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SENATE BILL 421

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

INTRODUCED BY

Patrick H. Lyons

AN ACT

RELATING TO FIREARMS; ENACTING THE PERSONAL PROTECTION 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 13 of this act may be cited as the "Personal Protection Act".

Section 2. [NEW MATERIAL] FINDINGS. -- The legislature finds that as a matter of public policy it is necessary to provide statewide, uniform standards for the issuance of concealed handgun licenses for security and defense. The legislature finds further that it is necessary to occupy the entire field of regulation regarding the carrying of concealed

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1 handguns to ensure effective enforcement.

2 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the  
3 Personal Protection Act:

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

6 B. "concealed handgun" means a loaded handgun that  
7 is not visible to the ordinary observations of a reasonable  
8 person;

9 C. "department" means the department of public  
10 safety;

11 D. "handgun" means a firearm that is designed or  
12 adapted to be fired with one hand; and

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

15 Section 4. [NEW MATERIAL] DATE OF LICENSURE--PERIOD OF  
16 LICENSURE. --Effective July 1, 2001, the department is  
17 authorized to issue concealed handgun licenses to qualified  
18 applicants. Concealed handgun licenses shall be valid  
19 throughout the state for a period of four years from the date  
20 of issuance, unless the license is suspended or revoked.

21 Section 5. [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

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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;

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;

11 (7) is not otherwise prohibited by federal  
12 law from purchasing or possessing a firearm;

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

16 (9) is not addicted to alcohol or controlled  
17 substances, as evidenced by involuntary commitment to a  
18 residential treatment facility within the five-year period  
19 immediately preceding application for a concealed handgun  
20 license; and

21 (10) has satisfactorily completed a firearms  
22 training course approved by the department.

23 B. The department shall deny a concealed handgun  
24 license if the applicant has been convicted of, pled guilty to  
25 or entered a plea of nolo contendere to one or more

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1 misdemeanor offenses involving crimes of violence within a  
2 five-year period immediately preceding application for a  
3 concealed handgun license or if the applicant has been  
4 convicted of one or more misdemeanor offenses involving  
5 driving while under the influence of intoxicating liquor or  
6 drugs or the possession or abuse of a controlled substance  
7 within a five-year period immediately preceding application  
8 for a concealed handgun license.

9 Section 6. [NEW MATERIAL] APPLICATION FORM - SCREENING OF  
10 APPLICANTS - FEE - LIMITATIONS ON LIABILITY. - -

11 A. Applications for concealed handgun licenses  
12 shall be made readily available at locations designated by the  
13 department. Applications for concealed handgun licenses shall  
14 be completed, under oath, on a form designed and provided by  
15 the department 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 Personal Protection Act;

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

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1 (4) a conspicuous warning that the  
2 application form is executed under oath and that a materially  
3 false answer or the submission of a materially false document  
4 to the department may result in denial or revocation of a  
5 concealed handgun license and may subject the applicant to  
6 criminal prosecution for perjury as provided in Section  
7 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 fifty dollars (\$50.00);
- 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 (7) proof of residency in New Mexico;
- 20 (8) proof of United States citizenship, if  
21 the applicant was not born in the United States; and
- 22 (9) a description of the categories of  
23 action, whether semi-automatic or not semi-automatic, of the  
24 concealed handguns that will be lawfully carried by the  
25 licensee and the caliber of ammunition used for the concealed

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1 handguns.

2 C. A law enforcement agency may fingerprint an  
3 applicant and may charge a fee not to exceed ten dollars  
4 (\$10.00).

5 D. Upon receipt of the items listed in Subsection  
6 B of this section, the department shall make a reasonable  
7 effort to determine if the applicant is qualified to receive a  
8 concealed handgun license. The department shall conduct an  
9 appropriate check of available records and shall forward the  
10 applicant's fingerprints to the federal bureau of  
11 investigation for a national criminal records check. No later  
12 than thirty days after receiving the application items, the  
13 department shall forward copies of the items to the sheriff of  
14 the county in which the applicant resides, so that the sheriff  
15 may check available records to verify the accuracy of the  
16 application items. Within thirty days of receiving copies of  
17 the application items from the department, the sheriff shall  
18 return all copies of the application items to the department  
19 with the results of the records check. If the sheriff fails  
20 to respond to the department within the thirty-day period, the  
21 department shall still comply with the license issuing  
22 requirements set forth in Section 7 of the Personal Protection  
23 Act. However, the department may suspend or revoke a license  
24 if the sheriff receives information that would disqualify an  
25 applicant from receiving a concealed handgun license after the

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1 thirty-day time period has elapsed.

2 E. A person employed by a law enforcement agency  
3 of the state or political subdivision of the state shall not  
4 be criminally or civilly liable for acts committed by a  
5 licensee unless the person had actual knowledge at the time  
6 the concealed handgun license was issued that the licensee was  
7 prohibited by law from being issued such a license. An  
8 organization or individual approved by the department to offer  
9 a firearms training course shall not be criminally or civilly  
10 liable for acts committed by a licensee.

11 Section 7. [NEW MATERIAL] DEPARTMENT RESPONSE TO  
12 APPLICATION--RIGHT TO APPEAL--LICENSE RENEWAL--SUSPENSION OR  
13 REVOCATION OF LICENSE. --

14 A. No later than sixty days following receipt by  
15 the department of the completed application items, the  
16 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 Personal Protection  
22 Act.

23 B. If the department denies an application, it  
24 shall notify the applicant in writing, stating the grounds for  
25 denial of the application and informing the applicant of his

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1 right to submit, within sixty days, any additional  
2 documentation relating to the grounds for denial. Upon  
3 receiving any additional documentation from an applicant, the  
4 department shall reconsider its decision and inform the  
5 applicant within twenty days of the result of the department's  
6 reconsideration. The applicant shall also be informed of his  
7 right to seek review of the denial, within sixty days of the  
8 final denial by the department, in the district court of the  
9 county in which the applicant resides. If the district court  
10 reverses the department's denial of an applicant's application  
11 for a concealed handgun license, any costs incurred by the  
12 applicant in bringing the appeal shall be reimbursed to him by  
13 the state.

14 C. The department shall maintain a database of all  
15 licensees, and information contained in the database shall be  
16 available to all state and local law enforcement agencies upon  
17 request. Information relating to an applicant or to a  
18 licensee received and maintained by the department or any  
19 other law enforcement agency is privileged and confidential  
20 and exempt from public disclosure.

21 D. A concealed handgun license issued by the  
22 department shall include the following:

- 23 (1) a color photograph of the licensee;  
24 (2) the licensee's name, address and date of  
25 birth;



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1 (3) the expiration date of the concealed  
2 handgun license; and

3 (4) a description of the categories of  
4 action, whether semi-automatic or not semi-automatic, of the  
5 concealed handguns that will be lawfully carried by the  
6 licensee and the caliber of ammunition used for the concealed  
7 handguns.

8 E. A licensee shall notify the department within  
9 thirty days regarding a change of his name or permanent  
10 address. A licensee shall notify the department within thirty  
11 days if the licensee loses his concealed handgun license or it  
12 is stolen or destroyed.

13 F. If a concealed handgun license is reported  
14 lost, stolen or destroyed, the license is invalid and the  
15 licensee may obtain a duplicate license by furnishing the  
16 department a notarized statement that the original license was  
17 lost, stolen or destroyed and paying a fee of fifteen dollars  
18 (\$15.00) to the department.

19 G. A licensee may renew his concealed handgun  
20 license within sixty days of the expiration date of the  
21 license by returning a completed renewal form designed and  
22 provided by the department to the department, accompanied by a  
23 payment of a fifty-dollar (\$50.00) renewal fee. A licensee  
24 who fails to renew his concealed handgun license before it  
25 expires may renew his license by taking a refresher firearms

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1 training course and paying, in addition to the fifty-dollar  
2 (\$50.00) renewal fee, a late fee of fifteen dollars (\$15.00)  
3 to the department. A concealed handgun license shall not be  
4 renewed more than sixty days after it has expired. A licensee  
5 who fails to renew his concealed handgun license within sixty  
6 days after it has expired may apply for a new concealed  
7 handgun license pursuant to the provisions of the Personal  
8 Protection Act.

9 H. The department may suspend or revoke a  
10 concealed handgun license if:

11 (1) the licensee provided the department with  
12 false information on his application for a concealed handgun  
13 license;

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

17 (3) subsequent to receiving a concealed  
18 handgun license, the licensee violates a provision of Section  
19 5 of the Personal Protection Act.

20 Section 8. [NEW MATERIAL] DEMONSTRATION OF ABILITY AND  
21 KNOWLEDGE-- COURSE REQUIREMENT-- PROPRIETARY INTEREST--  
22 EXEMPTIONS. --

23 A. The department shall prepare and publish  
24 minimum standards for approved firearms training courses that  
25 teach proficiency with handguns. An approved firearms

1 training course shall be a course that is certified or  
2 sponsored by a federal or state law enforcement agency, a  
3 college, a firearms training school or a nationally recognized  
4 organization approved by the department that customarily  
5 offers firearms training. The firearms training course shall  
6 be not less than ten hours in length and not more than fifteen  
7 hours in length and shall provide instruction regarding:

8 (1) knowledge of and safe handling of single  
9 and double action revolvers and semi-automatic handguns;

10 (2) safe storage of handguns and child  
11 safety;

12 (3) safe handgun shooting fundamentals;

13 (4) live shooting of a handgun on a firing  
14 range;

15 (5) identification of ways to develop and  
16 maintain handgun shooting skills;

17 (6) federal, state and local laws pertaining  
18 to the purchase, ownership, transportation, use and possession  
19 of handguns;

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

22 (8) techniques for nonviolent dispute  
23 resolution.

24 B. Every instructor of an approved firearms  
25 training course shall annually file a copy of the course

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1 description and proof of certification with the department. A  
2 person's proprietary interest in a firearms training course  
3 shall not be disclosed to any other person except a law  
4 enforcement officer.

5 C. The application requirement set forth in  
6 Paragraph (10) of Subsection A of Section 5 of the Personal  
7 Protection Act shall be waived for an applicant who is  
8 currently:

9 (1) certified to teach a firearms training  
10 course approved by the department;

11 (2) serving on active duty or active reserve  
12 duty as a law enforcement officer in New Mexico for a period  
13 of not less than five consecutive years prior to application  
14 for a concealed handgun license; or

15 (3) retired from active duty with a federal  
16 or New Mexico state, county or municipal law enforcement  
17 agency, when the period of retirement does not exceed two  
18 years prior to application for a concealed handgun license.

19 Section 9. [NEW MATERIAL] LIMITATION ON LICENSE. --

20 Nothing in the Personal Protection Act shall be construed as  
21 allowing a licensee in possession of a valid concealed handgun  
22 license to carry a concealed handgun into or on premises where  
23 to do so would be in violation of state or federal law.

24 Section 10. [NEW MATERIAL] POSSESSION OF LICENSE. --A

25 licensee shall have his concealed handgun license in his

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1 possession at all times while carrying a concealed handgun.

2 Section 11. [NEW MATERIAL] PREEMPTION OF LICENSE BY  
3 TRIBAL LAW. -- A concealed handgun license shall be valid on  
4 tribal land unless the governing body of an Indian nation,  
5 tribe or pueblo has preempted the Personal Protection Act by  
6 enacting law prohibiting the carrying of a concealed handgun  
7 on tribal land.

8 Section 12. [NEW MATERIAL] RULES-- DEPARTMENT TO  
9 ADMINISTER. -- The department shall promulgate rules necessary  
10 to implement the provisions of the Personal Protection Act.  
11 The rules shall include:

12 A. grounds for the suspension and revocation of  
13 concealed handgun licenses issued pursuant to the provisions  
14 of the Personal Protection Act;

15 B. provision of authority for a law enforcement  
16 officer to confiscate a concealed handgun license when a  
17 licensee violates the provisions of the Personal Protection  
18 Act;

19 C. provision of authority for a private property  
20 owner to disallow the carrying of a concealed handgun on his  
21 property;

22 D. provision of authority for private employers to  
23 disallow the carrying of a concealed handgun by an employee  
24 during the employee's work shift;

25 E. provision of authority for the transfer of a

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1 concealed handgun license issued by another state; and

2 F. creation of a sequential numbering system for  
3 all concealed handgun licenses issued by the department and  
4 display of numbers on issued concealed handgun licenses.

5 Section 13. [NEW MATERIAL] FUND CREATED. --

6 A. The "personal protection fund" is created in  
7 the state treasury.

8 B. All money received by the department pursuant  
9 to the provisions of the Personal Protection Act shall be  
10 deposited by the state treasurer for credit to the personal  
11 protection fund. The state treasurer shall invest the fund as  
12 all other state funds are invested, and income from the  
13 investment of the fund shall be credited to the fund.  
14 Balances remaining at the end of any fiscal year shall not  
15 revert to the general fund.

16 C. Money in the personal protection fund is  
17 appropriated to the department to carry out the provisions of  
18 the Personal Protection Act.

19 Section 14. Section 30-7-2 NMSA 1978 (being Laws 1963,  
20 Chapter 303, Section 7-2, as amended) is amended to read:

21 "30-7-2. UNLAWFUL CARRYING OF A DEADLY WEAPON. --

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

25 (1) in the person's residence or on real

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1 property belonging to him as owner, lessee, tenant or  
2 licensee;

3 (2) in a private automobile or other private  
4 means of conveyance, for lawful protection of the person's or  
5 another's person or property;

6 (3) by a peace officer in accordance with the  
7 policies of his law enforcement agency who is certified  
8 pursuant to the Law Enforcement Training Act; ~~[or]~~

9 (4) by a peace officer in accordance with the  
10 policies of his law enforcement agency who is employed on a  
11 temporary basis by that agency and who has successfully  
12 completed a course of firearms instruction prescribed by the  
13 New Mexico law enforcement academy or provided by a certified  
14 firearms instructor who is employed on a permanent basis by a  
15 law enforcement agency; or

16 (5) by a person in possession of a valid  
17 concealed handgun license issued to him by the department of  
18 public safety pursuant to the provisions of the Personal  
19 Protection Act.

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

22 C. Whoever commits unlawful carrying of a deadly  
23 weapon is guilty of a petty misdemeanor. Upon a second or  
24 subsequent conviction pursuant to this section, an offender is  
25 guilty of a misdemeanor. "

1           Section 15.   EFFECTIVE DATE. --The effective date of the  
2 provisions of this act is July 1, 2001.

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