

Legislative Analysis



NO CARRY ZONE PROVISIONS: EXPAND EXEMPTIONS

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House Bill 4133 (Substitute H-1)
Sponsor: Rep. Joel Johnson

House Bill 4134 with committee amendment
Sponsor: Rep. Frank D. Foster

House Bill 4350 (Substitute H-1)
Sponsor: Rep. Tom Leonard

Committee: Judiciary
Complete to 11-11-13

A SUMMARY OF HOUSE BILLS 4133, 4134, AND 4350 AS REPORTED BY COMMITTEE

The bills would allow the following individuals who had a license to carry a concealed pistol to carry that pistol in a "no-carry" zone:

- Retired corrections officer of a county sheriff's department.
- Active or retired corrections officer, active or retired absconder recovery unit member, or a retired parole or probation officer of the Department of Corrections.
- Certain retired federal law enforcement officers.
- Active or retired probation officers of any court.
- A current or former county prosecuting attorney or current or former assistant prosecuting attorney.

The legislation would also allow a peace officer or an active duty or honorably discharged member of the U.S. Armed Forces who wanted to apply for a license to carry a concealed pistol to be exempt from the educational requirements.

Currently, even if a person holds a concealed pistol license (CPL), he or she cannot carry the concealed pistol into certain places such as day care centers or bars - known as *no-carry zones* - unless specifically allowed by statute. Specifically, the bills would do the following:

House Bill 4133 would amend the Handgun License Act (MCL 28.425o) to specifically authorize a retired corrections officer of a county sheriff's department, as well as an active or retired corrections officer or absconder recovery unit member of the Department of Corrections (DOC), who held a concealed pistol license (CPL) under the act to carry a pistol in a no carry zone. Probation and parole officers of the DOC are currently allowed to carry a pistol under a CPL in a no carry zone; the bill would extend this authority to retired probation and parole officers. The concealed weapon licensing board could

require a letter from a county sheriff's department or the DOC stating that the retired corrections officer, parole or probation officer, or absconder recovery unit member retired in good standing. The bill would also exempt an active or retired probation officer of a Michigan court from the no-carry law. The concealed weapon licensing board could require a letter from the court stating that the retired probation officer retired in good standing.

The bill would also make several revisions of a technical nature to references to Section 12a to conform to changes made to that section by Public Act 559 of 2006.

House Bill 4134 would also amend the Handgun License Act (MCL 28.425l and 28.425o). The bill would exempt a peace officer who applied for a CPL from the educational requirements under Section 5b(7)(c). That provision requires the applicant to have knowledge and have had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of Section 5j, and that is available to the general public and presented by a law enforcement agency, junior or community college, college, or public or private institution or organization or firearms training school. The bill would exempt a person on active duty status with, or who had received an honorable discharge from, the U.S. Armed Forces from the firing range component of the educational requirements (the person would need to complete the other components).

In addition, the bill would specifically authorize a retired federal law enforcement officer who held a concealed pistol license (CPL) under the act, and who had carried a firearm during the course of employment, to carry the pistol in a no carry zone. The concealed weapon licensing board could require a letter from the law enforcement agency that had employed the officer immediately prior to retirement stating that the officer retired in good standing. The bill would define "federal law enforcement officer" to mean an officer or agent employed by a law enforcement agency of the U.S. government whose primary responsibility is enforcing the laws of the U.S.

The bill would also make several revisions of a technical nature to references to Section 12a to conform to changes made to that section by Public Act 559 of 2006.

House Bill 4350 would amend Section 5o of the handgun license act (MCL 28.425o) to authorize the following persons who hold a concealed pistol license under the act to carry the pistol in a no carry zone:

- A current or former prosecuting attorney of a county.
- A current or former assistant prosecuting attorney of a county.
- A former auxiliary officer or reserve officer of a police or sheriff's department who had served for at least five years. The concealed weapon licensing board could require a letter from the law enforcement agency stating that the individual left the agency in good standing.

The bill would also make several revisions of a technical nature to references to Section 12a to conform to changes made to that section by Public Act 559 of 2006.

BRIEF DISCUSSION ON THE BILLS:

The bills expand the list of individuals who may carry a concealed pistol into a no carry zone to include individuals who work in or retired from professions that put them in greater contact with criminals and thus carry a greater risk of harm from someone seeking retribution. Proponents of the bill say that these individuals are most vulnerable when dropping their children off at day care or school, attending church, or when entering any of the current gun-free zones. The bills will enable them to protect themselves and their families, and also act as a deterrent for those who would endanger others by targeting them in no carry zones.

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

Current or former military personnel would have the firing range portion of the educational instruction requirement waived under House Bill 4134 in recognition of their service training. Since many may not be aware of gun laws specific to the state of Michigan, the rest of the educational requirements could be beneficial. However, the firing range component waiver appears to apply to any former military service, even if the person separated from the service many years, even decades, earlier and had no firearm training or experience since.

FISCAL IMPACT:

House Bill 4134 would not likely have a significant fiscal impact on the state or on local units of government. Peace officers are exempt from the CPL requirements specified in the act, although they are generally subject to the licensure requirements specified in Section 2 (license to purchase, etc.) A license under Section 2 is generally not required for CPL holders. Exempting peace officers from the educational requirements could prompt more peace officers to apply for a CPL as a way to ease the burdens imposed under Section 2.

As such there could be an increase in applications and a concomitant increase in application revenue from the \$105 application fee, which is shared by the state and counties. County clerks, sheriffs, and prosecutors could see some added workload in the processing of these CPL applications, with those processing costs offset (to some degree)

by their \$41 share of the application fee. Waiving the education requirements for individuals in the active duty military and honorably discharged veterans categories would appear to have no fiscal impact on the state or on local units of government.

POSITIONS:

A representative of the Michigan Corrections Organization testified in support of House Bill 4133. (10-17-13)

A representative of the Prosecuting Attorneys Association testified in support of House Bill 4350. (10-17-13)

The Michigan Association of Chiefs of Police indicated support for House Bills 4133 and 4350. (10-17-13)

The Department of State Police indicated a neutral position on the bills on 10-17-13 and support for HB 4134 on 11-7-13.

The Michigan Veterans Affairs Agency indicated a neutral position on HB 4134. (1-17-13)

Representatives of Michigan Open Carry testified in opposition to the bills. (10-17 and 10-31-13)

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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.