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SENATE BILL 47

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

Shannon Robinson

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 handguns to ensure effective enforcement.

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

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

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

3 C. "department" means the department of public safety;

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

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

8 Section 4. [NEW MATERIAL] DATE OF LICENSURE--PERIOD OF  
9 LICENSURE.--Effective July 1, 1999, the department is authorized to issue concealed handgun  
10 licenses to qualified applicants. Concealed handgun licenses shall be valid throughout the state  
11 for a period of four years from the date of issuance, unless the license is suspended or revoked.

12 Section 5. [NEW MATERIAL] APPLICANT QUALIFICATIONS.--

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

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

15 (2) is a resident of New Mexico or is a member of the armed forces  
16 whose permanent duty station is located in New Mexico or is a dependent of such a member;

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

18 (4) is not a fugitive from justice;

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

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

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

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

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

4 (10) has satisfactorily completed a firearms training course approved  
5 by the department.

6 B. The department shall deny a concealed handgun license if the applicant has  
7 been convicted of, pled guilty to or entered a plea of nolo contendere to one or more  
8 misdemeanor offenses involving crimes of violence within a five-year period immediately  
9 preceding application for a concealed handgun license or if the applicant has been convicted of  
10 one or more misdemeanor offenses involving driving while under the influence of intoxicating  
11 liquor or drugs or the possession or abuse of a controlled substance within a five-year period  
12 immediately preceding application for a concealed handgun license.

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

15 A. Applications for concealed handgun licenses shall be made readily available  
16 at locations designated by the department. Applications for concealed handgun licenses shall be  
17 completed, under oath, on a form designed and provided by the department and shall include the  
18 following:

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

22 (2) a statement that the applicant is aware of, understands and is in  
23 compliance with the requirements for licensure set forth in the Personal Protection Act;

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

(4) a conspicuous warning that the application form is executed under

1 oath and that a materially false answer or the submission of a materially false document to the  
2 department may result in denial or revocation of a concealed handgun license and may subject  
3 the applicant to criminal prosecution for perjury as provided in Section 30-25-1 NMSA 1978.

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

- 5 (1) a completed application form;
- 6 (2) a nonrefundable application fee in an amount not to exceed fifty  
7 dollars (\$50.00);
- 8 (3) two full sets of fingerprints;
- 9 (4) a certified copy of a certificate of completion for a firearms  
10 training course approved by the department;
- 11 (5) two color photographs of the applicant;
- 12 (6) a certified copy of a birth certificate;
- 13 (7) proof of residency in New Mexico; and
- 14 (8) proof of United States citizenship, if the applicant was not born in  
15 the United States.

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

18 D. Upon receipt of the items listed in Subsection B of this section, the  
19 department shall make a reasonable effort to determine if the applicant is qualified to receive a  
20 concealed handgun license. The department shall conduct an appropriate check of available  
21 records and shall forward the applicant's fingerprints to the federal bureau of investigation for a  
22 national criminal records check. No later than thirty days after receiving the application items,  
23 the department shall forward copies of the items to the sheriff of the county in which the  
24 applicant resides, so that the sheriff may check available records to verify the accuracy of the  
25 application items.

E. A person employed by a law enforcement agency of the state or political

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

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

9 A. No later than sixty days following receipt by the department of the  
10 completed application items, the department shall:

- 11 (1) issue a concealed handgun license to an applicant; or  
12 (2) deny the application on the grounds that the applicant failed to  
13 qualify for a concealed handgun license pursuant to the provisions of the Personal Protection  
14 Act.

15 B. If the department denies an application, it shall notify the applicant in  
16 writing, stating the grounds for denial of the application and informing the applicant of his right  
17 to submit, within sixty days, any additional documentation relating to the grounds for denial.  
18 Upon receiving any additional documentation from an applicant, the department shall reconsider  
19 its decision and inform the applicant within twenty days of the result of the department's  
20 reconsideration. The applicant shall also be informed of his right to seek review of the denial,  
21 within sixty days of the final denial by the department, in the district court of the county in  
22 which the applicant resides. If the district court reverses the department's denial of an  
23 applicant's application for a concealed handgun license, any costs incurred by the applicant in  
24 bringing the appeal shall be reimbursed to him by the state.

25 C. The department shall maintain a database of all licensees, and information  
contained in the database shall be available to all state and local law enforcement agencies upon

1 request. Information relating to an applicant or to a licensee received and maintained by the  
2 department or any other law enforcement agency is privileged and confidential and exempt from  
3 public disclosure.

4 D. A concealed handgun license issued by the department shall include the  
5 following:

- 6 (1) a color photograph of the licensee;
- 7 (2) the licensee's name, address and date of birth; and
- 8 (3) the expiration date of the concealed handgun license.

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

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

16 G. A licensee may renew his concealed handgun license within sixty days of  
17 the expiration date of the license by returning a completed renewal form designed and provided  
18 by the department to the department, accompanied by a payment of a fifty-dollar (\$50.00)  
19 renewal fee. A licensee who fails to renew his concealed handgun license before it expires may  
20 renew his license by taking a refresher firearms training course and paying, in addition to the  
21 fifty-dollar (\$50.00) renewal fee, a late fee of fifteen dollars (\$15.00) to the department. A  
22 concealed handgun license shall not be renewed more than sixty days after it has expired. A  
23 licensee who fails to renew his concealed handgun license within sixty days after it has expired  
24 may apply for a new concealed handgun license pursuant to the provisions of the Personal  
25 Protection Act.

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

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

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

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

7 Section 8. [NEW MATERIAL] DEMONSTRATION OF ABILITY AND  
8 KNOWLEDGE--COURSE REQUIREMENT--PROPRIETARY INTEREST--  
9 EXEMPTIONS.--

10 A. The department shall prepare and publish minimum standards for approved  
11 firearms training courses that teach proficiency with handguns. An approved firearms training  
12 course shall be a course that is certified or sponsored by a federal or state law enforcement  
13 agency, a college, a firearms training school or a nationally recognized organization approved  
14 by the department that customarily offers firearms training. The firearms training course shall  
15 be not less than ten hours in length and not more than fifteen hours in length and shall provide  
16 instruction regarding:

- 17 (1) knowledge of and safe handling of single and double action  
18 revolvers and semi-automatic handguns;
- 19 (2) safe storage of handguns and child safety;
- 20 (3) safe handgun shooting fundamentals;
- 21 (4) live shooting of a handgun on a firing range; and
- 22 (5) identification of ways to develop and maintain handgun shooting  
23 skills.
- 24 (6) federal, state and local laws pertaining to the purchase, ownership,  
25 transportation, use and possession of handguns;
- (7) techniques for avoiding a criminal attack and how to control a

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1 violent confrontation; and

2 (8) techniques for nonviolent dispute resolution.

3 C. Every instructor of an approved firearms training course shall annually file  
4 a copy of the course description and proof of certification with the department. A person's  
5 proprietary interest in a firearms training course shall not be disclosed to any other person  
6 except a law enforcement officer.

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

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

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

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

17 Section 9. [NEW MATERIAL] LIMITATION ON LICENSE.--Nothing in the  
18 Personal Protection Act shall be construed as allowing a licensee in possession of a valid  
19 concealed handgun license to carry a concealed handgun into or on premises where to do so  
20 would be in violation of state or federal law.

21 Section 10. [NEW MATERIAL] POSSESSION OF LICENSE.--A licensee shall have  
22 his concealed handgun license in his possession at all times while carrying a concealed handgun.

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



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

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

6                   B. provision of authority for a law enforcement officer to confiscate a  
7 concealed handgun license when a licensee violates the provisions of the Personal Protection  
8 Act;

9                   C. provision of authority for a private property owner to disallow the carrying  
10 of a concealed handgun on his property;

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

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

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

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

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

19                   B. All money received by the department pursuant to the provisions of the  
20 Personal Protection Act shall be deposited by the state treasurer for credit to the personal  
21 protection fund. The state treasurer shall invest the fund as all other state funds are invested,  
22 and income from the investment of the personal protection fund shall be credited to the fund.  
23 Balances remaining at the end of any fiscal year shall not revert to the general fund.

24                   C. Money in the personal protection fund is appropriated to the department to  
25 carry out the provisions of the Personal Protection Act.

          Section 14. Section 30-7-2 NMSA 1978 (being Laws 1963, Chapter 303, Section 7-2,

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1 as amended) is amended to read:

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

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

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

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

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

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

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

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

21 C. Whoever commits unlawful carrying of a deadly weapon is guilty of a petty  
22 misdemeanor."

23 Section 15. EFFECTIVE DATE.--The effective date of the provisions of this act is  
24 July 1, 1999.

25

1 **FORTY-FOURTH LEGISLATURE**

2 **FIRST SESSION, 1999**

3  
4  
5  
6 March 12, 1999

7  
8 Mr. President:

9  
10 Your **WAYS & MEANS COMMITTEE**, to whom has been referred

11  
12 **SENATE BILL 47**

13  
14 has had it under consideration and reports same **WITHOUT RECOMMENDATION**, and  
15 hence referred to the **FINANCE COMMITTEE**.  
16

17  
18 Respectfully submitted,

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23 **Carlos R. Cisneros, Chairman**  
24

25 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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**FORTY-SECOND LEGISLATURE  
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KEYBOARD(TYPE SLUGS)

Page 12

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 4 For 2 Against

Yes: 4

No: Cisneros, Romero

Excused: Carraro, Kidd, Maes

Absent: None

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**FORTY-SECOND LEGISLATURE  
SECOND SESSION**

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KEYBOARD(TYPE SLUGS)

Page 13

**FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999**

March 17, 1999

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

**SENATE BILL 47**

has had it under consideration and reports same with recommendation that it **DO PASS**.

Respectfully submitted,

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**FORTY-SECOND LEGISLATURE  
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KEYBOARD(TYPE SLUGS)

Page 14

**Ben D. Altamirano, Chairman**

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 1 Against

Yes: 6

No: Eisenstadt

Excused: Carraro, Ingle, McKibben, Rodriguez, Smith, Tsosie

Absent: None

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**FORTY-SECOND LEGISLATURE  
SECOND SESSION**

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KEYBOARD(TYPE SLUGS)

Page 15

**FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999**

March 17, 1999

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

**SENATE BILL 47**

has had it under consideration and reports same with recommendation that it **DO PASS**.

Respectfully submitted,

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**FORTY-SECOND LEGISLATURE  
SECOND SESSION**

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KEYBOARD(TYPE SLUGS)

Page 16

**Ben D. Altamirano, Chairman**

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 1 Against

Yes: 6

No: Eisenstadt

Excused: Carraro, Ingle, McKibben, Rodriguez, Smith, Tsosie

Absent: None

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