or both.

License Application Kits. In order to receive a license to carry a concealed pistol, an individual would have to obtain and complete an application form provided by the director of the Department of State Police. County sheriffs, local law enforcement agencies, and county clerks would be required to provide an application kit during normal business hours to anyone who wanted to apply for a license to carry a concealed pistol. The kit would contain an application form, fingerprint cards, and written information regarding the procedures involved in obtaining a license, including where the individual could receive the necessary training to qualify for such a license, the applicant's right to appeal the denial of a license, and the form required for making an appeal. An individual who was denied an application kit and obtained an *order of mandamus*, directing the licensing board to provide him or her with the kit, would be awarded actual and reasonable costs, plus attorney fees, for obtaining the order. The concealed weapon licensing board would be required to retain a copy of each application as an official record.

Information received by a concealed weapon licensing board would be considered confidential and could not be disclosed except for the purposes of the act. The applicant would be able to indicate on the application form whether he or she needed a temporary license while waiting for the regular license to be issued. The applicant would have to file the completed application with the county clerk during normal business hours. The licensing board would have to provide each applicant with a copy of a compilation of the state's firearms laws created by the Legislative Service Bureau. The compilation would be provided to the applicant at the time the application was submitted and

the board would have to require the applicant to sign a written statement indicating that he or she had received a copy of the compilation. An individual would not be eligible to receive a license until he or she had signed the statement.

The application would have to be signed under oath and include the following: the applicant's legal name, birth date, and the address of his or her primary residence, and, if appropriate, a statement indicating that the applicant resides in a city, village, or township that has a police department. Certain testimony would have to be included with the application, such as statements indicating the following:

- that the applicant met the criteria for a license to carry a concealed pistol,
- whether the applicant has a history of mental illness that would disqualify him or her from receiving a license ("mental illness" would be defined under the bill to mean a substantial disorder of thought or mood that significantly impaired judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and which would include -- but not be limited to -- clinical depression),
- whether the applicant has been convicted in this state or elsewhere for felony or misdemeanor.
- whether the applicant had been dishonorably discharged from the U.S. Armed Forces,
- whether the applicant sought a temporary license, pending issuance of a regular license, and the facts supporting issuance of the temporary license,
- the names, residential addresses, and telephone numbers of two references,
- a passport-quality photograph of the applicant,
- that the concealed weapon licensing board would have access to any record relating to the applicant's eligibility to receive a license, and to the applicant's medical records that relate to his or her statements about history of mental illness. However, the applicant could request that these records or information be reviewed by the board in a closed session which the applicant and his or her representative would have the right to attend. Information received regarding these records or information would be confidential and could not be disclosed to any person except for the purposes of determining whether to issue a concealed weapon license to the applicant.

Finally, the application would also have to contain a conspicuous warning that an application was executed under oath, and that intentionally making a material false statement on the application would be a felony punishable by imprisonment for up to 4 years, a fine of up to \$2,500, or both.

Fees. Each applicant would pay the county a \$55 fee when filing an application, paid by any method of payment accepted by that county for other fees, plus an additional \$5 assessment for deposit in the Concealed Weapon Fund established under the bill. The bill would specify that neither a local unit of government nor a state agency could charge any additional amount in connection with this fee, other than a fee for fingerprinting. The fee would be divided between the county and the state -- \$10 would go to the county treasurer to be deposited in the county's general fund and credited to the county clerk and the balance would be forwarded to the state treasurer for deposit into the state general fund to the credit of the Department of State Police. Each county would be required to report its cost, per applicant, in implementing these provisions to the House and Senate fiscal agencies by October 1 of each year.

Fees for a license renewal would be \$35, payable to the county for deposit in the general fund of the county. An individual who was licensed to carry a concealed pistol as of July 1, 2001, would be eligible for a license renewal at the prescribed fee. This provision would apply regardless of whether the license issued before July 1, 2001, was restricted. For an individual holding a general nonrestricted license on July 1, 2001, who was a peace officer, or former peace officer, the firearm safety education requirements specified under the bill would be waived. However, the applicant would have to present a signed statement certifying that he or she had completed at least three hours of review of the prescribed training since receiving his or her license, including firing range time in the six months immediately preceding the renewal application. For an individual who was licensed before July 1, 2001, and who was applying for a license renewal for the first time, the educational requirements would not be waived.

Requirements for License. Each county sheriff would be required to verify an applicant's eligibility for a license on behalf of the concealed weapon licensing board, using the Law Enforcement Information Network (LEIN) to verify that an applicant met the requirements. In order to be eligible to receive a concealed weapon license an individual would have to:

- be at least 21 years old;
- be a citizen of the United States or a resident legal alien, and a resident of Michigan who has resided in the state for at least six months (the board could waive the six-month residency requirement for a temporary license if it determined there was probable cause to believe the safety of the applicant or a member of the applicant's family was endangered by not being able to obtain a license immediately);
- have completed a pistol safety training course or class that meets the bill's safety training requirements;
- not be the subject of a LEIN order or disposition entered as the result of his or her involuntary hospitalization or alternative treatment under the Mental Health Code or legal incapacity under the Revised Probate Code; or due to the existence of an injunction or restraining order for domestic violence or stalking under the provisions of the Revised Judicature Act; or for having been declared not guilty of any crime by reason of insanity, or having been released from incarceration subject to conditions or restrictions placed upon him or her for the protection of others, under the Code of Criminal Procedure;
- not be prohibited under the Michigan Penal Code from having a firearm;
- never have been convicted of a felony in this state or elsewhere (a felony would include a violation of a law designated as a felony, or a violation of law punishable by imprisonment for more than one year), and have no other felony charges pending;
- not have been dishonorably discharged from the U.S. Armed Forces;
- not have been convicted of a misdemeanor violation for certain offenses for the eight years immediately prior to the application ("misdemeanor" would mean a violation of the a state penal law or of a local ordinance substantially corresponding to a state penal law that was not a felony, or a violation of an order, rule, or regulation of a state agency that was punishable by imprisonment or a fine that was not a civil fine, or both; and "offenses" would include a drunk driving, second offense, violation; reckless driving, second or subsequent offense; driving with a suspended or revoked license; hindering or obstructing a weights and measures enforcement officer; hindering, obstructing, assaulting, or committing bodily injury upon a director or other authorized representative under the Motor Fuels Quality Act; possession of a controlled substance

or controlled substance analogue; displaying sexually explicit materials to minors; assault or domestic assault; aggravated assault or aggravated domestic assault; fourth degree child abuse; accosting, enticing, or soliciting a child for immoral purposes; vulnerable adult abuse; solicitation to commit a felony; impersonating an officer; illegal sale of a firearm or ammunition; illegal sale of a self-defense spray; sale or possession of a switchblade; improper transportation of a firearm; failure to have a pistol inspected; accepting a pistol in pawn; failure to register the purchase of a firearm or a firearm component; improperly obtaining a pistol, making a false statement on an application to purchase, or using false identification to purchase a pistol; intentionally aiming a firearm without malice; intentionally discharging a firearm aimed without malice; possessing a firearm on prohibited premises; brandishing a firearm in public; possession of a firearm by an underage individual; intentionally discharging a firearm aimed without malice causing injury; parent of a minor who possessed firearm in a weapon free school zone; setting a spring gun or other device; possessing a firearm while under the influence of intoxicating liquor or a drug; a weapon free school zone violation; stalking; reckless, careless, or negligent use of a firearm resulting in injury or death; reckless, careless, or negligent use of a firearm resulting in property damage; reckless discharge of a firearm; or a violation of a substantially corresponding law of the United States, another state, or a local unit of another state);

- not have been convicted of any other misdemeanor in the state or elsewhere, in the three years immediately preceding the date of application;
- not have been found guilty, but mentally ill, of a crime, and not offered a plea of insanity;
- never been subject to an order of involuntary commitment due to mental illness;
- not suffer from a diagnosed mental illness at the time of applying, regardless of whether he or she is receiving treatment ("mental illness" would mean a substantial disorder of thought or mood that significantly impaired judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, including, but not limited to, clinical depression; and "treatment" would mean care, or any therapeutic service, including, but not limited to, the administration of a drug, and any other service for the treatment of a mental illness);
- not be under a court order of legal incapacity in this state or any other state; and,

- have successfully completed a pistol safety training course or class, as provided under the bill (see below);

In addition, the board would have to determine that issuing a license to the applicant would not threaten the safety of the applicant or any other person. The bill would specify that a determination under this provision would be based upon clear and convincing evidence of civil infractions, crimes, personal protection orders or injunctions, or police reports or other clear and convincing evidence of the actions of, or statements of, the applicant that bear directly on the applicant's ability to carry a concealed pistol. Upon entry of a court order or conviction of one of the enumerated prohibitions for using, transporting, selling, purchasing, carrying, shipping, receiving or distributing a firearm, the Department of State Police would be required to immediately enter the order or conviction into the LEIN. For the purposes of the bill, information of the court order or conviction would not be removed from the LEIN, but could be moved to a separate file intended for the use of county concealed weapon licensing boards, the courts, and other government entities, as necessary and exclusively to determine license eligibility.

Fingerprinting. As part of the application process, the applicant would be required to have two sets of fingerprints taken. The local county sheriff could charge a fee of up to \$15 for the reasonable and actual costs of taking the fingerprints, and would have to take them within three business days after the applicant's request to be fingerprinted. One set of prints would be taken on forms supplied in the application kit, and would be sent to the Department of State Police (DSP). The other set would be taken on forms supplied by the FBI and would be forwarded immediately to the state police for forwarding to the FBI, or to an entity designated by them. Both sets of prints would be compared by the appropriate subdivision of each agency, with the print records retained by each agency. The FBI would then send a report of its comparisons to the Department of State Police. Within 10 days of receiving the FBI's report the department would be required to send copies of the results of both fingerprint comparisons to the county sheriff that took the fingerprints and to the concealed weapon licensing board for the county where the applicant resides. If the fingerprint comparison was not received by the board within 30 days, the board would be required to issue the applicant a temporary license. In such cases, the temporary license would expire after 180 days, or as soon as the fingerprint report was received.

Licenses. Subject to the receipt of the fingerprinting results, the concealed weapon licensing board would be required to issue a license to any applicant who had properly submitted an application and whose application indicated that he or she was eligible to have a license within 30 business days after proper submission of the application. A full license would have to contain the licensee's full name, date of birth, and street address; a photograph and a physical description of the licensee; and the effective dates of the license. Except for the restrictions provided under the bill, a license would authorize a licensee to carry a pistol concealed about his or her person anywhere in the state; and to carry a pistol in a vehicle, whether concealed or not concealed, anywhere in the state.

A full license would be valid for three years and could be renewed in the same manner as the original license. A person who applied for a license to carry a concealed pistol for the first time before July 1, 2001, would have to complete firearm safety training (see below). A person who was licensed as of that date could carry a concealed pistol under that license until it expired or the individual's authority to carry a concealed pistol under that license was otherwise terminated, whichever occurred first. The individual could apply for a renewal.

Temporary License. A temporary license would be issued in a form provided by the state police. An applicant could be given a temporary license under two circumstances:

- pending the issuance of a full license, if the licensing board determined that there was probable cause to believe that the applicant or his or her family would be endangered by the applicant's inability to obtain a license immediately. The license would be unrestricted and would be valid for no more than 180 days, with the opportunity to renew the license for one additional period of no more than 180 days. The applicant would be required to surrender the temporary license to the board upon issuance or denial of the full license;
- if an applicant's fingerprint comparison was not received by the board within 30 days, the board would be required to issue the applicant a temporary license. In such cases, the temporary license would expire after 180 days, or as soon as the fingerprint report was received.

Carrying a Concealed Pistol. A license holder would be required to have the license in his or her possession anytime he or she was actually carrying a concealed pistol and would be required to show the license and

his or her driver license or Michigan personal identification card to a police officer at the officer's request. Failure to comply with an officer's request or failure to carry one's concealed pistol license would be a state civil infraction, subject to a fine of up to \$100. A license holder would also have to reveal that he or she was carrying a pistol, concealed about the person or vehicle. An individual who violated this provision would be responsible for a state civil infraction, and could be fined up to \$500 or receive a six-month license suspension, or both, for a first offense. For a second or subsequent offense, the penalty could be up to \$1,000 and revocation of license. In each case, the court would be required to notify the appropriate concealed weapon licensing board and the state police.

If an individual was discovered carrying a concealed weapon without a license, the weapon could be seized by a peace officer immediately. If the individual had no license to carry a concealed pistol, the weapon would be forfeited to the state for carrying or possessing a weapon in violation of state law. However, a license holder whose pistol was seized for failing to show his or her license to a police officer would be able to reclaim the pistol by showing his or her license to an authorized employee of the law enforcement agency holding the weapon within 45 days of the weapon's seizure. If the weapon was not claimed within 45 days, the law enforcement agency could dispose of the weapon in the same manner as if the owner had been unlicensed. A pistol would not be subject to seizure if the licensee had his or her driver's license or Michigan ID and the officer was able to verify that the individual had a license through the LEIN system.

The bill would also specify that a pistol carried in violation of the act would be subject to seizure and forfeiture in the same manner that property acquired during the commission of a crime is subject to forfeiture under the Revised Judicature Act. This provisions would not apply if the violation was a state civil infraction, unless the individual failed to present his or her license within the 45-day period.

Firearm Safety Training. An applicant would have to show that he or she had knowledge or training in the safe handling of a pistol. In order to adequately provide the required knowledge and training, a firearms safety program and instructor would have to be certified by this state or a national or state firearms training organization and provide instruction in at least the following areas: the safe use and handling of a pistol; ammunition knowledge and fundamentals of pistol shooting; pistol shooting positions; firearms and

the law, including civil liability issues; avoiding criminal attack and controlling violent confrontations; and Michigan's laws regarding carrying a concealed pistol. The course would have to include at least eight hours of instruction with three hours of firing range time and provide a certificate of completion.

A person or entity that provided instruction or training would be immune from civil liability for damages to any person or property caused by the person who was trained, unless the trainer were grossly negligent.

Alcohol Restrictions on License Holders. A license holder would be prohibited from carrying a concealed pistol while he or she was under the influence of alcoholic liquor or a controlled substance, or a combination of both. A peace officer who believed that a license holder was violating this prohibition could require the license holder to submit to a chemical analysis. The officer would first have to inform the license holder that he or she could refuse to submit to the test, but if he or she did refuse his or her license could be revoked or suspended and/or the officer could get a court order to require the license holder to submit to the test. The officer would also have to inform the license holder that if he or she submitted, he or she could choose who would perform the test. If the license holder refused to submit to the test or if the test was made and the results indicated a prohibited level of alcohol, the officer would be required to promptly report the refusal or violation in writing to the concealed weapon licensing board that issued the license.

The collection and testing of blood, breath, or urine for chemical analysis would be conducted in the same manner as such specimens are collected and tested for alcohol- and drug-related driving violations under the Michigan Vehicle Code.

A license holder who was found to be in violation of these restrictions would be subject to the following penalties:

- If the licensee had a bodily alcohol content (BAC) of 10 grams or greater per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, he or she would be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, a fine of \$100, or both. The court would also order the licensing board that had issued the individual's license to permanently revoke the license.
- If the licensee had a BAC of .08 to .10, he or she would be guilty of a misdemeanor, punishable by

imprisonment for up to 93 days, or \$100, or both. The court could order the licensing board to revoke the individual's license for up to three years, and the board would be required to comply.

- If the person had a BAC of .02 to .08 grams, he or she would be guilty of a state civil infraction, and could be fined not more than \$100. The court would be required to order the appropriate licensing board to revoke the individual's license for one year. The court would also be required to notify the concealed weapon licensing board that issued the person's license if he or she was found responsible for a subsequent violation.

The provisions against carrying a concealed pistol while intoxicated would not prohibit a licensee with any bodily alcohol content from transporting his or her pistol in the locked trunk of his or her motor vehicle or unloaded and separated from its ammunition in a locked compartment or container if the vehicle didn't have a trunk.

Restriction on where a person could carry a concealed pistol under a license. Under the bill, state and local units of government -- except for police agencies -- could not prohibit a person from either applying for and receiving a concealed weapon license or carrying a concealed weapon in compliance with such a license as a condition for receiving or maintaining any other license or permit. However, an employer could prohibit an employee from carrying a concealed pistol during the course of his or her employment. A police agency could also prohibit an employee from carrying a concealed pistol if doing so would result in increased insurance premiums or a loss or reduction of insurance coverage.

Further, a person (including one licensed by another state) could not carry a concealed weapon on the premises of certain institutions. These would include a school, or school property (except in the case of a parent in a vehicle, dropping off a child); a public or private day care center, child caring agency, or child placing agency; a sports arena or stadium; a dining room, or lounge in licensed premises (except for an owner or employee); any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless allowed by a presiding official; an entertainment facility that the person knows, or should know, has a seating capacity of 2,500 or more, or that has a sign above each public entrance stating the capacity in one-inch high letters; a hospital; a college, community college, or university dormitory or classroom.

The bill would prohibit a person (including one licensed by another state) from carrying a concealed pistol in violation of Administrative Code Rule R321.1212, pertaining to the Bureau of State Lottery, or a successor rule promulgated according to the Michigan Gaming Control and Revenue Act (MCL 432.201 et al.). A person who violated this provision would be responsible for a civil violation, guilty of a crime as follows:

- A first violation would be a civil violation with a possible fine of up to \$500. The court would be required to order the individual's license suspended for six months.
- A second violation would be a misdemeanor, with a fine of up to \$1,000 and license revocation.
- A third or subsequent violation would be a felony, punishable by up to four years imprisonment, a fine of up to \$5,000, or both, and license revocation.

Notification and reporting of crimes committed by license holders. If a license holder were charged with having committed a violent felony, felony, or specified criminal offense, the prosecuting attorney would be required to promptly notify the licensing board that had issued the license holder's license. The prosecuting attorney would also have to promptly notify the board of the disposition of the charge. If the license holder were convicted of the crime, the prosecuting attorney would be required to indicate to the board whether the crime had involved brandishing or use of a pistol, the license holder had been carrying a pistol during the commission of the crime, or if no pistol had been carried by the license holder during the commission of the crime. The state police would be required to provide a form for reporting this information.

If the concealed weapon licensing board was notified that a licensee had been charged with a felony or specified criminal offense, the board would immediately suspend the individual's license until there was a final disposition of the charge and would send notice of the suspension to the person's last known address. The notice would provide information that the individual was entitled to a prompt hearing on the suspension. The bill would specify that the individual would be entitled to 10 days notice of the hearing.

Each year the chair of the board would be required to compile and provide a report to the Department of State Police by a date determined by the director of the department. The report would contain the information reported by the prosecuting attorneys and the

information provided by the courts for failure to show a license to a peace officer, refusal to submit to a chemical test as required under the bill, or having any bodily alcohol content while carrying a concealed pistol.

Denials, revocations and appeals. A license that had been issued based on an application containing a material false statement would be void from the date it was issued.

Within five business days after denying a person's application for a concealed pistol license, a concealed weapon licensing board would be required to inform the applicant in writing of the reasons for the denial and of the applicant's right to appeal the board's decision to the circuit court. The explanation of the board's decision would have to include a statement of the facts supporting the denial, and copies of any writings, photographs, records, or other documentary evidence used to support the denial.

If the concealed weapon licensing board was notified by a law enforcement agency or prosecuting official that a licensee had been charged with a felony or misdemeanor, the board would be required to immediately suspend the individual's license pending the final disposition of the case. Notice of the suspension would have to be sent to the licensee's last known address as indicated in the board's records. The notice would have to inform the licensee that he or she was entitled to a prompt hearing on the suspension. Upon the licensee's written request, the board would have to hold such a hearing. The same provisions for a hearing would apply if the board suspended a license because it had determined by clear and convincing evidence, based on specific articulable facts, that the applicant posed a danger to the applicant or to another person.

A concealed weapon licensing board could revoke any license it issued if it determined that the individual was not eligible to have received the license or that the license holder had committed any violation of the act, except that a person could not have a license revoked for failing to show his or her license to a peace officer. However, if the board determined that the license holder had been found responsible for three or more civil infraction violations of the handgun licensure act, the board would be required to hold a hearing and could suspend the individual's license for no more than one year. Except where the licensee was charged with a felony or specified crime, or in situations where the board determined that the applicant posed a danger to the applicant or another person, in order to revoke a



license the board would have to issue a written complaint and provide the license holder an opportunity for a hearing before the board. The board would be required to give the individual at least ten days notice prior to the hearing. Notice would have to be served personally or by certified mail delivered to the individual's last known address. The clerk of the board would be authorized to administer an oath to anyone who testified before the board in such a hearing.

If a concealed weapon licensing board ordered a license suspended or revoked, or amended a suspension or revocation order, then it would immediately have to notify a law enforcement agency with jurisdiction in that county to enter the order, or amended order, into the LIEN, and the law enforcement agency would have to comply. The bill would also specify that a suspension or revocation order or amended order issued under this provision would be effective immediately. However, an individual would not be criminally liable for violating the order unless he or she had received notice. If an individual carried a pistol in violation of a suspension or revocation order or amended order, but had not previously received notice of the order, then he or she would have to be informed of the order and given an opportunity to properly store the pistol, or otherwise comply with the order or amended order, before an arrest could be made for the violation. A law enforcement officer or agency who notified an individual who had not previously received notice of a suspension or revocation order, or amended order, would be required to enter a statement into the LIEN specifying that the individual had been notified.

An applicant could appeal the board's decision to deny or fail to issue a license to the circuit court for the judicial district where he or she resides. An appeal of a denial, failure to issue a license, or issuance of a restricted license would be determined by a review of the record for error. However, a hearing on an appeal would be a trial *de novo* (from the beginning -- of the application and qualifications, not of the process) if the licensing board's decision was based on the grounds that issuing a license would threaten the safety of the applicant or another person. Witnesses would be sworn and a verbatim record would have to be taken. If the court determined that the licensing board's decision to deny or fail to issue a license or restricted license was erroneous, it would be required to order the licensing board to issue one. If the court determined that the board's denial of a license was arbitrary and capricious, it would be required to order the state to pay one-third, and the county in which the board was located two-thirds of the applicant's actual costs and

actual attorney fees for the appeal. However, if the court determined that an applicant's appeal was frivolous, it would be required to order the applicant to pay the actual costs and actual attorney fees of the board in responding to the appeal.

#### Concealed weapon license data bank and annual report.

The Department of State Police would be required to use information from concealed weapon licensing applications to create and maintain a computerized data base to keep track of who applied for licenses to carry concealed weapons. Information in the data base would be confidential and would not be subject to Freedom of Information Act (FOIA) provisions. It would not be disclosed to any person except for the purposes of the act or for law enforcement purposes. The data base would contain only the following information about each applicant:

- The names, dates of birth, addresses and county of residence of all applicants, and where applicable, the concealed weapon license number, and its expiration date. (Note. This information would be entered into the LIEN.)
- If the applicant had been denied a license after the effective date of the bill, the reasons for that denial. An explanation of why a license had been denied would be deleted from the data base if the individual were later issued a license.
- A statement of all criminal charges pending and convictions against the applicant during the license period.
- A statement of all determinations of responsibility for civil infractions of the handgun licensure act pending or obtained against the applicant during the course of the license period.

Annual Report. The state police would be required to file an annual report with the Secretary of the Senate and the Clerk of the House of Representatives. The report would have to contain all of the following information for each county concealed weapon licensing board:

- The number of applications received, licenses issued, licenses denied, licenses revoked, and the number of applications pending at the time of the report.
- The categories for the denials and categories for revocation.

- The mean and median amount of time and the longest and shortest times taken by the FBI to supply the fingerprint comparison report (this could be derived from a statistically significant sample).
- The number of charges of state civil infractions of the act or charges of criminal violations, categorized by offense, filed against licensed individuals that resulted in a finding of responsibility or a criminal conviction, including the number of crimes in each category of criminal offense involving the brandishing or use of a pistol, and the number involving the carrying of a pistol and the number in which no pistol was carried by the license holder during the commission of the crime.
- The number of pending criminal charges, and the number of criminal cases dismissed, categorized by offense, against licensed individuals.
- The number of cases filed against licensed individuals for criminal violations that resulted in a finding of not responsible or not guilty, categorized by offense.
- The number of suicides by persons licensed to carry a concealed pistol.
- The costs incurred per permit in each county.

For information concerning licensees' civil infractions and criminal charges, the report would include data that the attorney general is required to provide the state police, under the bill.

Concealed Weapon Enforcement Fund. The fund would be established in the state treasury, and used by the state police only to provide training to law enforcement personnel regarding the rights and responsibilities of individuals licensed to carry concealed pistols and proper enforcement techniques in light of those rights and responsibilities.

Appropriations for State Police Activities. The bill would specify that, according to Section 30 of Article IX of the State Constitution of 1963, the total state spending for the following activities for the fiscal year ending September 30, 2001, would be \$1 million. The bill would also specify that the appropriations made and the expenditures authorized under this provision of the bill, and the department, agencies, commissions, boards, offices, and programs for which an appropriation was made under this provision, would be subject to the provisions of the Management and Budget Act (MCL 18.1101 to 18.1594).

Under the bill, the Department of State Police would receive \$1 million from the general fund for the 2000-2001 fiscal year, for all of the following:

- Distributing trigger locks or other firearm safety devices to the public, free of charge.
- Providing concealed pistol application kits to county sheriffs, local police agencies, and county clerks for distribution, as provided under the bill.
- The fingerprint analysis and comparison reports, and the photographs required under the bill.
- Creating and maintaining the state police database of license applications, and the database of firearms reported lost or stolen, which is required under the bill. Information in the database would be made available to law enforcement through the LEIN.
- Grants to county concealed weapon licensing boards, to be used only for expenditures required under the bill.
- For training law enforcement personnel regarding concealed pistol licensees.
- For creating and distributing forms to report information regarding a crime committed by a concealed weapon licensee, as required under the bill.
- For a public safety campaign regarding the requirements of the bill.

Inapplicability of Licensing Requirements. Currently, it is specified under the act that current licensing and safety inspection provisions do not apply to certain entities, such as police agencies, the army, navy, marine corps, or air force, the national guard, and others. The bill would extend this exemption to include a member of one of these entities or organizations who was engaged in the course of his or her duties with that entity, or while going to, or returning from, those duties. The bill would also clarify that these exemptions apply only to U.S. citizens, U.S. forces, and to residents of other states who are licensed by those states to carry concealed pistols. The bill would clarify that current requirements for obtaining a license to carry a concealed pistol do not apply to persons such as peace officer, constable, and certain corrections employees; would replace archaic language; and would amend other provisions to comport to the provisions of House Bill 4532.

Forfeiture of Firearms. Current provisions concerning the forfeiture of firearms specify that they be turned over to the commissioner of the state police for disposal. The bill would specify, instead, that – subject to its forfeiture provisions – all pistols, weapons, or devices that were forfeited would be turned over to the director of the Department of State Police, who would dispose of them by one of the following methods:

- By conducting a public auction where they would be sold in compliance with provisions of the Revised Judicature Act.
- By destroying them.
- By any other lawful manner prescribed by the director.

Before disposing of a firearm, the director would have to do both of the following:

\*\* Determine through the LEIN whether the firearm had been reported lost or stolen, in which case the director would attempt to return it to its owner.

\*\* Provide 30 days' notice to the public on the department's web site of his or her intent to dispose of it, including a description of the firearm and its serial number. The owner would then have 30 days to reclaim it provided that he or she is authorized to possess a firearm.

The bill would specify that the Department of State Police is immune from civil liability for disposing of a firearm in compliance with these provisions.

Repealers. House Bill 4530 would repeal current provisions concerning concealed weapons license fees, concealed weapon licensing boards, forfeiture of firearms, and the waiver of renewal fees under the handgun licensure act for retired police officers.

House Bill 4532 would amend the Michigan Penal Code (MCL 750.231a) to delete current restrictions regarding the transportation of firearms. The bill would specify that any person could carry an unloaded pistol or antique firearm provided that it was unloaded, in a wrapper or container, in the trunk of a vehicle, or -- if the vehicle didn't have a trunk -- in the passenger compartment in a location that was locked or otherwise inaccessible to the vehicle's occupants.

## **BACKGROUND INFORMATION:**

County CCW Licensing Boards. Under Michigan's current system, each of the 83 county concealed weapon licensing boards is made up of the county prosecuting attorney, the county sheriff, and the director of the Department of State Police, or their authorized representatives. The prosecuting attorney or his or her representative is the chairperson of the board. The board is required to meet at least once per month and at other times at the call of the chair. These boards have the exclusive authority to grant an applicant a license to carry a concealed pistol on their person within the rules provided by state law.

In order to receive a license or permit to carry a concealed weapon (CCW license or permit) a person must fill out and submit an application to the county sheriff for the county where the applicant resides. The application forms require general information about the applicant and the applicant must indicate his or her reasons for needing a CCW permit and sign the application under oath. Depending upon where the applicant resides, the completed application form must be approved by the applicant's local chief of police or township supervisor. In such cases, if the application is not approved the applicant has ten days to appeal the objection in writing to the licensing board.

In addition, the applicant must have two sets of fingerprints taken by the local police or county sheriff; one set is checked by the state police while the other is sent to the FBI. Both sets are checked against existing records and reports are sent to the county clerk. The board is prohibited from issuing a license unless it receives a report from the state police and the FBI indicating that the comparisons of the fingerprints do not show that the applicant was convicted of or confined for a felony during the eight years preceding the application. A temporary permit for a period of not more than 30 days may be issued while waiting for the comparison reports. The Department of State Police retains the fingerprint cards.

Upon receiving the application and the fingerprint reports, the board notifies the applicant of the time and date of the board's meeting at which the applicant is to appear. At the meeting, the board reviews the application and the fingerprint report, and interviews the applicant. After the applicant's qualifications are reviewed and the interview is completed, the board votes on the request. A majority is required for approval. Restrictions as the board deems necessary may be placed upon the license. There are generally three types of licenses: target, range, and hunting

permits allowing the licensee to carry a pistol to and from shooting sites; home, bank, and business permits allowing the licensee to carry a pistol during the course of employment; and general carry permits allowing a licensee to carry a pistol without restrictions or with only limited restrictions.

A licensing board is prohibited from issuing a license to anyone who: is under the age of 18, is not a United States citizen, or has resided in the state for less than six months. In addition, the applicant cannot have been convicted of a felony in Michigan or elsewhere during the preceding eight years, or be subject to an order or disposition entered into the LEIN system for any of the following:

- involuntary commitment under the Mental Health Code,
- a finding of legal incapacity under the Revised Probate Code,
- a domestic violence or anti-stalking restraining order,
- a condition of bail that prohibits handgun ownership, or
- a finding of not guilty by reason of insanity.

In addition, the board must find that the applicant has good reason to fear injury to his or her person or property, or has other proper reasons for having a license to carry a concealed weapon, and is a suitable person to have such a license.

The current fee for a license is \$10, which is paid only if the license is approved. Three dollars go to the state treasurer, while the other seven dollars go to the county's general fund. A license is valid for three years and can be renewed by filing a new application and paying the \$10 fee. After receiving a license, the licensee is required to carry his or her license on his or her person while carrying a concealed weapon and must show the license to a police officer at the officer's request. The license itself contains identifying information, including a thumb print of the licensee and a list of any carrying restrictions. A pistol carried in violation of the act is subject to seizure and forfeiture.

A license may be revoked by the board upon notification from a magistrate that the license holder has been convicted of violating any provision of the license, or has been convicted of a felony. The board may also revoke a license when it determines that the

reasons for granting the license have ceased to exist or that the license holder is unfit to carry a concealed pistol. A license may not be revoked without a written complaint and hearing by the board with at least seven days' notice to the licensee by personal service or registered mail to his or her last known address.

Michigan Penal Code. In 1994, the legislature enacted laws to provide a penalty of up to 93 days' imprisonment for certain low level offenses. The enhanced penalties were adopted, in part, because the 93-day penalty would trigger statutory fingerprinting and criminal reporting requirements. When a person is arrested for an offense carrying a penalty exceeding 92 days, he or she is fingerprinted and the fingerprints are sent to the Criminal Records Division of the Department of State Police and the Federal Bureau of Investigation. As a result, a number of state law violations provide misdemeanor penalties of up to 93 days imprisonment, including larceny, embezzlement, receiving and concealing stolen property, and malicious destruction of property involving property worth less than \$200; domestic assault; first offenses of drunk driving and/or driving with a suspended license; and third degree retail fraud. These changes have allowed for better tracking of prior offenses when the offenders are prosecuted under state law. In addition, since local units of government often adopt ordinances based on state statutes, the legislature enacted Public Acts 55-59 of 1999, amending various local government enabling statutes to allow penalties of imprisonment for up to 93 days. The penalties will be incurred for a violation of an ordinance that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days.

### ***FISCAL IMPLICATIONS:***

House Bill 4530. According to the House Fiscal Agency, the bill would result in an indeterminate increase in state costs and revenues. The bill would also appropriate \$1 million to the Department of State Police (DSP).

The HFA estimates that the department would incur costs to enforce the regulations specified under the bill. Approximately \$122,000 in costs would be incurred as follows:

\*\$60,000 to upgrade the department's computerized database to process and store CCW license application records, and

\*Operating costs for the database: \$50,000 annually for one additional FTE position, and \$12,000 in annual maintenance costs.

The department would probably receive revenue in excess of costs for fingerprinting applicants, as follows:

\*Based on the experience of other states that have adopted "shall-issue" legislation in recent years (Kentucky, Texas, and Utah), the HFA estimates that there would be 25,000 to 100,000 applicants for CCW licenses in the first year. Each applicant would have to submit fingerprints to county gun boards for delivery to the FBI and the state police for background checks. The department would receive \$45 from the \$55 fee paid by each applicant. The HFA estimates that the cost of processing each set of fingerprints would be \$39 (\$15 for the state check and \$24 for the federal check). Consequently, revenues from fingerprinting applicants would be between \$1,125,000 and \$4,500,000, and costs would range between \$975,000 and \$3,900,000.

In addition to the \$55 application fee, each applicant would also pay a \$5 assessment. Revenue from this would be deposited in the new Concealed Weapon Enforcement Fund and used to provide training for law enforcement personnel regarding proper enforcement techniques in light of the rights and responsibilities of CCW licensees. Based on the estimated 25,000 to 100,000 first-year applicants, this should generate between \$125,000 and \$500,000 in the first year.

House Bill 4530 would also appropriate \$1 million to the DSP for the 2000-2001 fiscal year. The purposes specified for this appropriation include the distribution of trigger locks, the various costs of processing concealed weapon license applications, the creation of databases related to concealed weapons, grants to county concealed weapon licensing boards for implementation costs, training costs, the creation and distribution of forms required under the act, and a public safety campaign. (12-20-00)

House Bill 4532. The HFA estimates that House Bill 4532 would have no significant fiscal impact on the state. (12-21-00)

## **ARGUMENTS:**

### ***For:***

House Bill 4530 is needed to eliminate the current arbitrary and capricious system of issuing concealed

weapon licenses. Under the current system, approval of an application for a permit can often depend on who you know on the gun board rather than on objective grounds. Many supporters of the bill assert that in some counties the applications of deserving people have been rejected for no good reason, while the applications of former police officers and judges or others with close ties to the members of the gun board are routinely granted. In addition, applicants are required to bear the burden of showing that they should be granted a license and most people whose applications are denied are never told why the application was not approved, nor are they given an opportunity to contest the board's decision. This process is entirely different from any other licensing process. It should be changed to place the burden on the government rather than the citizen and to create a more uniform, and therefore more fair, basis for deciding who should be granted a license.

The bill will assure that every Michigan citizen has the same equal, fair, and impartial opportunity to obtain a CCW permit. Law-abiding citizens would know before applying what criteria they needed to meet in order to receive a license. If the license was denied, a citizen would have the right to know why it was denied and could appeal the denial and have a court hear and decide whether or not the application should have been approved. As with all other licenses, the government would have the burden of proving that its denial of the license was for a valid reason. The bill is a vast improvement over the current process, creating a system that is objective and uniform throughout the state, placing the burden of proof on the government, giving citizens fair warning about the criteria to be met, and allowing citizens due process and a right to appeal the decision of the board.

### ***For:***

One of the best means of self protection is to own a gun, and an even better means is to carry a gun on one's person. While a gun in the home can be used to deter, scare off, or, if necessary, wound or kill intruders, it is of little help when a person is away from home. Without a CCW permit, people are forced to put themselves at risk whenever they leave home.

In addition, allowing more honest citizens to carry guns benefits not only those citizens who are armed but also serves to protect those who choose not to carry a gun. According to some studies, confrontations with criminals where the would-be victim has a gun are more likely to end with would-be attacker fleeing than with shots being fired. Further, those who resist

attempted robberies or rape with a gun are half as likely as their unarmed counterparts to be injured.

In 1996 only nine states allowed their citizens to carry concealed weapons. Currently, though, there are 31 states that allow citizens to carry concealed weapons. Many of these states have seen their crime rates drop significantly during this time period. According to a University of Chicago study, concealed handgun laws reduced murder by 8.5 percent and severe assault by 7 percent from 1977 to 1992.

**Response:**

The University of Chicago study fails to take into account that, of the states included in the study, only Florida had a significant drop in its crime rate. Furthermore, the study also fails to note that overall crime rates have dropped during the time period of the study. Finally, conclusions drawn by the study are contradicted by the fact that during the same time period murder rates also fell dramatically in places with very strict concealed carry laws, like Boston, New York, and Los Angeles.

**For:**

Statistics indicate that the number of illegal weapons available on the streets is rising. (In a 1993 survey, 59 percent of grades 6 through 12 students reported that they knew where to get a gun if they needed it, and one-third of these said they could get a gun within an hour [Harris, L., "A Survey of Experiences, Perceptions, and Apprehension about Guns among Young People in America," LH Research, Inc., the Harvard School of Public Health, Cambridge MA, July, 1993]). As part of the continuing focus on gun violence, the bills would send a message to criminals that crimes committed by those who use or carry a gun would have consequences. For example, under House Bill 4530, applicants who had been convicted of a misdemeanor could not receive a permit within three years after their conviction. For those convicted of some higher level misdemeanors, applicants could not receive a permit until eight years had passed.

**For:**

The provisions of House Bill 4530 would make it easier to obtain a concealed weapon license in Michigan. However, there is some concern that this might be construed to mean that the state is relaxing its gun laws. In answer to this concern, the bill places new restrictions on permit holders that would limit where they may carry their guns, and require that each take a safety training course before getting a permit. The bill would also increase the minimum age for receiving a concealed weapon permit from 18 to 21 years of age.

Further, specific penalties would be provided for those who carry a pistol while under the influence of alcohol. In addition, while licensed gun owners would be allowed, under the bill, to transport their guns in their vehicles, the bill places many restrictions limiting where a gun may be carried once the person is out of the vehicle. This is seen as a particularly important precaution if the state is to allow more citizens to carry concealed weapons.

**Against:**

Currently, an applicant has to prove a need to carry a gun, and, in addition, the licensing board must find that the applicant had good reason to fear injury to his or her person, or injury to property. In any case, a license cannot be issued to a person who has been convicted of a felony. In addition, a licensing board is prohibited from issuing a license to anyone who has been entered into the Law Enforcement Information Network (LIEN) system for any of the following: involuntary commitment under the Mental Health Code, a finding of legal incapacity under the Revised Probate Code, a domestic violence or anti-stalking restraining order, a condition of bail that prohibits handgun ownership, or a finding of not guilty by reason of insanity.

Proponents of the bill maintain that its provisions would be stricter than these requirements, since, in addition to mandatory firearm training for applicants, it would add university classrooms and dormitories, hospitals, casinos and other areas to the list of places where concealed weapon license-holders could not bring pistols. Opponents point out that, under the bill, licenses still would be denied to two general categories of applicants: those with a history of mental illness, and convicted felons. However, there is no data base either planned, or in existence, that keeps track of all people with a history of mental illness. Opponents maintain that the list of names in the LIEN system couldn't adequately handle the flood of anticipated applications. Moreover, there would be no record of applicants with a history of mental illness who came here from other states, nor of those who had never been diagnosed. Consequently, many applicants could hide this aspect of the past, leaving open the possibility of now having weapons in the hands of unstable persons.

**Against:**

The provisions of House Bill 4530 stem from the philosophy that any law abiding citizen should be able to carry a concealed weapon. However, according to testimony presented to the House Conservation and Outdoor Recreation Committee by representatives from the Office of Attorney General, recent polls indicate

that the concept of arming people on demand is *not* supported by a majority of Michigan adults. Moreover, one consequence of the bill could be that an easy availability of guns in purses, pockets, and in glove boxes would lead to more guns being lost or stolen, and more children being intentionally and accidentally victimized by them. This is especially frightening when one considers that, even with current restrictions, firearms are the third leading cause of death for children between the ages of five and fifteen.

The testimony also included the results of a survey of students conducted by *USA Today*, which reported that nearly one million students had carried a gun to school during the 1997-98 school year, and that 51 percent of the students had threatened to harm a teacher and 63 percent another student. If the survey is accurate, then it is reasonable to believe that young people who see a parent put a pistol in his pocket or her purse would see no reason why they, too, could not protect themselves by carrying a gun. Once it becomes generally acceptable that everyone may carry a concealed weapon, not having a permit could be a mere technicality to an adolescent.

The testimony also notes that the nation's murder rate is at a 22-year low, the crime rate has dropped for the past six years, and Department of Justice statistics show a significant decrease in youth gun violence in the U.S. in recent years. In fact, this decrease coincides with the passage of the 1993 Brady Handgun Violence Prevention Act, or "Brady Law." Conversely, states with liberal gun laws experienced a significantly smaller drop in the crime rate between 1996 and 1997. Citing Federal Bureau of Investigation (FBI) uniform crime reports, the testimony noted that the 29 states that had liberal CCW laws at that time had a crime rate decrease of 2.1 percent, in comparison with 4.4 percent for the states with strict CCW laws; and the rate of violent crime for states with liberal CCW laws decreased by three percent, versus 4.9 percent in states with strict laws. In addition, according to the testimony, the three states with the most liberal gun laws -- Louisiana, Nevada, and Alaska -- had the country's highest firearm fatalities in during 1996.

It would appear that, as noted in the testimony, the bill is attempting to fix a system that isn't broken. In fact, in recognition of the fact that strict CCW laws are effective, voters in Missouri have recently rejected efforts to pass a bill similar to House Bill 4530. Similarly, governors in Ohio and Colorado have recently promised to veto any liberalized CCW bills that are presented to them.

### ***Against:***

In an April 28, 1999, letter directed to members of the Oakland Medical Society encouraging opposition to House Bill 4530, Dr. Barbara Meyer Lucas, Chair of the Public Health Committee of the Wayne County Medical Society, makes note of the following:

- it is estimated that handguns are present in one out of four homes in the U.S.,
- more than half of handgun owners report that they keep the guns unlocked at home, and many report keeping guns loaded and readily available,
- approximately 1.2 million latchkey children have access to guns when they come home from school,
- in a 1993 national survey, 59 percent of students in grades 6 through 12 reported that they knew where to get a gun if they needed it; and one-third of these said they could get a gun within an hour,
- 5,264 children age 16 and under were charged with carrying a concealed weapon in Wayne County between 1990 and 1998,
- 102 people die in the U.S. from gunshot wounds, including 15 children and teens under the age of 20, on an average day,
- a gun in the home increases the risk of domestic homicide threefold,
- for every instance in which a gun at home is used to kill in self-defense, 43 fatal shootings of family members or friends occur in suicides, non-justifiable homicides, and accidents.

### ***Against:***

The current CCW permit system should be retained. The reason there are different standards from one county to another is because the need is different from one county to another. The current system allows for local control over who gets to carry a concealed weapon in that county. Worse, the provisions of House Bill 4530, although ameliorated by some training requirements and other restrictions, will make Michigan a "shall issue" state. The gun boards will be required to issue a concealed pistol license to anyone who meets the criteria set forth in the bill. The current requirement that a person seeking a license show some need for the license is far safer for everyone and serves to limit the possession of such licenses to those who can prove a degree of need.

The proliferation of gun ownership will also, in spite of the training requirements, increase the risk of accidental shootings. Although the eight-hour training requirement would be an improvement if those provisions stood alone, it should be noted that members of the police force receive years of firearms training and accidents still happen; imagine the potential for increased accidents with large numbers of persons carrying concealed weapons who have only the required eight hours of training.

Furthermore, if enacted, the bill will simply lead to proliferation of guns on the streets, and an "old west" mentality where every argument is "solved" by the use of a gun. According to studies in Texas, where laws similar to those proposed in the bills have already been enacted, out of the 151,433 people who were issued concealed weapon licenses, 946 were arrested -- 263 for felonies. Of the 683 misdemeanor arrests, 194 were weapons-related charges and 215 were for driving while intoxicated. Family violence was involved in 42 of the arrests -- one for murder, one for attempted murder and seven for aggravated assault with a deadly weapon. The experiences in Texas and no doubt in other states clearly show that requiring the issuance of a CCW license increases the risk that licensees will not only include law abiding citizens.

**Response:**

The Texas study fails to take into account a number of factors. First, of the 946 arrests, nearly 30 percent resulted in dropped charges or acquittals. Second, 20 percent of the weapons-related offenses for which license holders were arrested were for failure to have their license in their possession. Therefore, the numbers are somewhat exaggerated; a better comparison would have been to look at the number of convictions. Furthermore, many of the more severe crimes cited did not involve the use of a weapon, nor did many of the crimes involve activities that could be realistically described as an abuse of the privileges of the license. Therefore, most of the criminal activity described really has no bearing on Texas' concealed weapon licensing policy.

**Rebuttal:**

To dismiss the findings of the report as irrelevant, because the crimes committed by the possessors of CCW licenses have not as yet been random shootings or other gun violence, is illogical. The crimes are significant when weighing the reasonableness of adopting a "shall issue" policy for providing concealed weapons licenses. Supporters of more liberal policies for carrying concealed weapons often support their arguments by asserting that all they wish to do is allow law abiding citizens to carry guns. Unfortunately, the

Texas study shows that without further precautions, "shall issue" laws result in a fairly large number of not-so-law-abiding citizens being given licenses. Even though none of these less-than-law-abiding licensees has gone on a rampage with his or her concealed weapon, the fact remains that clearly the "shall issue" process allows for concealed weapons licenses to be put into the hands of people who do not obey the laws, thus putting the general public at greater risk.

**Response:**

Even so, the results of the study, when taken in context, show that the criminal activity of persons with concealed weapons permits is an extremely small portion of the overall number of crimes committed. For example, of the 1,477 murders, only six involved concealed weapons holders; of 8,376 forcible rapes, only 18 were committed by CCW licensees; and of 80,613 aggravated assaults, only 234 were committed by CCW licensees.

**Against:**

The "shall issue" provisions of House Bill 4530, along with the *de novo* standard of review, would require the gun board to prove to the circuit court that the license was properly denied. Proving the propriety of the board's decision at a *de novo* hearing would certainly involve more time and expense for prosecutors, circuit courts, and local police than is required under the current system.

**Against:**

House Bill 4530 does not go far enough. While the act prohibits having a firearm on certain premises, such as a theater, sports arena, day care center, or hospital, or for possessing a weapon in a weapon-free school zone, the prohibition does not apply to parents, while in a vehicle, dropping of their children. Some might argue that guns should never be allowed on school property regardless of the circumstances.

In addition, the provisions against carrying a concealed pistol while intoxicated would not prohibit a licensee who had been drinking from transporting a pistol in the locked trunk of his or her motor vehicle. Some might argue that carrying a gun should not be allowed under any circumstances.

**Against:**

While some people claim a need for guns in their homes to protect their property and their families, in reality the provisions of House Bill 4530 will result in more people having guns while walking our streets and while driving. Moreover, while the presence of a weapon rarely, if ever, improves the type of situation



that erupts when tempers are frayed, many situations are made more dangerous by the presence of a gun. Many people have questioned the wisdom of allowing thousands more private citizens to carry concealed weapons, and many have marched in protest against this.

***Against:***

House Bill 4530, as introduced, did not include the current provision of a \$1 million appropriation for the Department of State Police. Some opponents argue that this was added at the last minute simply to make it more difficult for opponents of the legislation to place a referendum on the issue before the voters in the 2002 election year, since the state constitution bars referenda on bills that include spending.

***Against:***

Governor Engler has vetoed House Bill 4532. In his veto message, the governor noted that the bill would eliminate existing requirements that a pistol be transported only for explicit lawful purposes. (These provisions specifically affect hunters and range target shooters, antique firearm owners, and persons involved in other lawful activities, such as concealed weapon permit holders who are transporting a pistol between their homes and places of business or for repair. Otherwise, it is a felony, under the code, to transport a weapon in a vehicle.) Under House Bill 4532, a gun owner would be permitted to transport an unloaded pistol in a container or wrapper inside a vehicle's trunk or, if the vehicle didn't have a trunk, in the passenger compartment.

The governor stated that it is important to have strict guidelines regarding the transportation of weapons in a vehicle, since, according to Michigan State Police Uniform Crime Report data, many of the 18,000 arrests for weapons offenses during the past three years involved carrying a pistol in an automobile. Under the bill, however, a criminal would be allowed to transport a weapon in his or her vehicle, thereby making it feasible for weapons to be transported to the scene of a crime. Moreover, as written, the bill specifies only that the wrapper or container used to transport a pistol in a vehicle's passenger compartment not be readily accessible to the vehicle's occupants. The term "readily accessible" is overly vague should be defined.

Analyst: R. Young

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

