

Government of the District of Columbia
Office of the Chief Financial Officer



Jeff DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeff DeWitt
Chief Financial Officer 

DATE: November 25, 2014

SUBJECT: Fiscal Impact Statement – License to Carry a Pistol Amendment Act of 2014

REFERENCE: Bill 20-930, Draft Committee Print as shared with the Office of Revenue Analysis on November 24, 2014

Conclusion

Funds are sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

Background

In July 2014, a United States District Court judge ruled that the District’s ban on carrying of ready-to-use handguns out in public was unconstitutional.¹ Immediately following the ruling, the Metropolitan Police Department (MPD) issued guidance to its officers making it clear that possession of a properly registered handgun in public may not be a criminal offense in and of itself.² That guidance was recinded upon the District’s successful request for a stay³ of the ruling so the District could rewrite the law to conform to the judge’s initial decision.

¹ Tom G. Palmer, George Lyon, Edward Raymond, Amy McVey, and Second Amendment Foundation v. District of Columbia and Cathy Lanier, --- F.Supp.2d ----, 2014 WL 3702854, D.D.C., July 24, 2014 (NO. 1:09-CV-1482 (FJS)).

² This did not prohibit officers from making arrests or seizing weapons associated with a criminal act, requiring proof of registration, or enforcing federal laws against a person who is ineligible to possess a gun at any time.

³ Palmer v. District of Columbia, --- F.Supp.2d ----, 2014 WL 3702854, D.D.C., July 29, 2014 (NO. 1:09-CV-1482 (FJS)).

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On September 23, 2014, the Council of the District of Columbia passed emergency legislation⁴ that adopted a concealed carry policy⁵ for handguns, which requires that the weapon be hidden from public view. The bill expands and makes permanent the emergency legislation.

The bill allows for licensing of individuals for carrying handguns so long as the applicant is 21 years of age or older, meets the requirements for registration of a firearm, does not suffer from any mental illness, and demonstrates the appropriate need to carry a handgun. MPD will issue rules⁶ on what constitutes appropriate need for a person to request a concealed carry permit, but the bill sets forth a general standard that fear of injury or professional activities that require carrying cash or valuables would be considered as appropriate reasons.

Before receiving a license, applicants must complete the required training.⁷ The Chief of Police ("Chief") has the discretion to consider training requirements met if the applicant can show sufficient firearms training through the United States military or through the process of obtaining a concealed carry permit in another jurisdiction. If approved, the license is valid for two years; but if the application or renewal is denied, the applicant or licensee can appeal the decision to the Concealed Pistol Licensing Review Board.

The bill requires the following:

- Always carrying the carry-license and handgun registration when carrying the gun;
- Disclosing the presence of a concealed weapon during an investigative stop by MPD;
- Never carrying while impaired;⁸ and
- Not carrying in restricted areas as designated by the bill or the Chief.⁹ Some locations and buildings in the District prohibit concealed carry;¹⁰ others prohibit it unless the owner expressly allows it;¹¹ while others are assumed to allow carry unless the owner expressly prohibits it.¹²

Carry-licenses can be revoked or a licensee penalized¹³ if he or she does not comply with the bill's requirements. Any individual, including the United States Attorney or District's Attorney General, can request a license revocation if there is reason to believe the person would no longer be eligible

⁴ License to Carry a Pistol Emergency Amendment Act of 2014, effective September 23, 2014 (D.C. Act 20-447; 61 DCR 10765).

⁵ As opposed to open carry which allows for the carrying of a handgun in plain sight.

⁶ MPD issued emergency and proposed rules on October 31, 2014 (D.C. Register, Volume 61, Notice ID 5160805), but they may need to be amended.

⁷ This includes 16 hours of classroom training and 2 hours of range training that includes at least 50 rounds at a maximum distance of 15 yards.

⁸ Having consumed alcohol or drugs in a manner that alters behavior.

⁹ A licensee cannot be penalized by entering a restricted area as determined by the Chief unless the licensee has been notified of the restricted area, instructed to vacate the area, and has refused. In the case of a restricted area around a dignitary or high-ranking official, the United States Secret Service can also designate a perimeter.

¹⁰ Including District government buildings, childcare and educational institutions, hospitals, penal institutions, establishments where alcohol is sold and consumed on premises, public transportation (including the Metrorail system), near the White House, and at the Naval Observatory.

¹¹ This includes private residences and places of religious worship.

¹² This includes private properties that are not residences.

¹³ The penalty is a fine of up to \$1,000 or imprisonment for up to 180 days.

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for a license. The Chief may also immediately suspend or restrict a license if he or she believes there is imminent danger to a person or the public.

The seven-member Concealed Pistol Licensing Review Board ("Board") will hear any appeals hearing requests for the denial of an initial or renewal application. Members include the United States Attorney, the Attorney General, a Department of Behavioral Health professional, a formal law enforcement officer,¹⁴ and three public members. The burden of producing evidence and persuading the Board is upon the applicant or licensee. License holders may request a hearing within fifteen days of a denial of an application or renewal, or within seventy-two hours of the suspension or restriction of a license by the Chief.

Lastly, the bill prohibits any information about an individual who applies for, receives, or has a gun registration or carry license revoked from being disclosed through a Freedom of Information Act Request.¹⁵

Financial Plan Impact

Funds are sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

All licensing provisions associated with a concealed carry permit have been implemented with the Metropolitan Police Department's existing resources and no new resources are required over the four-year financial plan period.

The Office of the Attorney General (OAG) will be responsible for implementing the Concealed Pistol Licensing Review Board, which will hold hearings upon request for any denied application or renewal. OAG expects to meet the requirements of the Board with existing resources, but at this time there is very little information to project what kind of workload this Board may receive. The District should closely monitor the number of hearing requests since a significant number of hearings would pressure OAG resources and require additional funds or staff.

¹⁴ Other than a former MPD official.

¹⁵ Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-532).