

# Legislative Analysis



## CONCEALED PISTOL LICENSES

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5471 (Proposed Substitute H-2)**

**Sponsor: Rep. Jennifer Haase**

**Committee: Tourism, Outdoor Recreation and Natural Resources**

**Complete to 2-24-10**

## A SUMMARY OF HOUSE BILL 5471 (PROPOSED FLOOR SUBSTITUTE H-2)

In recent years, many categories of persons have been exempted from the requirements for obtaining a concealed pistol license (CPL) under Michigan law. Section 12a of Public Act 372 of 1927 (MCL 28.432a) currently lists 11 different exemptions in subdivisions (1)(a) through (k). In addition, the categories of persons allowed to carry concealed pistols in otherwise prohibited places under Section 5o(4) has also been expanded. House Bill 5471 (proposed Substitute H-2) would further revise the concealed pistol license law, including making the following changes:

- Expanding the provision under which carrying a concealed pistol constitutes implied consent to a chemical analysis to some, but not all, people who are now allowed to carry concealed pistols in Michigan without meeting the requirements for a Michigan CPL. (The bill would extend the implied consent provision to out-of-state CPL holders and reserve military personnel, but would not extend it to Canadian peace officers, agents of firearms manufacturers, and persons without a CPL who are transporting a newly-purchased unloaded pistol to their homes or businesses or who are transporting an unloaded pistol between their homes or businesses and places of repair or other homes or businesses).
- Extending the provision prohibiting Michigan CPL holders from carrying concealed pistols in certain places such as schools, day care centers, hospitals, and college dormitories and classrooms, unless an exception applies, to persons with concealed pistol licenses from other states.
- Extending the provision that prohibits a Michigan CPL holder from carrying a concealed pistol in a casino to persons with a CPL from another state.
- Adding certain retired federal law enforcement officers to the list of persons who may carry concealed pistols in otherwise prohibited places.

### FISCAL IMPACT:

The bill would not have a fiscal impact on the state or local government.

### DETAILED SUMMARY:

Implied consent to chemical analysis. Under Section 5k of the act, acceptance of a concealed pistol license implies consent to a chemical analysis, and this implied

consent provision also applies to persons who are exempt from the requirements for obtaining a CPL under Section 12a(a)-(f). The bill would amend Section 5k to make it apply to persons exempt under Section 12a(a)-(h), rather than Section 12a(a)-(f). [This reference should probably read Section 12a(1)(a)-(h).] In other words, persons exempt from the requirements for obtaining a CPL under the specified sections are nevertheless subject to the implied consent provision.

The implied consent provision already applies to persons exempt under Section 12a(1)(a)-(f):

- Peace officers who are regularly employed and paid by the United States, the State of Michigan, or a subdivision of this state, except for township constables. [§12a(1)(a)]
- MCOLES-certified constables who are regularly employed and paid by a political subdivision of this state, during their official duties or going to or from official duties. [§12a(1)(b)]
- Regularly-employed Department of Corrections employees who are authorized in writing by the department's director to carry a concealed pistol during the performance of their duties or while going to or from their duties. [§12a(1)(c)]
- Regularly-employed local corrections officers working for a county sheriff, who are trained in the use of force and are authorized in writing by the county sheriff to carry a concealed pistol during the performance of their duties. [§12a(1)(d)]
- Regularly-employed city jail or lockup employees who have custody of detained or incarcerated persons, who are trained in the use of force, and who are authorized in writing by the police chief or the county sheriff to carry a concealed pistol during the performance of their duties. [§12a(1)(e)]
- Members of the United States army, air force, navy, or marine corps while carrying a concealed pistol in the line of duty. [§12a(1)(f)]

The bill would extend the implied consent provision to people in the following categories:

- Members of the national guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while going to or returning from their place of assembly or practice or while carrying a concealed pistol for purposes of that military organization. [§12a(1)(g)]
- Residents of another state licensed by that state to carry a concealed pistol. [§12a(1)(h)]

The bill would NOT extend the implied consent provision to the following categories of persons as to whom the act's requirements for obtaining a concealed pistol do not apply:

- The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms. [§12a(1)(i)]
- A person while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from one place of abode or business to another place of abode or business. [§12a(1)(j)]
- Canadian peace officers or law enforcement officers. [§12a(1)(k)]

Prohibited places for concealed carry. Section 5o(1) of the act provides that, subject to certain exceptions, neither a Michigan CPL holder nor a person exempt from licensure under 12a(1)(f) (members of the U.S. army, navy, air force, or marines) may carry a concealed pistol on the premises of any of the prohibited places listed in the act, which include schools, day care centers, sports arenas, hospitals, and college dormitories and classrooms. The bill would change the reference in 5o from a person exempt from licensure under Section 12a(1)(f)(armed forces members) to a person exempt under Section 12a(1)(h)(out-of-state concealed pistol license holders). Section 12a(1)(h) refers to a person licensed in another state to carry a concealed pistol. This change would apparently make the places where Michigan CPL holders may not carry a concealed pistol also apply to holders of concealed pistol licenses from other states (unless one of many exceptions applied). It would also allow members of the armed forces to carry concealed pistols in the specified prohibited places while on duty.

Casinos. Section 5o(2) of the act currently provides that that neither a Michigan CPL holder nor a member of the U.S. armed forces exempt from needing to meet the requirements of a Michigan CPL person may carry a concealed pistol in violation of a specified rule (R 432.1212 or its successor) promulgated under the Michigan Gaming Control and Revenue Act, prohibiting firearms and other weapons from being carried in casinos. The bill would amend this section so that it specifies that neither Michigan CPL holders nor holders of a CPL from another state may carry a concealed pistol in violation of casino rules. Members of the armed forces would not longer be specifically required to abide by casino restrictions.

Allow retired federal law enforcement personnel to carry a concealed pistol in an otherwise prohibited place. Places where even someone with a Michigan CPL (or

someone who is in a specified category of people allowed to carry a concealed pistol here without a Michigan CPL) cannot carry weapons are listed in Section 5o(1) of the act. This list includes schools, day care centers, sports arenas, certain bars and taverns, churches, certain entertainment facilities, hospitals, and college dormitories and classrooms. However, Section 5o(4) contains a long list of people allowed to carry concealed pistols even in these places. The bill would add certain retired federal law enforcement officers to this list, allowing them to carry concealed pistols in otherwise prohibited places. This exception would apply to retired federal law enforcement officers who met the bill's definition of "federal law enforcement officer" and who carried a firearm during the course of their federal employment. The concealed weapon licensing board could require a letter from the law enforcement agency that employed the officer immediately before his or her retirement stating that the person retired in good standing.

MCL 28.425k & 28.425o

Legislative Analyst: Shannan Kane  
Fiscal Analyst: Jan Wisniewski

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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.