

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 64

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

MICHAEL C. WIENER

AN ACT

RELATING TO FIREARMS; ENACTING THE PERSONAL PROTECTION ACT;
REQUIRING A LICENSE TO CARRY A CONCEALED LOADED FIREARM;
PROVIDING FOR APPLICATION FEES; CREATING A FUND; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. --Sections 1 through 14 of this act may be cited as the "Personal Protection Act".

Section 2. [NEW MATERIAL] DEFINITIONS. --As used in the Personal Protection Act:

A. "applicant" means a person seeking a license to carry a concealed firearm;

B. "department" means the department of public safety; and

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

1 C. "firearm" means a loaded pistol or revolver that
2 will convert or is designed to convert or may readily be
3 converted to expel a projectile by the action of an explosion
4 and the barrel length of the pistol or revolver does not exceed
5 twelve inches, not including a revolving, detachable or magazine
6 breech.

7 Section 3. [NEW MATERIAL] DATE OF LICENSURE. -- Effective
8 January 1, 1997, the department shall issue concealed firearm
9 licenses to qualified applicants.

10 Section 4. [NEW MATERIAL] APPLICATION FORM - SCREENING OF
11 APPLICANTS. --

12 A. An applicant shall fill out an application form
13 made available by the department. In addition to other
14 information deemed necessary, the applicant shall provide the
15 department with the following information:

- 16 (1) his name, current address and place and
17 date of birth;
- 18 (2) proof of citizenship of the United States;
- 19 (3) proof that either he has been a resident of
20 New Mexico for not less than three months or he is a member of
21 the armed forces whose permanent duty station is located in New
22 Mexico, or he is a dependent of such a member;
- 23 (4) proof that he is twenty-one years of age or
24 older;
- 25 (5) whether he has been convicted of a felony

1 in New Mexico or any other state or under the laws of the United
2 States;

3 (6) whether he has been convicted during the
4 previous five years of a misdemeanor regarding possession or
5 abuse of a controlled substance in New Mexico or any other state
6 or under the laws of the United States;

7 (7) whether he has ever been adjudicated
8 mentally incompetent;

9 (8) whether he is currently under indictment
10 for allegedly committing a felony criminal offense;

11 (9) whether he is addicted to alcohol or drugs;
12 and

13 (10) a set of fingerprints. The applicant
14 shall bear the expense of providing the set of fingerprints.

15 B. In addition to the information that must be
16 provided by an applicant pursuant to Subsection A of this
17 section, the application form shall include:

18 (1) a signed statement by the applicant that he
19 is aware of and understands the requirements for licensure set
20 forth in the Personal Protection Act; and

21 (2) a conspicuous warning that the application
22 form is executed under oath and that a materially false answer
23 to any question on the application form or the submission of a
24 materially false document may result in denial or revocation of
25 a license and may subject the applicant to criminal prosecution

Underscored material = new
[bracketed material] = delete

1 for perjury, as provided for in Section 30-25-1 NMSA 1978.

2 C. At the time an applicant seeks a concealed
3 firearm license, the department shall conduct a background check
4 to verify the information provided by the applicant to the
5 department.

6 Section 5. [NEW MATERIAL] DEMONSTRATION OF ABILITY AND
7 KNOWLEDGE-- COURSE REQUIREMENTS-- PROPRIETARY INTEREST-- FEES. --

8 A. An applicant shall be required to submit to the
9 department a legible copy of a certificate that indicates he has
10 successfully completed a standardized firearms safety and
11 training course. The firearms safety and training course shall
12 include a written examination on the subject of New Mexico laws
13 regarding self-defense and the lawful use of firearms. The
14 firearms safety and training course shall be conducted by an
15 instructor certified by a federal or state law enforcement
16 agency or a nationally recognized association that offers a
17 firearms safety and training course.

18 B. An instructor for a firearms safety and training
19 course shall submit to a background investigation, including a
20 criminal history records check and a search for outstanding
21 warrants. Two sets of fingerprints for each instructor shall be
22 provided to the department.

23 C. A person shall apply to the department for
24 approval of a firearms safety and training course. The
25 department may approve a firearms safety and training course

. 108466. 4

1 that is sixteen hours in length and that includes the following
2 elements:

3 (1) instruction regarding basic firearms safety
4 and types of firearms and ammunition;

5 (2) instruction regarding a thorough review of
6 New Mexico law concerning the lawful use of deadly force for
7 self defense. This element of the training course shall be
8 developed by the department as a videotape presentation to
9 ensure uniformity of information provided to applicants. The
10 department shall provide a copy of the videotape to a person
11 approved to conduct a firearms safety and training course, and
12 that person shall use the videotape for this element of the
13 training course;

14 (3) marksmanship training; and

15 (4) instruction regarding firearms care and
16 maintenance, safe storage of a firearm and proper methods for
17 carrying a concealed, loaded firearm.

18 D. A person's proprietary interest in his firearms
19 safety and training course shall be safeguarded by the
20 department, and the contents of any course shall not be
21 disclosed to any other person, except a law enforcement agency
22 that requests the information pursuant to a court order.

23 E. A person who conducts a firearms safety and
24 training course approved by the department may establish his own
25 fee schedule for the course.

Underscored material = new
[bracketed material] = delete

1 F. The requirements set forth in Subsection A of
2 this section shall be waived for an applicant who is currently:

3 (1) certified to teach a firearms and safety
4 training course, pursuant to the provisions of Subsection A of
5 this section;

6 (2) serving on active duty or active reserve
7 duty as a law enforcement officer in New Mexico for a period of
8 not less than five consecutive years prior to submission of his
9 application; or

10 (3) honorably retired from active duty with a
11 federal or New Mexico state, county or municipal law enforcement
12 agency, when the period of retirement does not exceed five years
13 prior to submission of his application.

14 Section 6. [NEW MATERIAL] DEPARTMENT RESPONSE REGARDING
15 FIREARMS AND SAFETY TRAINING COURSE SUBMITTED FOR APPROVAL. --

16 A. No later than sixty days after a person applies
17 to the department for approval of a firearms safety and training
18 course, following submission of documents required pursuant to
19 the provisions of the Personal Protection Act, the person's
20 application for approval of his course shall be approved or
21 denied.

22 B. The department shall not arbitrarily deny a
23 person's application for approval of a firearms safety and
24 training course. If the department denies a person's
25 application for approval of a firearms and safety training

. 108466. 4

Underscored material = new
[bracketed material] = delete

1 course, the grounds for denial shall be set forth in writing and
2 provided to that person.

3 C. If a person's application for approval of a
4 firearms safety and training course is approved, the department
5 shall provide that person with formal notification of approval.
6 The person shall display the formal notification of approval in
7 a prominent place on the premises where the firearms safety and
8 training course is conducted.

9 Section 7. [NEW MATERIAL] DEPARTMENT RESPONSE TO
10 APPLICATION-- POSSESSION OF LICENSE. --

11 A. No later than sixty days following submission of
12 the documents required pursuant to the provisions of the
13 Personal Protection Act, an applicant's request for licensure or
14 license renewal shall be approved or denied.

15 B. The department shall not arbitrarily deny
16 issuance of a license to an applicant. If the department denies
17 an application, the grounds for denial shall be provided to the
18 applicant in writing.

19 C. If the applicant's request for licensure or
20 license renewal is approved, the department shall send the
21 applicant formal notification of approval. The applicant may
22 take the formal notification of approval to a field office of
23 the motor vehicle division of the taxation and revenue
24 department, where the applicant will be photographed. The
25 photograph shall appear on the concealed firearm license with

Underscored material = new
[bracketed material] = delete

1 the applicant's signature. The department shall provide ten
2 dollars (\$10.00) to the motor vehicle division for each license
3 that the division creates and issues.

4 D. The licensee shall have the concealed firearm
5 license in his possession at all times while carrying a
6 concealed firearm.

7 Section 8. [NEW MATERIAL] SURRENDER OF LICENSE. -- A person
8 licensed pursuant to the provisions of the Personal Protection
9 Act shall surrender his concealed firearm license to the
10 department when that person prepares to leave New Mexico with
11 the intent to establish residence elsewhere.

12 Section 9. [NEW MATERIAL] LICENSE REVOCATION. -- A person
13 licensed pursuant to the provisions of the Personal Protection
14 Act shall have his license immediately revoked by the department
15 if the person is:

- 16 A. convicted for a felony criminal offense; or
17 B. adjudicated mentally incompetent.

18 Section 10. [NEW MATERIAL] LIMITATION ON LICENSE. --
19 Nothing in the Personal Protection Act shall be construed as
20 allowing a person having a valid concealed firearm license to
21 carry a concealed firearm into or on a premise where to do so
22 would be in violation of existing law.

23 Section 11. [NEW MATERIAL] PREEMPTION OF LICENSE BY
24 TRIBAL LAW. -- A concealed firearm license shall be valid on
25 tribal land unless the governing body of an Indian nation, tribe

Underscored material = new
[bracketed material] = delete

1 or pueblo has preempted the Personal Protection Act by enacting
2 law prohibiting the carrying of a concealed firearm on tribal
3 land.

4 Section 12. [NEW MATERIAL] DEPARTMENT TO ADMINISTER--
5 RULES AND REGULATIONS. --

6 A. The department shall promulgate rules and
7 regulations necessary to implement the provisions of the
8 Personal Protection Act with assistance from a seven-member task
9 force appointed by the governor. The rules and regulations
10 shall include grounds for the revocation and suspension of
11 licenses issued pursuant to the provisions of the Personal
12 Protection Act. The rules and regulations shall be promulgated
13 no later than January 1, 1997.

14 B. The department shall perform background checks on
15 applicants.

16 C. The department shall cooperate with other law
17 enforcement agencies and the motor vehicle division of the
18 taxation and revenue department to ensure the implementation of
19 the provisions of the Personal Protection Act.

20 Section 13. [NEW MATERIAL] FEES--RENEWAL. --

21 A. When an applicant submits an application form and
22 other required documentation to the department, he shall pay a
23 nonrefundable fee of fifty dollars (\$50.00) to the department.
24 A concealed firearm license shall be valid for a three-year
25 period from the date of issuance.

Underscored material = new
[bracketed material] = delete

1 B. When a licensee submits a license renewal form to
2 the department, he shall pay a nonrefundable fee of fifty
3 dollars (\$50.00).

4 C. At the time a licensee seeks to renew a concealed
5 firearm license, the licensee shall:

6 (1) be re-photographed;

7 (2) re-submit to a background check; and

8 (3) complete a refresher firearms safety and
9 training course that is at least two hours in length and that
10 includes the following elements:

11 (a) instruction regarding basic firearms
12 safety;

13 (b) instruction regarding a review of New
14 Mexico law concerning the lawful use of deadly force for self
15 defense; and

16 (c) marksmanship training.

17 Section 14. [NEW MATERIAL] FUND CREATED. --

18 A. There is created in the state treasury the
19 "personal protection license fund".

20 B. All money received by the department pursuant to
21 the provisions of the Personal Protection Act shall be deposited
22 by the state treasurer for credit to the personal protection
23 license fund. The state treasurer shall invest the fund as all
24 other state funds are invested, and income from the investment
25 of the personal protection license fund shall be credited to the

Underscored material = new
[bracketed material] = delete

1 fund. Balances remaining at the end of any fiscal year shall
2 not revert to the general fund.

3 C. Money in the personal protection license fund is
4 appropriated to the department and shall be used for the purpose
5 of carrying out the provisions of the Personal Protection Act.

6 Section 15. Section 30-7-2 NMSA 1978 (being Laws 1963,
7 Chapter 303, Section 7-2, as amended) is amended to read:

8 "30-7-2. UNLAWFUL CARRYING OF A DEADLY WEAPON. --

9 A. Unlawful carrying of a deadly weapon consists of
10 carrying a concealed loaded firearm or any other type of deadly
11 weapon anywhere, except in the following cases:

12 (1) in the person's residence or on real
13 property belonging to him as owner, lessee, tenant or licensee;

14 (2) in a private automobile or other private
15 means of conveyance, for lawful protection of the person's or
16 another's person or property;

17 (3) by a peace officer in accordance with the
18 policies of his law enforcement agency who is certified pursuant
19 to the Law Enforcement Training Act; [Ø]

20 (4) by a peace officer in accordance with the
21 policies of his law enforcement agency who is employed on a
22 temporary basis by that agency and who has successfully
23 completed a course of firearms instruction prescribed by the New
24 Mexico law enforcement academy or provided by a certified
25 firearms instructor who is employed on a permanent basis by a

Underscored material = new
[bracketed material] = delete

1 law enforcement agency; or
2 (5) by a person in possession of a valid
3 concealed firearm license issued to him by the department of
4 public safety pursuant to the provisions of the Personal
5 Protection Act.

6 B. Nothing in this section shall be construed to
7 prevent the carrying of any unloaded firearm.

8 C. Whoever commits unlawful carrying of a deadly
9 weapon is guilty of a petty misdemeanor. "

10 Section 16. Section 30-7-13 NMSA 1978 (being Laws 1979,
11 Chapter 376, Section 4) is amended to read:

12 "30-7-13. CARRYING WEAPONS PROHIBITED. --

13 A. It is unlawful for any person without prior
14 approval from the company to board or attempt to board a bus
15 while in possession of a firearm or other deadly weapon upon his
16 person or effects and readily accessible to him while on the
17 bus. Any person who violates the provisions of this subsection
18 is guilty of a misdemeanor.

19 B. Subsection A of this section does not apply to:
20 [~~duly elected or appointed law enforcement officers or~~
21 ~~commercial security personnel in the lawful discharge of their~~
22 ~~duties]~~

23 (1) duly elected or appointed law enforcement
24 officers in the lawful discharge of their duties;

25 (2) commercial security officers in the lawful

Underscored material = new
[bracketed material] = delete

1 discharge of their duties; or
2 (3) a person in possession of a valid concealed
3 firearm license issued to him by the department of public safety
4 pursuant to the provisions of the Personal Protection Act. "

5 Section 17. EFFECTIVE DATE. --The effective date of the
6 provisions of this act is January 1, 1997.

7 - 13 -

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
3
4

5 JANUARY 18, 1996
6

7 Mr. Presi dent:
8

9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
10

11 SENATE BILL 64
12

13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the SENATE
15 PUBLIC AFFAI RS COMMI TTEE.
16

17 Respectfully submi tted,
18
19

20
21
22 _____
23 SENATOR MANNY M. ARAGON, Chai rman
24
25

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Date _____

The roll call vote was __ For __ Against

Yes:

No:

Excused:

Absent:

S0064CC1

Underscored material = new
~~[bracketed material] = delete~~

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
3
4

5 January 26, 1996
6

7 Mr. President:
8

9 Your PUBLIC AFFAIRS COMMI TTEE, to whom has been referred
10

11 SENATE BILL 64
12

13 has had it under consideration and reports same with recommendation that
14 it DO PASS, and thence referred to the JUDI CIARY COMMI TTEE.
15

16 Respectfully submi tted,
17

18 _____
19 Shannon Robi nson, Chai rman
20
21
22
23
24

25 Adopted _____

Not Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Garcia, E. Jennings, Naranjo

Absent: none

S0064PA1

Underscored material = new
~~[bracketed material] = delete~~