

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 792

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Eric A. Youngberg

AN ACT

RELATING TO FIREARMS; ENACTING THE CONCEALED HANDGUN CARRY ACT;  
PROVIDING STATEWIDE STANDARDS FOR THE ISSUANCE OF CONCEALED  
HANDGUN LICENSES; AMENDING AND REPEALING SECTIONS OF THE NMSA  
1978.

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 "Concealed Handgun  
Carry Act".

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

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 effective enforcement.

2 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the  
3 Concealed Handgun Carry Act:

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

6 B. "category" means whether a handgun is  
7 semiautomatic or not semiautomatic;

8 C. "concealed handgun" means a loaded handgun that  
9 is not visible to the ordinary observations of a reasonable  
10 person;

11 D. "department" means the department of public  
12 safety;

13 E. "handgun" means a firearm that will, is designed  
14 to or may readily be converted to expel a projectile by the  
15 action of an explosion and the barrel length of which, not  
16 including a revolving, detachable or magazine breech, does not  
17 exceed twelve inches; and

18 F. "licensee" means a person holding a valid  
19 concealed handgun license issued to him by the department.

20 Section 4. [NEW MATERIAL] DATE OF LICENSURE-- PERIOD OF  
21 LICENSURE. -- Effective July 1, 2003, the department is  
22 authorized to issue concealed handgun licenses to qualified  
23 applicants. Concealed handgun licenses shall be valid for a  
24 period of four years from the date of issuance, unless the  
25 license is suspended or revoked.

. 145461. 1

1           Section 5.   ~~[NEW MATERIAL]~~ APPLICANT QUALIFICATIONS. --

2           A.   The department shall issue a concealed handgun  
3 license to an applicant who:

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

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

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

9                   (4)   is not a fugitive from justice;

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

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

17                  (7)   is not otherwise prohibited by federal law  
18 or the law of any other jurisdiction from purchasing or  
19 possessing a firearm;

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

22                  (9)   is not addicted to alcohol or controlled  
23 substances; and

24                  (10)  has satisfactorily completed a firearms  
25 training course approved by the department for the category or

. 145461. 1

underscored material = new  
[bracketed material] = delete

1 categories of handgun that the applicant wants to be licensed  
2 to carry as a concealed handgun.

3 B. The department shall deny a concealed handgun  
4 license to an applicant who has:

5 (1) received a conditional discharge, a  
6 diversion or a deferment or has been convicted of, pled guilty  
7 to or entered a plea of nolo contendere to a misdemeanor  
8 offense involving a crime of violence;

9 (2) been convicted of a misdemeanor offense  
10 involving driving while under the influence of intoxicating  
11 liquor or drugs within five years immediately preceding the  
12 application for a concealed handgun license;

13 (3) been convicted of a misdemeanor offense  
14 involving the possession or abuse of a controlled substance; or

15 (4) been convicted of a misdemeanor offense  
16 involving assault, battery or battery against a household  
17 member.

18 Section 6. ~~[NEW MATERIAL]~~ APPLICATION FORM - SCREENING OF  
19 APPLICANTS - - FEE - - LIMITATIONS ON LIABILITY. - -

20 A. Effective July 1, 2003, applications for  
21 concealed handgun licenses shall be made readily available at  
22 locations designated by the department. Applications for  
23 concealed handgun licenses shall be completed, under penalty of  
24 perjury, on a form designed and provided by the department and  
25 shall include:

. 145461. 1

underscored material = new  
[bracketed material] = del ete

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

5 (2) a statement that the applicant is aware  
6 of, understands and is in compliance with the requirements for  
7 licensure set forth in the Concealed Handgun Carry Act;

8 (3) a statement that the applicant has been  
9 furnished a copy of the Concealed Handgun Carry Act and is  
10 knowledgeable of its provisions; and

11 (4) a conspicuous warning that the application  
12 form is executed under penalty of perjury and that a materially  
13 false answer or the submission of a materially false document  
14 to the department may result in denial or revocation of a  
15 concealed handgun license and may subject the applicant to  
16 criminal prosecution for perjury as provided in Section 30-25-1  
17 NMSA 1978.

18 B. The applicant shall submit to the department:

- 19 (1) a completed application form;  
20 (2) a nonrefundable application fee in an  
21 amount not to exceed one hundred dollars (\$100);  
22 (3) two full sets of fingerprints;  
23 (4) a certified copy of a certificate of  
24 completion for a firearms training course approved by the  
25 department;

. 145461. 1

underscored material = new  
[bracketed material] = delete

- 1 (5) two color photographs of the applicant;
- 2 (6) a certified copy of a birth certificate or
- 3 proof of United States citizenship, if the applicant was not
- 4 born in the United States; and
- 5 (7) proof of residency in New Mexico.

6 C. A law enforcement agency may fingerprint an  
7 applicant and may charge a reasonable fee.

8 D. Upon receipt of the items listed in Subsection B  
9 of this section, the department shall make a reasonable effort  
10 to determine if an applicant is qualified to receive a  
11 concealed handgun license. The department shall conduct an  
12 appropriate check of available records and shall forward the  
13 applicant's fingerprints to the federal bureau of investigation  
14 for a national criminal background check. The department shall  
15 comply with the license-issuing requirements set forth in  
16 Section 7 of the Concealed Handgun Carry Act. However, the  
17 department shall suspend or revoke a license if the department  
18 receives information that would disqualify an applicant from  
19 receiving a concealed handgun license after the sixty-day time  
20 period has elapsed.

21 Section 7. ~~[NEW MATERIAL]~~ DEPARTMENT RESPONSE TO  
22 APPLICATION--RIGHT TO APPEAL--LICENSE RENEWAL--SUSPENSION OR  
23 REVOCATION OF LICENSE. --

24 A. Pursuant to rules adopted by the department,  
25 the department shall within sixty days of receiving an

underscored material = new  
[bracketed material] = delete

1 application for a concealed handgun license:

2 (1) issue a concealed handgun license to  
3 an applicant; or

4 (2) deny the application on the grounds that  
5 the applicant failed to qualify for a concealed handgun license  
6 pursuant to the provisions of the Concealed Handgun Carry Act.

7 B. Information relating to an applicant or to a  
8 licensee received by the department or any other law  
9 enforcement agency is confidential and exempt from public  
10 disclosure unless an order to disclose information is issued by  
11 a court of competent jurisdiction. The information shall be  
12 made available by the department to a state or local law  
13 enforcement agency upon request by the agency.

14 C. A concealed handgun license issued by the  
15 department shall include:

- 16 (1) a color photograph of the licensee;  
17 (2) the licensee's name, address and date of  
18 birth;  
19 (3) the expiration date of the concealed  
20 handgun license; and  
21 (4) the category or categories of handgun that  
22 the licensee is licensed to carry.

23 D. A licensee shall notify the department within  
24 thirty days regarding a change of his name or permanent  
25 address. A licensee shall notify the department within thirty

. 145461. 1

underscored material = new  
[bracketed material] = delete

1 days if the licensee's concealed handgun license is lost,  
2 stolen or destroyed.

3 E. If a concealed handgun license is reported  
4 lost, stolen or destroyed, the license is invalid and the  
5 licensee may obtain a duplicate license by furnishing the  
6 department a notarized statement that the original license was  
7 lost, stolen or destroyed and paying a reasonable fee.

8 F. A licensee may renew his concealed handgun  
9 license by submitting to the department a completed renewal  
10 form, under penalty of perjury, designed and provided by the  
11 department, accompanied by a payment of a fifty-dollar (\$50.00)  
12 renewal fee. A licensee who renews his concealed handgun  
13 license may renew his license by taking a four-hour refresher  
14 firearms training course and paying the fifty-dollar (\$50.00)  
15 renewal fee to the department. The department shall conduct a  
16 national criminal records check of the licensee seeking to  
17 renew his license. A concealed handgun license shall not be  
18 renewed more than sixty days after it has expired. A licensee  
19 who fails to renew his concealed handgun license within sixty  
20 days after it has expired may apply for a new concealed handgun  
21 license pursuant to the provisions of the Concealed Handgun  
22 Carry Act.

23 G. The department shall suspend or revoke a  
24 concealed handgun license if:

25 (1) the licensee provided the department

underscored material = new  
[bracketed material] = delete

1 with false information on his application form or renewal form  
2 for a concealed handgun license;

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

6 (3) subsequent to receiving a concealed  
7 handgun license, the licensee violates a provision of the  
8 Concealed Handgun Carry Act.

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

12 A. The department shall prepare and publish  
13 minimum standards for approved firearms training courses that  
14 teach competency with handguns. A firearms training course  
15 shall include classroom instruction and range instruction and  
16 an actual demonstration by the applicant of his ability to  
17 safely use a handgun. An applicant shall not be licensed  
18 unless he demonstrates, at a minimum, his ability to use a  
19 handgun of .32 caliber. An approved firearms training course  
20 shall be a course that is certified or sponsored by a federal  
21 or state law enforcement agency, a college, a firearms training  
22 school or a nationally recognized organization, approved by the  
23 department, that customarily offers firearms training. The  
24 firearms training course shall be not less than fifteen hours  
25 in length and shall provide instruction regarding:

. 145461. 1

underscored material = new  
[bracketed material] = delete

- 1 (1) knowledge of and safe handling of single-
- 2 and double-action revolvers and semi automatic handguns;
- 3 (2) safe storage of handguns and child safety;
- 4 (3) safe handgun shooting fundamentals;
- 5 (4) live shooting of a handgun on a firing
- 6 range;
- 7 (5) identification of ways to develop and
- 8 maintain handgun shooting skills;
- 9 (6) federal, state and local criminal and
- 10 civil laws pertaining to the purchase, ownership,
- 11 transportation, use and possession of handguns;
- 12 (7) techniques for avoiding a criminal attack
- 13 and how to control a violent confrontation; and
- 14 (8) techniques for nonviolent dispute
- 15 resolution.

16 B. Every instructor of an approved firearms

17 training course shall annually file a copy of the course

18 description and proof of certification with the department.

19 Section 9. [NEW MATERIAL] LIMITATION ON LICENSE. -- Nothing

20 in the Concealed Handgun Carry 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

underscored material = new  
[bracketed material] = delete

1 possession at all times while carrying a concealed handgun.

2 Section 11. [NEW MATERIAL] VALIDITY OF LICENSE ON TRIBAL  
3 LAND. -- A concealed handgun license shall not be valid on tribal  
4 land, unless authorized by the governing body of an Indian  
5 nation, tribe or pueblo.

6 Section 12. [NEW MATERIAL] RULES-- DEPARTMENT TO  
7 ADMINISTER. -- The department shall promulgate rules necessary to  
8 implement the provisions of the Concealed Handgun Carry Act.

9 The rules shall include:

10 A. grounds for the suspension and revocation of  
11 concealed handgun licenses issued pursuant to the provisions of  
12 the Concealed Handgun Carry Act;

13 B. provision of authority for a law enforcement  
14 officer to confiscate a concealed handgun license when a  
15 licensee violates the provisions of the Concealed Handgun Carry  
16 Act;

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

20 D. creation of a sequential numbering system for  
21 all concealed handgun licenses issued by the department and  
22 display of numbers on issued concealed handgun licenses.

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

24 A. The "concealed handgun carry fund" is created in  
25 the state treasury.

. 145461. 1

underscored material = new  
[bracketed material] = delete

1           B. All money received by the department pursuant to  
2 the provisions of the Concealed Handgun Carry Act shall be  
3 deposited by the state treasurer for credit to the concealed  
4 handgun carry fund. The state treasurer shall invest the fund  
5 as all other state funds are invested, and income from the  
6 investment of the fund shall be credited to the fund. Balances  
7 remaining at the end of any fiscal year shall not revert to the  
8 general fund and may be used to maintain the state's criminal  
9 history database.

10           C. Money in the concealed handgun carry fund is  
11 appropriated to the department to carry out the provisions of  
12 the Concealed Handgun Carry Act.

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

15           "30-7-2. UNLAWFUL CARRYING OF A DEADLY WEAPON. --

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

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

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

24                   (3) by a peace officer in accordance with the  
25 policies of his law enforcement agency who is certified

. 145461. 1

underscored material = new  
[bracketed material] = delete

1 pursuant to the Law Enforcement Training Act;

2 (4) by a peace officer in accordance with the  
3 policies of his law enforcement agency who is employed on a  
4 temporary basis by that agency and who has successfully  
5 completed a course of firearms instruction prescribed by the  
6 New Mexico law enforcement academy or provided by a certified  
7 firearms instructor who is employed on a permanent basis by a  
8 law enforcement agency; [or]

9 (5) by a person in possession of a valid  
10 concealed handgun license issued to him by the department of  
11 public safety pursuant to the provisions of the Concealed  
12 Handgun Carry Act; or

13 (6) by a person in possession of a valid  
14 concealed handgun license issued to him by a state contiguous  
15 to New Mexico.

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

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

20 Section 15. REPEAL. -- Sections 29-18-1 through 29-18-12  
21 NMSA 1978 (being Laws 2001, Chapter 219, Sections 1 through 12)  
22 are repealed.

23 Section 16. SEVERABILITY. -- If any part or application of  
24 the Concealed Handgun Carry Act is held invalid, the remainder  
25 or its application to other situations or persons shall not be

. 145461. 1

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

affected.

Section 17. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2003.