

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 277

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

INTRODUCED BY

Judy Vanderstar Russell

AN ACT

**RELATING TO FIREARMS; ENACTING THE CITIZEN'S SAFETY 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 "Citizen's Safety
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**

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 handguns to ensure effective enforcement.

2 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
3 Citizen's Safety 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

underscored material = new
[bracketed material] = delete

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

. 133898. 3

underscored material = new
[bracketed material] = delete

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 Citizen's Safety Act;

23 (3) a statement that the applicant has been
24 furnished a copy of the Citizen's Safety Act and is
25 knowledgeable of its provisions; and

. 133898. 3

underscored material = new
[bracketed material] = delete

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 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 fee not to exceed ten dollars
24 (\$10.00).

25 D. Upon receipt of the items listed in Subsection

. 133898. 3

underscored material = new
[bracketed material] = delete

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

22 E. A person employed by a law enforcement agency
23 of the state or political subdivision of the state shall not
24 be criminally or civilly liable for acts committed by a
25 licensee unless the person had actual knowledge at the time

. 133898. 3

underscored material = new
[bracketed material] = delete

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

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

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

12 (1) issue a concealed handgun license to an
13 applicant; or

14 (2) deny the application on the grounds that
15 the applicant failed to qualify for a concealed handgun
16 license pursuant to the provisions of the Citizen's Safety
17 Act.

18 B. If the department denies an application, it
19 shall notify the applicant in writing, stating the grounds for
20 denial of the application and informing the applicant of his
21 right to submit, within sixty days, any additional
22 documentation relating to the grounds for denial. Upon
23 receiving any additional documentation from an applicant, the
24 department shall reconsider its decision and inform the
25 applicant within twenty days of the result of the department's

. 133898. 3

1 reconsideration. The applicant shall also be informed of his
2 right to seek review of the denial, within sixty days of the
3 final denial by the department, in the district court of the
4 county in which the applicant resides. If the district court
5 reverses the department's denial of an applicant's application
6 for a concealed handgun license, any costs incurred by the
7 applicant in bringing the appeal shall be reimbursed to him by
8 the state.

9 C. Information relating to an applicant or to a
10 licensee received by the department or any other law
11 enforcement agency is privileged and confidential and exempt
12 from public disclosure.

13 D. A concealed handgun license issued by the
14 department shall include the following:

- 15 (1) a color photograph of the licensee;
16 (2) the licensee's name, address and date of
17 birth; and
18 (3) the expiration date of the concealed
19 handgun license.

20 E. A licensee shall notify the department within
21 thirty days regarding a change of his name or permanent
22 address. A licensee shall notify the department within thirty
23 days if the licensee loses his concealed handgun license or it
24 is stolen or destroyed.

25 F. If a concealed handgun license is reported

underscored material = new
[bracketed material] = delete

1 lost, stolen or destroyed, the license is invalid and the
2 licensee may obtain a duplicate license by furnishing the
3 department a notarized statement that the original license was
4 lost, stolen or destroyed and paying a fee of fifteen dollars
5 (\$15.00) to the department.

6 G. A licensee may renew his concealed handgun
7 license within sixty days of the expiration date of the
8 license by returning a completed renewal form designed and
9 provided by the department to the department, accompanied by a
10 payment of a fifty-dollar (\$50.00) renewal fee. A licensee
11 who fails to renew his concealed handgun license before it
12 expires may renew his license by taking a refresher firearms
13 training course and paying, in addition to the fifty-dollar
14 (\$50.00) renewal fee, a late fee of fifteen dollars (\$15.00)
15 to the department. A concealed handgun license shall not be
16 renewed more than sixty days after it has expired. A licensee
17 who fails to renew his concealed handgun license within sixty
18 days after it has expired may apply for a new concealed
19 handgun license pursuant to the provisions of the Citizen's
20 Safety Act.

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

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

underscored material = new
[bracketed material] = delete

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

4 (3) subsequent to receiving a concealed
5 handgun license, the licensee violates a provision of Section
6 5 of the Citizen's Safety 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
11 minimum standards for approved firearms training courses that
12 teach proficiency with handguns. An approved firearms
13 training course shall be a course that is certified or
14 sponsored by a federal or state law enforcement agency, a
15 college, a firearms training school or a nationally recognized
16 organization approved by the department that customarily
17 offers firearms training. The firearms training course shall
18 be not less than ten hours in length and not more than fifteen
19 hours in length and shall provide instruction regarding:

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

22 (2) safe storage of handguns and child
23 safety;

24 (3) safe handgun shooting fundamentals;

25 (4) live shooting of a handgun on a firing

1 range;

2 (5) identification of ways to develop and
3 maintain handgun shooting skills;

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

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

9 (8) techniques for nonviolent dispute
10 resolution.

11 B. Every instructor of an approved firearms
12 training course shall annually file a copy of the course
13 description and proof of certification with the department. A
14 person's proprietary interest in a firearms training course
15 shall not be disclosed to any other person except a law
16 enforcement officer.

17 C. The application requirement set forth in
18 Paragraph (10) of Subsection A of Section 5 of the Citizen's
19 Safety Act shall be waived for an applicant who is currently:

20 (1) certified to teach a firearms training
21 course approved by the department;

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

underscored material = new
[bracketed material] = delete

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

5 Section 9. [NEW MATERIAL] LIMITATION ON LICENSE. --
6 Nothing in the Citizen's Safety Act shall be construed as
7 allowing a licensee in possession of a valid concealed handgun
8 license to carry a concealed handgun into or on premises where
9 to do so would be in violation of state or federal law.

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

13 Section 11. [NEW MATERIAL] PREEMPTION OF LICENSE BY
14 TRIBAL LAW. -- A concealed handgun license shall be valid on
15 tribal land unless the governing body of an Indian nation,
16 tribe or pueblo has preempted the Citizen's Safety Act by
17 enacting law prohibiting the carrying of a concealed handgun
18 on tribal land.

19 Section 12. [NEW MATERIAL] RULES-- DEPARTMENT TO
20 ADMINISTER. -- The department shall promulgate rules necessary
21 to implement the provisions of the Citizen's Safety Act. The
22 rules shall include:

23 A. grounds for the suspension and revocation of
24 concealed handgun licenses issued pursuant to the provisions
25 of the Citizen's Safety Act;

underscored material = new
[bracketed material] = delete

1 B. provision of authority for a law enforcement
2 officer to confiscate a concealed handgun license when a
3 licensee violates the provisions of the Citizen's Safety Act;

4 C. provision of authority for a private property
5 owner to disallow the carrying of a concealed handgun on his
6 property;

7 D. provision of authority for the transfer of a
8 concealed handgun license issued by another state; and

9 E. creation of a sequential numbering system for
10 all concealed handgun licenses issued by the department and
11 display of numbers on issued concealed handgun licenses.

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

13 A. The "citizen's safety fund" is created in the
14 state treasury.

15 B. All money received by the department pursuant
16 to the provisions of the Citizen's Safety Act shall be
17 deposited by the state treasurer for credit to the citizen's
18 safety fund. The state treasurer shall invest the fund as all
19 other state funds are invested, and income from the investment
20 of the fund shall be credited to the fund. Balances remaining
21 at the end of any fiscal year shall not revert to the general
22 fund.

23 C. Money in the citizen's safety fund is
24 appropriated to the department to carry out the provisions of
25 the Citizen's Safety Act.

underscored material = new
[bracketed material] = delete

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

3 "30-7-2. UNLAWFUL CARRYING OF A DEADLY WEAPON. --

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

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

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

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

16 (4) by a peace officer in accordance with the
17 policies of his law enforcement agency who is employed on a
18 temporary basis by that agency and who has successfully
19 completed a course of firearms instruction prescribed by the
20 New Mexico law enforcement academy or provided by a certified
21 firearms instructor who is employed on a permanent basis by a
22 law enforcement agency; or

23 (5) by a person in possession of a valid
24 concealed handgun license issued to him by the department of
25 public safety pursuant to the provisions of the Citizen's

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Safety Act.

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

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

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