

# Legislative Analysis



## **EXPIRED CPL: REVISE PENALTY**

Phone: (517) 373-8080  
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**House Bill 4458 as reported from committee w/o amendment**  
**Sponsor: Rep. Shane Hernandez**  
**Committee: Judiciary**  
**Complete to 9-26-17**

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

***BRIEF SUMMARY:*** The bill would establish a civil fine, instead of the current felony penalty, for carrying a concealed pistol on an expired concealed pistol license if the license had expired within the previous 6 months.

***FISCAL IMPACT:*** The bill would have an indeterminate fiscal impact on the state and on local units of government. To the extent there is an increase in the number of offenders subject to civil fines, there would be an increase in revenues going to the state Justice System Fund, which supports various justice-related endeavors in the judicial branch, and the Departments of State Police, Corrections, and Health and Human Services. An increase in costs to the judiciary and local court funding units would depend on how the bill affects court caseloads and related administrative costs.

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

A concealed pistol license, or CPL, allows a person to carry a conceal pistol (with some restrictions) on his or her person and also in a vehicle whether the pistol is concealed or not. Similarly to a driver license, a CPL expires on the holder's birthday, but, depending on the date of issue, may be valid for 4 to 5 years. Just as people sometimes forget to renew their driver licenses, so a person may forget to renew his or her CPL. Carrying a concealed pistol after the CPL expires can result in the person being convicted of a felony with a prison sentence of up to 5 years and a fine that can be as high as \$2,500, or both. Some believe that this penalty is excessive for an act that is due to forgetfulness rather than criminal intent to skirt the law. It has been suggested that a lesser penalty apply if the license had only recently expired.

### ***THE CONTENT OF THE BILL:***

Currently, a person is prohibited from carrying a pistol concealed on or about his or her person, or, whether concealed or not, in a vehicle he or she is operating or is a passenger without a concealed pistol license (CPL). Even if licensed, the person must not carry the pistol in a place or manner inconsistent with any restrictions upon the license. A violation is a felony punishable by a maximum of 5 years imprisonment and/or a fine of not more than \$2,500.

House Bill 4458 would amend the Michigan Penal Code to provide a less severe penalty for a CPL holder who carried a concealed pistol on his or her person or carried a pistol in a vehicle after the license expired. The person would be subject to a civil fine of \$330 instead of the felony penalty described above *if* both of the following conditions were met:

- The CPL expired not more than 6 months before the date of the violation.
- The person were eligible to obtain a CPL under Section 5b of the Handgun License Law.

If the person received a renewal license within 60 business days after the violation, he or she would not be subject to the civil fine.

MCL 750.227

***ARGUMENTS:***

***For:***

Simply speaking, the bill would establish a more reasonable penalty for when a CPL holder forgets to renew his or her license and continues carrying a concealed pistol on his or her person or in his or her vehicle. Currently, even carrying the day after the license expired can result in a 5-year prison sentence. As a convicted felon, the person would then lose his or her right to possess any firearm for the rest of his or her life. This means that an otherwise law-abiding citizen could never hunt again, nor be able to have a gun in the home or carry a gun for personal protection. A conviction could also result in immediate loss of employment or housing and difficulties finding either in the future.

The bill would instead make it a civil infraction if not more than 6 months had passed since the license expired. The fine established in the bill represents 3 times the cost of a license. This is enough of a sting, and a wake-up call, to ensure that CPL holders will check their licenses each year to verify when it is time to renew. The current penalty will remain in statute, and can be used as appropriate for people intentionally carrying concealed without a license. Further, even if a CPL holder forgets to check the license expiration date and exceeds the 6-month period, but continues to carry concealed, he or she could still face the harsher felony penalty.

***Against:***

Carrying a concealed pistol should not be taken lightly, and CPL holders should be held to a higher level of responsibility. The 6-month period, coupled with immunity from even the civil fine if the license were renewed within 60 business days of the violation, means that a person could have carried for over 8 months without a valid license. Even driving on an expired driver license, which this offense has been compared with, is a misdemeanor punishable by up to 90 days in jail and/or a fine of not more than \$100. Though the felony penalty may be excessive when the intent was not to break a law, the "fix" offered by the bill seems too lenient in light of the seriousness of carrying a deadly weapon in public. Moreover, county clerks are required to send notices to CPL holders within 3 to 6 months before a license expires that the expiration date is nigh.

***Response:***

With how busy a person's life can get, it is just easy to forget to check, even with getting a reminder from a county clerk, which year the CPL is expiring. For those aliens who have legal residency, being convicted of a criminal offense, even a traffic misdemeanor, can be grounds for deportation. In addition, there is no benefit for a CPL holder to delay renewing a license as it would result in a shortened effective length of the person's next license. Further, under current law, a CPL can be renewed up to 1 year after it expires. Therefore, some feel that the period in the bill for which a concealed pistol can be carried under an expired license should be extended to a full year.

***POSITIONS:***

A representative of Michigan Open Carry testified in support of the bill. (9-12-17)

Michigan Coalition for Responsible Gun Owners indicated support for the bill. (9-12-17)

The National Rifle Association of America submitted written testimony in support of the bill. (9-12-17)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Robin Risko

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