

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
-----------------------	----------------------

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

<i>Check all that apply:</i>				<b>Date Prepared:</b>	1/16/24
<b>Original</b>	X	<b>Amendment</b>		<b>Bill No:</b>	HB 78
<b>Correction</b>		<b>Substitute</b>			

<b>Sponsor:</b>	John Block	<b>Agency Name and Code Number:</b>	305 – New Mexico Department of Justice
<b>Short Title:</b>	Permitless Firearm Carrying	<b>Person Writing Analysis:</b>	Van Snow
		<b>Phone:</b>	505-537-7676
		<b>Email:</b>	legisfir@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY24</b>	<b>FY25</b>		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY24</b>	<b>FY25</b>	<b>FY26</b>		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis:

Current New Mexico law generally allows only those individuals possessing a valid concealed carry permit issued by the Department of Public Safety pursuant to the provisions of the Concealed Handgun Carry Act, NMSA 1978, §§ 29-19-1 through -17 (2003), to carry a concealed, loaded firearm on their person in a public place. The Concealed Handgun Carry Act provides that such permits may only be issued to an individual who meets certain qualifications. *See id.* § 29-19-4.

HB 78 would allow individuals who have not completed firearm safety training or otherwise satisfied the Concealed Handgun Carry Act’s requirements to carry concealed, loaded firearms in most public places.

HB 78 would also amend NMSA 1978, Sections 30-7-1 and 30-7-2 to exclude firearms from the class of deadly weapons contemplated in those statutes, which prohibit the unlawful carrying of deadly weapons. Carrying a concealed, loaded firearm without satisfying one of Section 30-7-2’s current exceptions would therefore no longer be a criminal offense in New Mexico. Similarly, HB 78 would amend NMSA 1978, Section 30-7-13, which prohibits the unauthorized carrying of firearms and other deadly weapons on busses, to remove firearms from the class of prohibited weapons.

HB 78 would also repeal the following sections of Chapter 30, Article 7 NMSA 1978:

- Section 30-7-2.2, which prohibits the knowing possession or transporting of a handgun by a minor, subject to certain exceptions.
- Section 30-7-2.3, which provides that a handgun is subject to seizure and forfeiture by a law enforcement agency when the handgun is possessed or transported by a person in violation of Section 30-7-2.2.
- Section 30-7-2.4, which prohibits the unlawful carry of a firearm on a university premises, subject to certain exceptions.
- Section 30-7-3, which prohibits carrying a loaded or unloaded firearm on any premises licensed by the regulation and licensing department for the dispensing of alcoholic

beverages, subject to certain exceptions including law enforcement and a valid concealed carry permit holder.

As a result of these changes, individuals without concealed carry permits could legally carry concealed, loaded firearms in places like bars or on university campuses.

The bill would also update several instances of male pronouns with gender-neutral terms.

## **FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None to this office.

## **SIGNIFICANT ISSUES**

HB 78 would allow permitless carrying of a concealed firearm by a person who is not “prohibited by federal or state law or a court order” from doing so. This could conflict with any current municipal ordinance in New Mexico that prohibits carrying a loaded, concealed firearm without a valid concealed carry permit. For example, Section 12-2-8 of Albuquerque’s Municipal Code prohibits carrying a firearm “concealed in a manner making it not readily visible on the person or in close proximity thereto,” subject to certain exceptions. Many municipalities across New Mexico have identical or similar ordinances in place.

The New Mexico Supreme Court has recognized that “an ordinance will conflict with state law when state law specifically allows certain activities or is of such a character that local prohibitions on those activities would be inconsistent with or antagonistic to that state law or policy.” *Stennis v. City of Santa Fe*, 2008-NMSC-008, ¶ 21, 143 N.M. 320. HB 78 would permit activities that local ordinances specifically prohibit, and would therefore conflict with those local ordinances. However, nothing in the proposed new law indicates whether the Legislature intends to preempt municipal authority in this area or discusses the proper interaction between the statute and municipal ordinances. The conflict could lead to confusion and require clarification through litigation.

HB 78 would render the Concealed Handgun Carry Act superfluous, but does not repeal it.

It is unclear how HB 78 and the Governor’s public health orders on firearms would interact, but the two would be in tension and it is unclear which would govern.

## **PERFORMANCE IMPLICATIONS**

None for this office.

## **ADMINISTRATIVE IMPLICATIONS**

None for this office.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 78 conflicts with HB 127. HB 127 would prohibit individuals under the age of 21 from possessing certain firearms, while HB 78 would permit anyone over the age of 18 to carry

firearms.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

HB 78 raises public safety concerns. The New Mexico Court of Appeals has observed that the “[t]he purpose of Section 30-7-3 is to protect the innocent patrons of an establishment serving alcoholic beverages” from the “obvious danger in the combination of firearms and liquor consumption,” which “exists regardless of whether the person possessing the firearm in a liquor establishment is drinking.” *State v. Torres*, 2003-NMCA-101, ¶ 11, 134 N.M. 194. The New Mexico Supreme Court has also recognized that bringing a firearm onto school grounds poses a “high risk of danger,” and that “the very real dangers of deadly weapons” on school campuses “are obvious.” *State v. Rowell*, 2008-NMSC-041, ¶ 33, 144 N.M. 371. HB 78 would repeal the statutes that address the dangers presented by firearms in liquor establishments and on university campuses.

## **ALTERNATIVES**

N/A

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

None.