

## AGENCY BILL ANALYSIS – 2026 SESSION

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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 20 JAN 2026 **Check all that apply:**  
**Bill Number:** HB 81 **Original**  **Correction**     
   **Amendment**    **Substitute**   

<b>Sponsor:</b> <u>Stefani Lord &amp; John Block</u>	<b>Agency Name and Code</b>
<b>Short</b>	<b>Number:</b> <u>790 – Department of Public Safety</u>
<b>Title:</b> <u>Permitless Carry of Firearms</u>	<b>Person Writing</b> <u>Dale R. Wagoner</u>
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**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
(\$0.0-\$904.2)	(\$0.0-\$904.2)	(\$0.0-\$904.2)	Recurring	OSF-Conceal Carry Fund

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	(\$0.0-\$904.2)	(\$0.0-\$904.2)	(\$0.0-\$904.2)	(\$0.0-\$1,808.4)	Recurring	OSF-Conceal Carry Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Similar to 2025 HB 83

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: HB 81 amends the Criminal Code to decriminalize carrying of a concealed loaded firearm. It also adds a new section affirmatively stating that a person aged 18 or older may carry an open or concealed loaded firearm on their person, unless the person is prohibited by federal or state law or court order from possessing or carrying a firearm.

The bill preserves the crimes of unlawful carrying of a deadly weapon on premises of a university (petty misdemeanor) or school (fourth-degree felony).

It also repeals the misdemeanor crime of unlawful possession of a handgun (Sec. 30-7-2.2); authorization for law enforcement to seize an illegally possessed handgun (Sec. 30-7-2.3); and the fourth-degree felony of unlawful carrying of a firearm in licensed liquor establishments (Sec. 30-7-3).

#### **FISCAL IMPLICATIONS**

HB 81 is expected to reduce revenue generated from concealed carry permit fees, which fund the New Mexico Department of Public Safety's (DPS) administrative processes, including background checks and permit issuance. In FY 2024, DPS processed 9,408 applications that generated \$746,600 in fees, increasing to \$948,300 in FY 2025 for 9,408 applications, and have processed 6,470 applications in the first two quarters of FY26 with a total projected revenue of \$904,200, covering five full-time employee salaries and operating costs totaling \$892,500 annually.

While some residents may continue to purchase or renew licenses for compliance with other states' laws, the overall revenue decline is uncertain and could negatively affect DPS's fiscal stability. Savings from decreased administrative burdens may offset some losses, but additional costs for public education and law enforcement training to implement the new framework could arise.

The long-term fiscal impact depends on changes in concealed carry licensing and associated fees, potentially creating a minimal to substantial negative effect on DPS revenues. If revenues decrease significantly, DPS may need to reassign affected Concealed Carry Unit (CCU) employees to other positions within the Law Enforcement Records Bureau. Furthermore, any state budget absorption of costs for education or enforcement should consider data from similar states like Arizona and Texas, where mixed fiscal impacts include decreased permit revenue offset by increased public safety spending. This highlights the need for a comprehensive analysis of fiscal adjustments and resource allocation to mitigate potential disruptions.

#### **SIGNIFICANT ISSUES**

HB 81 removes critical safeguards such as mandatory training and background checks that are currently required for permit holders, and it increases risks by allowing individuals, including those with concerning criminal histories, to carry concealed weapons without oversight. This shift raises concerns about public safety and law enforcement, as the Department of Public Safety warns of heightened risks during interactions with armed individuals.

Although federal law (18 U.S.C. §922) prohibits firearm possession by felons, domestic violence offenders, and those adjudicated mentally ill, enforcement without state-level permit checks becomes more reliant on direct law enforcement encounters, weakening preventative measures. Additionally, the bill repeals sections of the Concealed Handgun Carry Act but leaves the state's concealed carry program intact for reciprocity with other states, likely causing a sharp decline in license applications.

By decriminalizing firearm possession on college campuses, bars, and liquor establishments, HB 83 also raises the likelihood of increased firearm-related incidents in these settings. The bill grants individuals, including certain convicted criminals, the right to carry concealed firearms—a right previously restricted to protect public safety—thereby diminishing critical safeguards essential for balancing constitutional rights with community security.

This bill repeals NMSA 1978 sections 30-7-2.2 through 30-7-3 but does not mention a repeal of Chapter 29 Article 19 NMSA 1978, the Concealed Carry Act. Section 29-19-4 of the Concealed Carry Act requires the Department of Public Safety to issue a concealed carry license if the applicant: (1) is a citizen of the United States; (2) is a resident of New Mexico or is a member of the armed forces whose permanent duty station is located in New Mexico or is a dependent of such a member; (3) is twenty-one years of age or older; (4) is not a fugitive from justice; (5) has not been convicted of a felony in New Mexico or any other state or pursuant to the laws of the United States or any other jurisdiction; (6) is not currently under indictment for a felony criminal offense in New Mexico or any other state or pursuant to the laws of the United States or any other jurisdiction; (7) is not otherwise prohibited by federal law or the law of any other jurisdiction from purchasing or possessing a firearm; (8) has not been adjudicated mentally incompetent or committed to a mental institution; (9) is not addicted to alcohol or controlled substances; and (10) has satisfactorily completed a firearms training course approved by the department for the category and the largest caliber of handgun that the applicant wants to be licensed to carry as a concealed handgun.

The Concealed Handgun Carry Act also requires DPS to deny a concealed carry license if an applicant has: (1) received a conditional discharge, a diversion or a deferment or has been convicted of, pled guilty to or entered a plea of nolo contendere to a misdemeanor offense involving a crime of violence within ten years immediately preceding the application; (2) been convicted of a misdemeanor offense involving driving while under the influence of intoxicating liquor or drugs within five years immediately preceding the application for a concealed handgun license; (3) been convicted of a misdemeanor offense involving the possession or abuse of a controlled substance within ten years immediately preceding the application; or (4) been convicted of a misdemeanor offense involving assault, battery or battery against a household member with no time limitation on disqualification.

The State of New Mexico would continue to have a concealed carry program for individuals who need a license for reciprocity purposes with other states. However, the number of individuals applying for concealed carry licenses would severely decline.

This bill would decriminalize the carrying of firearms at New Mexico colleges and universities; and the carrying of firearms in bars and other liquor establishments. Allowing guns in bars is likely to result in some additional violent gun crime.

DPS deals with numerous individuals with prior criminal history who are allowed to purchase a firearm but, because of their criminal history, are still prohibited from having a concealed carry permit. This bill would grant the right to carry a concealed firearm to all those individuals. This causes DPS to be concerned about an increased danger to officers in their interactions with the public. This law would allow several categories of convicted criminals who currently cannot legally carry a concealed weapon to be able to do so. Those individuals can currently exercise their rights by lawfully possessing and openly carrying a firearm in most cases, but not a concealed one. The possibility of giving convicted criminals the right to conceal their weapons from law enforcement seems likely to increase the danger to officers and deputies.

**Removal of Firearms from "Deadly Weapon" Definition:** The bill's amendment to § 30-1-12(B) excluding firearms from the Criminal Code definition of "deadly weapon" has significant unintended consequences extending far beyond permitless carry. Numerous offenses throughout the Criminal Code are predicated on the use of a "deadly weapon," including aggravated assault with a deadly weapon (§ 30-3-2), aggravated battery with a deadly weapon (§ 30-3-5), and robbery armed with a deadly weapon (§ 30-16-2). Under this bill, a person who shoots another would no longer be committing "assault with a deadly weapon"—the offense would be charged as simple assault unless prosecutors rely solely on the firearm enhancement statute (§ 31-18-16).

While § 31-18-16 provides sentencing enhancements when a firearm is used in the commission of a noncapital felony, this enhancement is an add-on to the base offense—it does not substitute for the enhanced offense classification that currently applies when a firearm (as a "deadly weapon") is used. The practical effect is that armed crimes committed with firearms would initially be charged at lower offense levels than identical crimes committed with knives or bludgeons, which remain "deadly weapons" under the amended definition.

**Constitutional Framework:** The U.S. Supreme Court's decision in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), established that the Second Amendment protects the right to carry firearms in public for self-

defense. However, the Court explicitly recognized that "shall-issue" licensing regimes requiring objective criteria—such as background checks and training—remain constitutionally permissible. Justice Kavanaugh's concurrence (joined by Chief Justice Roberts) emphasized that the decision does not prohibit states from requiring licenses with fingerprinting, background checks, mental health records checks, and training. New Mexico's current Concealed Handgun Carry Act would likely survive *Bruen* scrutiny. The bill goes beyond what *Bruen* requires by eliminating the permit requirement entirely.

## PERFORMANCE IMPLICATIONS

None

## ADMINISTRATIVE IMPLICATIONS

None

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Creates conflict with the Concealed Handgun Carry Act (Chapter 29, Article 19 NMSA 1978), which remains in effect, but whose practical application is substantially altered. The bill's amendment to the "deadly weapon" definition in § 30-1-12(B) creates conflicts with multiple Criminal Code provisions that reference "deadly weapon" without specifying firearms, including §§ 30-3-2, 30-3-5, 30-3-13, 30-16-2, and others. Similar to 2025 HB 83.

## TECHNICAL ISSUES

**Inconsistent Age Requirements:** Section 1 permits any person "eighteen years of age or older" to carry a concealed firearm. However, the bill does not repeal the Concealed Handgun Carry Act (Chapter 29, Article 19), which requires applicants to be "twenty-one years of age or older" (§ 29-19-4(A)(3)). This creates a two-tier system where 18-20 year-olds may carry without a permit but cannot obtain a permit for reciprocity purposes until age 21.

**Partial Repeal Creates Statutory Conflicts:** The bill repeals §§ 30-7-2.2 through 30-7-3 but leaves the Concealed Handgun Carry Act intact. Section 29-19-11 of that Act provides that a concealed handgun license "shall be valid throughout the state" and supersedes local regulations. With permitless carry authorized under new Section 1, the interaction between these provisions is unclear—particularly regarding whether localities retain any authority to regulate carrying in specific locations not addressed by the bill.

**Removal of Seizure Authority:** Repeal of § 30-7-2.3 eliminates law enforcement's statutory authority to seize illegally possessed handguns. While officers retain general authority to seize contraband and evidence, the specific statutory framework for the seizure of handguns is removed.

## OTHER SUBSTANTIVE ISSUES

**Sensitive Places:** *Bruen* recognized that laws prohibiting firearms in "sensitive places such as schools and government buildings" have historical support and are presumptively constitutional. The bill preserves prohibitions on carrying at schools (§ 30-7-2.1) but repeals the prohibition on carrying in liquor establishments (§ 30-7-3). Post-*Bruen* litigation has produced mixed results on which locations qualify as "sensitive places," and the Legislature may wish to clarify whether additional locations—such as courthouses, polling places, or government buildings—should be expressly addressed.

**Interaction with Federal Prohibitions:** Section 1 conditions permitless carry on the person not being "prohibited by federal or state law or a court order from possessing or carrying a firearm." Federal law (18 U.S.C. § 922(g)) prohibits possession by felons, domestic violence misdemeanants, persons subject to qualifying protective orders, unlawful drug users, persons adjudicated mentally defective, and others. However, without the state permit system's background check at the point of licensing, enforcement of these prohibitions shifts entirely to law enforcement encounters after the fact rather than preventive screening.

**ALTERNATIVES**

None.

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

Status Quo will remain.

**AMENDMENTS**

None.