

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 277

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO FIREARMS; ENACTING THE CONCEALED HANDGUN CARRY
ACT; REQUIRING A LICENSE TO CARRY A CONCEALED LOADED HANDGUN;
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 12 of this act may be cited as the "Concealed Handgun
Carry Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the
Concealed Handgun Carry Act:

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

B. "caliber" means the diameter of the bore of the
handgun;

1 C. "category" means whether a handgun is semi-
2 automatic or not semi-automatic;

3 D. "concealed handgun" means a loaded handgun that
4 is not visible to the ordinary observations of a reasonable
5 person;

6 E. "department" means the department of public
7 safety;

8 F. "handgun" means a firearm that will, is
9 designed to or may readily be converted to expel a projectile
10 by the action of an explosion and the barrel length of which,
11 not including a revolving, detachable or magazine breech, does
12 not exceed twelve inches; and

13 G. "licensee" means a person holding a valid
14 concealed handgun license issued to him by the department.

15 Section 3. [NEW MATERIAL] DATE OF LICENSURE-- PERIOD OF
16 LICENSURE. --Effective January 1, 2002, the department is
17 authorized to issue concealed handgun licenses to qualified
18 applicants. Concealed handgun licenses shall be valid for a
19 period of one year from the date of issuance, unless the
20 license is suspended or revoked.

21 Section 4. [NEW MATERIAL] APPLICANT QUALIFICATIONS. --

22 A. The department shall issue a concealed handgun
23 license if the applicant:

24 (1) is a citizen of the United States;

25 (2) is a resident of New Mexico or is a

1 member of the armed forces whose permanent duty station is
2 located in New Mexico or is a dependent of such a member;

3 (3) is twenty-one years of age or older;

4 (4) is not a fugitive from justice;

5 (5) has not been convicted of a felony in New
6 Mexico or any other state or pursuant to the laws of the
7 United States or any other jurisdiction;

8 (6) is not currently under indictment for a
9 felony criminal offense in New Mexico or any other state or
10 pursuant to the laws of the United States or any other
11 jurisdiction;

12 (7) is not otherwise prohibited by federal
13 law or the law of any other jurisdiction from purchasing or
14 possessing a firearm;

15 (8) has not been adjudicated mentally
16 incompetent or committed to a mental institution;

17 (9) is not addicted to alcohol or controlled
18 substances; and

19 (10) has satisfactorily completed a firearms
20 training course approved by the department for the category
21 and caliber of handgun that the applicant wants to be licensed
22 to carry as a concealed handgun.

23 B. The department shall deny a concealed handgun
24 license if the applicant has received a conditional discharge,
25 a diversion or a deferment or has been convicted of, pled

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1 guilty to or entered a plea of nolo contendere to a
2 misdemeanor offense involving a crime of violence or if the
3 applicant has been convicted of a misdemeanor offense
4 involving driving while under the influence of intoxicating
5 liquor or drugs, the possession or abuse of a controlled
6 substance or assault, battery or battery against a household
7 member.

8 Section 5. [NEW MATERIAL] APPLICATION FORM - SCREENING OF
9 APPLICANTS - FEE - LIMITATIONS ON LIABILITY. --

10 A. Effective July 1, 2001, applications for
11 concealed handgun licenses shall be made readily available at
12 locations designated by the department. Applications for
13 concealed handgun licenses shall be completed, under penalty
14 of perjury, on a form designed and provided by the department
15 and shall include the following:

16 (1) the applicant's name, current address,
17 date of birth, place of birth, social security number, height,
18 weight, gender, hair color, eye color and driver's license
19 number or other state-issued identification number;

20 (2) a statement that the applicant is aware
21 of, understands and is in compliance with the requirements for
22 licensure set forth in the Concealed Handgun Carry Act;

23 (3) a statement that the applicant has been
24 furnished a copy of the Concealed Handgun Carry Act and is
25 knowledgeable of its provisions; and

1 (4) a conspicuous warning that the
2 application form is executed under penalty of perjury and that
3 a materially false answer or the submission of a materially
4 false document to the department may result in denial or
5 revocation of a concealed handgun license and may subject the
6 applicant to criminal prosecution for perjury as provided in
7 Section 30-25-1 NMSA 1978.

8 B. The applicant shall submit the following items
9 to the department:

- 10 (1) a completed application form;
- 11 (2) a nonrefundable application fee in an
12 amount not to exceed one hundred dollars (\$100);
- 13 (3) two full sets of fingerprints;
- 14 (4) a certified copy of a certificate of
15 completion for a firearms training course approved by the
16 department;
- 17 (5) two color photographs of the applicant;
- 18 (6) a certified copy of a birth certificate
19 or proof of United States citizenship, if the applicant was
20 not born in the United States; and
- 21 (7) proof of residency in New Mexico.

22 C. A law enforcement agency may fingerprint an
23 applicant and may charge a reasonable fee.

24 D. Upon receipt of the items listed in Subsection
25 B of this section, the department shall make a reasonable

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1 effort to determine if the applicant is qualified to receive a
2 concealed handgun license. The department shall conduct an
3 appropriate check of available records and shall forward the
4 applicant's fingerprints to the federal bureau of
5 investigation for a national criminal background check. The
6 department shall comply with the license issuing requirements
7 set forth in Section 6 of the Concealed Handgun Carry Act.
8 However, the department shall suspend or revoke a license if
9 the department receives information that would disqualify an
10 applicant from receiving a concealed handgun license after the
11 sixty-day time period has elapsed.

12 Section 6. [NEW MATERIAL] DEPARTMENT RESPONSE TO
13 APPLICATION--RIGHT TO APPEAL--LICENSE RENEWAL--SUSPENSION OR
14 REVOCATION OF LICENSE. --

15 A. Pursuant to rules adopted by the department,
16 the department shall:

17 (1) issue a concealed handgun license to an
18 applicant; or

19 (2) deny the application on the grounds that
20 the applicant failed to qualify for a concealed handgun
21 license pursuant to the provisions of the Concealed Handgun
22 Carry Act.

23 B. Information relating to an applicant or to a
24 licensee received by the department or any other law
25 enforcement agency is confidential and exempt from public

1 disclosure unless an order to disclose information is issued
2 by a court of competent jurisdiction. The information shall
3 be made available by the department to a state or local law
4 enforcement agency upon request by the agency.

5 C. A concealed handgun license issued by the
6 department shall include the following:

- 7 (1) a color photograph of the licensee;
8 (2) the licensee's name, address and date of
9 birth;
10 (3) the expiration date of the concealed
11 handgun license; and
12 (4) the category and caliber of the handgun
13 that the licensee is licensed to carry.

14 D. A licensee shall notify the department within
15 thirty days regarding a change of his name or permanent
16 address. A licensee shall notify the department within thirty
17 days if the licensee loses his concealed handgun license or it
18 is stolen or destroyed.

19 E. If a concealed handgun license is reported
20 lost, stolen or destroyed, the license is invalid and the
21 licensee may obtain a duplicate license by furnishing the
22 department a notarized statement that the original license was
23 lost, stolen or destroyed and paying a reasonable fee.

24 F. A licensee may renew his concealed handgun
25 license by submitting to the department a completed renewal

1 form, under penalty of perjury, designed and provided by the
2 department, accompanied by a payment of a fifty-dollar
3 (\$50.00) renewal fee. A licensee who renews his concealed
4 handgun license may renew his license by taking a four-hour
5 refresher firearms training course and paying the fifty-dollar
6 (\$50.00) renewal fee to the department. The department shall
7 conduct a national criminal records check of the licensee
8 seeking to renew his license. A concealed handgun license
9 shall not be renewed more than sixty days after it has
10 expired. A licensee who fails to renew his concealed handgun
11 license within sixty days after it has expired may apply for a
12 new concealed handgun license pursuant to the provisions of
13 the Concealed Handgun Carry Act.

14 G. The department shall suspend or revoke a
15 concealed handgun license if:

16 (1) the licensee provided the department with
17 false information on his application form or renewal form for
18 a concealed handgun license;

19 (2) the licensee did not satisfy the criteria
20 for issuance of a concealed handgun license at the time the
21 license was issued to him; or

22 (3) subsequent to receiving a concealed
23 handgun license, the licensee violates a provision of the
24 Concealed Handgun Carry Act.

25 Section 7. [NEW MATERIAL] DEMONSTRATION OF ABILITY AND

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1 KNOWLEDGE- - COURSE REQUIREMENT- - PROPRIETARY INTEREST- -
2 EXEMPTIONS. - -

3 A. The department shall prepare and publish
4 minimum standards for approved firearms training courses that
5 teach proficiency with handguns. A firearms training course
6 shall include classroom instruction and range instruction and
7 an actual demonstration by the applicant of his ability to
8 safely use a handgun. An applicant shall not be licensed
9 unless he demonstrates, at a minimum, his ability to use a
10 handgun of .32 caliber. An approved firearms training course
11 shall be a course that is certified or sponsored by a federal
12 or state law enforcement agency, a college, a firearms
13 training school or a nationally recognized organization
14 approved by the department that customarily offers firearms
15 training. The firearms training course shall be not less than
16 fifteen hours in length and shall provide instruction
17 regarding:

- 18 (1) knowledge of and safe handling of single-
19 and double-action revolvers and semi automatic handguns;
20 (2) safe storage of handguns and child
21 safety;
22 (3) safe handgun shooting fundamentals;
23 (4) live shooting of a handgun on a firing
24 range;
25 (5) identification of ways to develop and

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1 maintain handgun shooting skills;

2 (6) federal, state and local criminal and
3 civil laws pertaining to the purchase, ownership,
4 transportation, use and possession of handguns;

5 (7) techniques for avoiding a criminal attack
6 and how to control a violent confrontation; and

7 (8) techniques for nonviolent dispute
8 resolution.

9 B. Every instructor of an approved firearms
10 training course shall annually file a copy of the course
11 description and proof of certification with the department.

12 Section 8. [NEW MATERIAL] LIMITATION ON LICENSE. --
13 Nothing in the Concealed Handgun Carry Act shall be construed
14 as allowing a licensee in possession of a valid concealed
15 handgun license to carry a concealed handgun into or on
16 premises where to do so would be in violation of state or
17 federal law.

18 Section 9. [NEW MATERIAL] POSSESSION OF LICENSE. -- A
19 licensee shall have his concealed handgun license in his
20 possession at all times while carrying a concealed handgun.

21 Section 10. [NEW MATERIAL] VALIDITY OF LICENSE ON TRIBAL
22 LAND. -- A concealed handgun license shall not be valid on
23 tribal land, unless authorized by the governing body of an
24 Indian nation, tribe or pueblo.

25 Section 11. [NEW MATERIAL] RULES-- DEPARTMENT TO
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1 ADMINISTER. -- The department shall promulgate rules necessary
2 to implement the provisions of the Concealed Handgun Carry
3 Act. The rules shall include:

4 A. grounds for the suspension and revocation of
5 concealed handgun licenses issued pursuant to the provisions
6 of the Concealed Handgun Carry Act;

7 B. provision of authority for a law enforcement
8 officer to confiscate a concealed handgun license when a
9 licensee violates the provisions of the Concealed Handgun
10 Carry Act;

11 C. provision of authority for a private property
12 owner to disallow the carrying of a concealed handgun on his
13 property;

14 D. provision of authority for a county or
15 municipality to disallow the carrying of a concealed handgun
16 within the limits of the county or municipality;

17 E. provision of authority for the transfer of a
18 concealed handgun license issued by another state; and

19 F. creation of a sequential numbering system for
20 all concealed handgun licenses issued by the department and
21 display of numbers on issued concealed handgun licenses.

22 Section 12. [NEW MATERIAL] FUND CREATED. --

23 A. The "concealed handgun carry fund" is created
24 in the state treasury.

25 B. All money received by the department pursuant

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1 to the provisions of the Concealed Handgun Carry Act shall be
2 deposited by the state treasurer for credit to the concealed
3 handgun carry fund. The state treasurer shall invest the fund
4 as all other state funds are invested, and income from the
5 investment of the fund shall be credited to the fund.

6 Balances remaining at the end of any fiscal year shall not
7 revert to the general fund and may be used to maintain the
8 state's criminal history database.

9 C. Money in the concealed handgun carry fund is
10 appropriated to the department to carry out the provisions of
11 the Concealed Handgun Carry Act.

12 Section 13. Section 30-7-2 NMSA 1978 (being Laws 1963,
13 Chapter 303, Section 7-2, as amended) is amended to read:

14 "30-7-2. UNLAWFUL CARRYING OF A DEADLY WEAPON. - -

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

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

21 (2) in a private automobile or other private
22 means of conveyance, for lawful protection of the person's or
23 another's person or property;

24 (3) by a peace officer in accordance with the
25 policies of his law enforcement agency who is certified

1 pursuant to the Law Enforcement Training Act; [~~or~~]

2 (4) by a peace officer in accordance with the
3 policies of his law enforcement agency who is employed on a
4 temporary basis by that agency and who has successfully
5 completed a course of firearms instruction prescribed by the
6 New Mexico law enforcement academy or provided by a certified
7 firearms instructor who is employed on a permanent basis by a
8 law enforcement agency; or

9 (5) by a person in possession of a valid
10 concealed handgun license issued to him by the department of
11 public safety pursuant to the provisions of the Concealed
12 Handgun Carry Act.

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

15 C. Whoever commits unlawful carrying of a deadly
16 weapon is guilty of a petty misdemeanor. "

17 Section 14. EFFECTIVE DATE. --The effective date of the
18 provisions of this act is July 1, 2001.

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