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Senate Bill 792 (as introduced 9-9-09)
Sponsor: Senator Roger Kahn, M.D.
Committee: Hunting, Fishing and Outdoor Recreation

Date Completed: 11-10-09

CONTENT

The bill would amend Public Act 372 of 1927, which provides for concealed weapon licenses, to name the Act the "Michigan Firearms Act", and do the following:

- Allow a person to transport or store a firearm or ammunition in a privately owned motor vehicle in the parking area of a business, commercial enterprise, employer, or State service agency.**
- Prohibit a business, commercial enterprise, employer, or State service agency from prohibiting a person from transporting or storing a firearm or ammunition as provided in the bill.**
- Allow a person to bring a civil action against a person or entity that denied him or her the ability to transport or store a firearm or ammunition as permitted.**
- Prohibit a business, commercial enterprise, employer, or State service agency from discharging or penalizing an employee who transported or stored a firearm as permitted.**
- Allow a person who was discharged or penalized to demand that the entity take certain actions, and to bring a civil action if the demand were not met.**

Under the bill, a person who lawfully possessed a firearm or ammunition could transport it in a privately owned motor vehicle or store it in a parked and locked privately owned motor vehicle that was present in a business's, commercial enterprise's, employer's, or State service agency's parking lot, parking garage, or other area designated or otherwise used for parking vehicles if the firearm were kept out of plain view and in a manner described in Chapter 37 (Firearms) of the Michigan Penal Code or otherwise allowed by law.

("Motor vehicle" would mean any vehicle that is required to be registered with the Secretary of State, including an automobile, truck, minivan, sport utility vehicle, or motorcycle.)

Except as provided below, a business, commercial enterprise, employer, or State service agency could not prohibit a person who lawfully possessed a firearm from transporting or storing the firearm or ammunition in a locked and privately owned motor vehicle that was parked in a parking lot, parking garage, or other area designated for parking vehicles.

A business, commercial enterprise, employer, or State service agency could adopt a policy that required a firearm and ammunition to be stored out of plain view. The bill states that it would not create a new duty on the part of any business, commercial enterprise, employer, or State service agency beyond the duty specified in the bill.

Except in the case of gross negligence, a business, commercial enterprise, employer, or State service agency would not be liable in a civil action for damages resulting from or arising out of another person's act involving a firearm or ammunition that was transported or stored as described in the bill.

A person who was or would be denied the ability to transport or store a firearm or ammunition by a business, commercial enterprise, employer, or State service agency in violation of the bill, and who would otherwise be entitled to do so legally could bring an action to enjoin any person, business entity, commercial enterprise, employer, or State service agency from violating the bill. A prevailing plaintiff would have to be awarded costs and attorney fees.

A business, commercial enterprise, employer, or State service agency could not discharge, or otherwise penalize, an employee for transporting or storing a firearm as authorized by the bill. An employee who transported or stored a firearm or ammunition as authorized and was discharged for violating a policy or rule prohibited under the bill could demand that the business, commercial enterprise, employer, or State service agency take all of the following actions:

- Reinstatement of the employee to the same position he or she held at the time of his or her termination from employment, or to an equivalent position.
- Reinstatement of the employee's full fringe benefits and seniority rights, if any.
- Compensation of the employee for any lost wages, benefits, or other lost remuneration, including unpaid leave or furlough, caused by the termination.
- Payment of reasonable attorney fees and costs incurred by the employee in seeking redress for a violation.

If the business, commercial enterprise, employer, or State service agency denied a demand or failed to respond within 14 days, the employee could bring a civil action for wrongfully discharging or penalizing him or her in violation of the bill. As applicable, a prevailing plaintiff would be entitled to all of the remedies described above (reinstatement, compensation, etc.).

It would be a complete defense to an action under the bill that compliance would necessitate the violation of another applicable Federal or State law or regulation. This defense, however, would not apply if compliance could be reconciled with the other law or regulation.

The bill would not apply if the motor vehicle were owned or leased by the employer and used by an employee in the course and scope of his or her employment, unless the employee were required to transport or store a firearm in the discharge of his or her duties.

The bill would not authorize a person who held a license to carry a concealed pistol to possess the pistol in a concealed manner other than as prescribed under the Act.

Proposed MCL 28.421b & 28.436

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate impact on State and local government. The extent to which a governmental unit could be involved in future actions resulting from the bill is not ascertainable.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.