

HCS HB 349, 120, 136 & 328 -- CONCEALED FIREARMS

SPONSOR: Mayer (Crawford)

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 15 to 3.

This substitute allows individuals to carry concealed firearms. The substitute establishes a procedure for obtaining an endorsement on a person's driver's license that entitles the person to carry a concealed firearm. Sheriffs will issue certificates of qualification to applicants who meet the requirements for obtaining the endorsement, which include training in the use of firearms, a background check, and the payment of a fee. The substitute also creates the county sheriff's revolving fund, in which the fees for these endorsements will be deposited. Any money in a county sheriff's revolving fund may be expended at the direction of the sheriff without prior approval of the governing board of the county.

The substitute sets forth the qualifications necessary to acquire a certificate of qualification and a procedure by which the certificate must be granted by county sheriffs to anyone meeting the qualifications. The Department of Revenue will issue a new driver's or nondriver's license containing the concealed firearms endorsement to the applicant. Concealed carry endorsements will be valid for three years.

QUALIFICATIONS FOR OBTAINING A CONCEALED CARRY ENDORSEMENT

To qualify for the certificate needed to acquire a concealed carry endorsement, individuals must:

- (1) Be at least 21 years of age;
- (2) Be a citizen of the United States;
- (3) Have resided in Missouri for at least six months or be a military member, or the spouse of a military member, stationed in Missouri;
- (4) Not have been found guilty of a felony;
- (5) Not have been found guilty, in the five years preceding the application, of a misdemeanor involving a crime of violence or two misdemeanors involving either alcohol-related driving offenses or possession of a controlled substance;
- (6) Not be a fugitive from justice;

- (7) Not be currently charged with a felony;
- (8) Not be dishonorably discharged from the armed forces;
- (9) Not have engaged in a pattern of behavior, documented in public records, that causes the sheriff to have a reasonable belief that the applicant presents a danger to himself or others;
- (10) Not have been adjudged mentally incompetent or released from a mental health facility for five years prior to the application;
- (11) Not be the respondent in a valid full order of protection currently in effect;
- (12) Be fingerprinted;
- (13) Clear a criminal background check by the state and the Federal Bureau of Investigation; and
- (14) Comply with training requirements set forth in the substitute.

TRAINING REQUIREMENTS

Applicants for a concealed carry endorsement must complete a firearms safety course provided by an instructor certified by a state or federal law enforcement agency or the National Rifle Association. The substitute specifies the required curriculum, which includes classroom work and live firing exercises. The substitute also sets forth the training required for the certification of a firearms safety instructor. Instructors must keep their course records available for at least four years. Instructors who provide false information about the performance of an applicant in the training program are guilty of a class C misdemeanor.

ADMINISTRATIVE PROVISIONS

Sheriffs in first classification counties may authorize police chiefs in the municipalities within their county to process applications for certificates of qualification. Sheriffs must reimburse the municipalities for the reasonable expenses incurred as a result.

Sheriffs must request the criminal background check within three working days of the submission of the completed application and must issue a certificate of qualification to the applicant within three days of the receipt of the completed background check. Sheriffs may issue a certificate without a federal criminal

background check if the background check has not been received within 45 days. Sheriffs may deny an application if there is reason to believe an applicant lied on the application. Denials must be communicated in writing, state the grounds for denial, and inform the applicant of the right to amend and resubmit the application for a 30-day period. The substitute sets forth an appeal form and a process by which the sheriff will re-examine an amended application and, if still not approved, the applicant may appeal through the small claims court. Sheriffs must keep records of all applications and report the issuance of all certificates of qualification to the Missouri Uniform Law Enforcement System (MULES). Application fees may not exceed \$100, and renewal fees may not exceed \$50.

The application must contain a conspicuous warning that false statements will constitute perjury, a class D felony. Any person attempting to transfer, alter, or use the certificate of qualification of another person or otherwise obtain a concealed firearm endorsement through false representation is guilty of a class A misdemeanor. Endorsements issued to anyone who later fails to meet any of the requirements will be suspended or revoked. An endorsement holder must notify the department within 30 days of changing his or her name or address. Endorsement holders who have their endorsement revoked may petition the small claims court for reinstatement. Any person aggrieved by a final decision in small claims court may petition the associate circuit court for a trial de novo. The court, upon a finding that a plaintiff brought an action against an endorsement holder without a reasonable basis and with an intent to harass the endorsement holder, may assess all costs and fees to the plaintiff, including attorney fees, which are presumed to be \$150 per hour.

LIMITATIONS ON WHERE CONCEALED FIREARMS MAY BE CARRIED

Endorsements to carry a concealed firearm are not valid in many places, including: police stations; polling places on election day; correctional facilities; courthouses; airports; bars; schools; child care facilities; hospitals; stadiums; amusement parks; gambling facilities; churches; any place where the carrying of a firearm is prohibited by federal law; the meeting place of any elected officials (except for the elected officials themselves who have endorsements); or any privately owned property where the owner has posted that the premises is off-limits to concealed firearms. The substitute also allows governmental units to limit concealed firearms in their public buildings. Violating prohibitions on carrying concealed firearms in certain locations is grounds for being denied access to or being removed from the premises. Frequent violators are subject to monetary penalties and endorsement suspensions.

UNLAWFUL USE OF A WEAPON

The substitute also changes the crime of unlawful use of a weapon. The substitute:

- (1) Removes the prohibition on the carrying of a firearm into any public gathering;
- (2) Allows a person who lawfully possesses a concealable firearm to transport the firearm in the passenger compartment of a motor vehicle; and
- (3) Increases the penalty for possessing a firearm while intoxicated. Under current law, it is class B misdemeanor. The substitute makes it a class A misdemeanor if the gun is not loaded and a class D felony if it is loaded.

FISCAL NOTE: Estimated Net Cost to General Revenue Fund of \$152,890 in FY 2004, \$184,525 in FY 2005, and \$189,731 in FY 2006. Estimated Net Income to Criminal Records System Fund of \$494,201 in FY 2004, \$475,595 in FY 2005, and \$469,961 in FY 2006. Estimated Net Cost to Highway Fund of \$47,800 in FY 2004, \$0 in FY 2005, and \$0 in FY 2006.

PROPOSERS: Supporters say that Missouri is one of just six states that do not allow citizens to acquire a permit to carry a concealed firearm. Personal safety and the basic right of self-protection are the reasons behind this legislation. The law would not result in more gun-related crime. Instead, it actually reduces crime. Texas and Florida have enacted similar legislation and have reported reductions in a variety of crimes against persons. In Texas, aggravated assaults dropped 7%, forcible rapes dropped 5%, and murders dropped 8% in the years after legislation was enacted. Officials in Florida contend that tourists became a popular target for criminals because they could not carry concealed firearms, unlike Florida residents. People who live in rural areas can't rely upon law enforcement to protect them all the time, because there are too few deputies covering a large geographical area. The problem is even worse now, with budget problems forcing many sheriff's offices to make cutbacks. When methamphetamine dealers set up labs in the woods nearby, and the closest sheriff's deputy is a half hour away, a person needs to be able to protect himself.

Testifying for the bill were Representatives Crawford, Sander, Munzlinger, Barnitz, and Jetton; Jessica Sparks; National Rifle Association; Gateway Civil Liberties Alliance; Missouri Family Network; Susan Rowden; and Second Amendment Coalition.

OPPOSERS: Those who oppose the bill say that the claims that

laws allowing concealed-carry have led to reductions in crime have not been proven by empirical data. The reliability of the data in publications by John Lott has been called into question by a number of critics. Crime has decreased everywhere, not just in those states that have enacted concealed-carry laws. The voters in Missouri are probably the most educated group in the country on this issue, since it has been debated and voted upon in a public referendum. The public has already voted against this issue. The bill will increase the number of handguns in Missouri and; consequently, it will increase the number of handguns in criminals' hands (because they steal them from gun owners), and it will result in more deaths and injuries from accidental shootings (because so many handguns are cheaply made and will misfire, fire when they are dropped, don't have a safety, etc.). The bill is also flawed in several areas. For example, the training required in the bill is inadequate, and the records (such as mental health records, or domestic violence incident reports) the sheriffs are supposed to have access to simply aren't always available in the current system.

Testifying against the bill were Missouri Impact; Million Mom March; Richard Miller; and Office of the Mayor, City of St. Louis.

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