

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Wis. Admin. Code chapters JUS 17, Licenses to Carry Concealed Weapons and JUS 18, Certification of Former Federal Law Enforcement Officers

Subject

Establishing standards and procedures for the issuance and administration of licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; the review of license/certification card decisions by the department; the certification of firearms safety and training instructors; and the recognition by Wisconsin of concealed carry licenses issued by other states.

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20, Stats. Appropriations Affected

20.455 (2) (gs) and 20.455 (2) (gu)

Fiscal Effect of Implementing the Rule

No Fiscal Effect

Indeterminate

Increase Existing Revenues

Decrease Existing Revenues

Increase Costs

Could Absorb Within Agency's Budget

Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes

No

Policy Problem Addressed by the Rule

Implementation of 2011 WI Act 35.

Act 35 created a procedure by which a person may apply to the Department of Justice (DOJ) for a license to carry a concealed weapon. Under s. 175.60, Wis. Stats., DOJ shall issue a license to an applicant who meets all of the statutory requirements. Under s. 175.49, Wis. Stats., DOJ may issue a certification card to qualified former federal law enforcement officers who reside in Wisconsin. The statutes require DOJ to:

- Develop and manage a concealed carry license application and renewal process.
- Conduct background checks on applicants.
- Produce tamper-proof licenses.
- Issue a concealed carry license to qualified applicants.
- Maintain, update, and publish a list of other states that conduct similar background checks relating to concealed carry licenses.
- Maintain a database file of Wisconsin licensees that is accessible to law enforcement.
- Maintain and monitor an interface with state courts of all proceedings that may result in the suspension, revocation, or restoration of a concealed carry license.
- Establish and manage renewal, suspension, revocation, replacement and, appeal processes.
- Produce annual statistical reports relating to licenses issued, denied, suspended and revoked.

The Department has approved 109,577 concealed carry licenses as of May 24, 2012 and is receiving approximately 2,000 applications per week. Sufficient revenue is being generated to support the program. To fulfill its many new responsibilities, DOJ required additional resources in FY 2012 to support the implementation of Act 35. These resources, both personnel and equipment, were funded with the PR and

spending authority increase granted through 16,515 requests approved by the Joint Committee on Finance (JCF). The remaining funding and position authority needed to support the program through FY 2013 will be requested as needed.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Fiscal and Economic costs associated with implementing the program are not driven by the Administrative Rule. Rather, administrative costs are driven by the statutory requirements established in Act 35. DOJ does not believe the rule imposes additional costs beyond those necessary to fulfill the requirements of Act 35.

On April 20, 2012, DOJ solicited public comment from businesses, business sectors, associations representing business, local government units, and individuals that may be affected by the proposed rule was solicited pursuant to s. 227.137(3), Wis. Stats., and Executive Order #50. The public comment period ended on May 4, 2012. Fourteen persons provided comments in response to DOJ's solicitation. Four persons responded merely to state that the proposed rules had no economic impact on them or their business. One person was concerned that the rules did not include the many Hmong and Lao veterans of the Vietnam War who served in the "clandestine services," and thus, did not have a DD214 and could not afford to pay for training. One person was concerned that: Active military were not covered in the rules; DOJ should accept electronic fingerprints; and thought state identification number was not defined. Three persons believed a concealed carry licensee should not have to go through a background check when purchasing a firearm. One person believed that the instructor-student ratio should not be limited. One person advocated for stricter rules that would not accept hunters safety or military experience, included an instructor auditing capacity, and would require photograph and fingerprints upon application. One person felt Wis 18 was more restrictive than federal law. One person corresponded to express a positive economic impact on his business. One person commented that the rules helped to clarify the law.

Based on the responses received and the follow-up conversations with the respondents, there does not appear to be any adverse material effect to the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state as a result of the proposed permanent concealed carry administrative rules. None of the respondents indicated that the proposed rules would have any adverse economic impact on their business or livelihood. The rule will not have an economic effect on public utilities or their taxpayers. Many of the comments related to issues other than the economic impact of the proposed rules. DOJ will give further consideration to those comments during the public hearing process on the proposed rules.

Prior to the enactment of 2011 Wis. Act 35, Wisconsin statutes and administrative rules contained no provisions for issuance of licenses/ certification cards to carry concealed weapons to qualified applicants. The proposed rules are the first to address these subjects.

Act 35 requires DOJ to issue licenses authorizing eligible Wisconsin residents to carry concealed weapons in Wisconsin and to certify DOJ firearms safety and training instructors. Based on the current volume of concealed carry applications, the Department estimates that 120,000 licenses will be issued by the end of FY 2012, while another 100,000 will be issued in FY 2013. While these figures represent the Department's experience thus far, each state's experience with citizen participation in concealed carry is unique and the actual number of licenses issued over the five year period cannot be stated with certainty without the supporting data that will be developed in the first two years. Revenues will be directly correlated with the number of completed applications submitted and approved.

The rule establishes a statutorily allowed license fee of \$37, as determined by the department, to cover the cost of issuing the license on a five year renewal cycle and a \$12 renewal fee for the subsequent five years. Act 35 mandates a \$13 fee for the required background check. The annual fee for a certification card for former federal law enforcement officers is \$12 for the license and \$13 for the background check. The revenue generated by this rule will be dependent on the number of licenses/ certification cards issued. It is estimated that these permanent rules will generate approximately \$5,000,000 in revenue in FY2013.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rules are predicated on legal analysis by DOJ staff of the language and requirements of Act 35. Based on that analysis, DOJ has determined that the proposed rules are necessary for DOJ to carry out its responsibilities and the legislative directives set forth in Act 35. The alternative to implementing the rule would be non-compliance with Act 35.

Long Range Implications of Implementing the Rule

There are no known long range implications of implementing the rule.

Compare With Approaches Being Used by Federal Government

No comparable information available

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Iowa

Iowa provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a nonprofessional permit to carry weapons. Iowa Code § 724.7(1). Iowa further provides by statute that a concealed carry permit or license issued by another state to a nonresident of Iowa shall be considered a valid permit or license to carry weapons under Iowa law. Iowa Code § 724.11A. Iowa's statutory recognition of permits issued by other states is not tied to the nature of any background checks performed by those other states.

Iowa statutes specify a variety of methods by which a license applicant may demonstrate the requisite knowledge of firearms safety. Iowa Code § 724.9(1). Satisfaction of any of these methods may be documented by submitting: (1) a copy of a certificate of completion or similar document for a course or class that meets the statutory requirements; (2) an affidavit from the instructor or organization conducting such a course or class that attests that the applicant has completed the course or class; or (3) a copy of any document indicating participation in a firearms shooting competition. Iowa's administrative rules give these requirements additional substantive content through definitions of "firearm training and documentation" and "firearm training program." Iowa Admin. Code § 661.91.1(724).

The information to be included on the application form is prescribed by statute. Iowa Code § 724.10(1). Upon receipt of a completed application, the commissioner of public safety is required to conduct a criminal background check to determine whether the applicant is statutorily eligible for a permit. Iowa Code § 724.10(2); Iowa Admin. Code § 661-91.5(724)(1). The commissioner must approve or deny a permit application within 30 days. Iowa Admin. Code § 661-91.5(724)(2). Denial decisions must be issued in writing, with reasons. Iowa Admin. Code § 661-91.5(724)(4). If a permit holder is arrested for a disqualifying offense, the commissioner may immediately suspend the permit and immediately notify the holder in writing. Iowa Admin. Code § 661-91.6(724)(1). If the arrest results in a disqualifying conviction, the permit is revoked. Iowa Adm. Code § 661-91.6(724)(4). If there is no conviction, the permit is reinstated. Iowa Adm. Code § 661-91.6(724)(3). Iowa's administrative rules provide an administrative hearing procedure for appealing the denial, suspension, or revocation of a *professional* weapons permit, but do not expressly provide an appeal procedure for a non-professional permit.

Minnesota

Minnesota provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a permit to carry a pistol. Minn. Stat. § 624.714(2). Minnesota further requires the state commissioner of public safety to annually establish and publish a list of states whose concealed carry laws are not substantially similar to Minnesota's concealed carry laws. Minn. Stat. § 624.714(16)(a). A nonresident of Minnesota holding a carry permit from a state not on the list may use that permit in Minnesota, subject to the requirements of Minnesota law. Minn. Stat. § 624.714(16)(a). Minnesota's statutory recognition of a permit issued by another state is not directly tied to the nature of any background checks performed by the other state, but is tied to a general determination that the other state's concealed carry laws are substantially similar to Minnesota's.

Applications are made to the sheriff of the county in which the applicant resides. Minn. Stat. § 624.714(2). The information to be included on the application form is prescribed by statute. Minn. Stat. § 624.714(3). A permit applicant must have received training in the safe use of a pistol within one year prior to the application. Minn. Stat. § 624.714(2a)(a). To establish such training, an applicant must submit a copy of a certificate signed by the training instructor and attesting that the applicant attended and completed the training. Minn. Stat. § 624.714(3)(c)(2).

Upon receiving a permit application, the sheriff is required to conduct a criminal background check to determine whether the applicant is statutorily eligible for a permit. Minn. Stat. § 624.714(4). The sheriff must approve or deny a permit application within 30 days. Minn. Stat. § 624.714(6). A denied applicant is given the right to submit additional information and the sheriff then has 15 days to reconsider the denial. Minn. Stat.

§ 624.714(6)(b). All denial decisions must be issued in writing, with reasons, including the factual basis for the denial. Minn. Stat. § 624.714(6)(b). A permit is void any time the holder becomes legally prohibited from possessing a firearm. Minn. Stat. § 624.714(8)(a). If the sheriff has knowledge that a permit is void, the sheriff must give written notice to the holder, who must return the permit. Minn. Stat. § 624.714(8)(a). If a permit holder is convicted of a disqualifying offense, the convicting court must take possession of the permit and send it to the issuing sheriff. Minn. Stat. § 624.714(8)(b). A decision denying or revoking a permit may be appealed to the district court of the jurisdiction in which the permit application was submitted. The appeal is heard by the court de novo without a jury. Minn. Stat. § 624.714(12).

Michigan

Michigan provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a license to carry a concealed pistol. Mich. Comp. Laws § 28.425b(7). Applications are made to the concealed weapon licensing board of the county in which the applicant resides. Mich. Comp. Laws § 28.425b(1). The information to be included on the application form is prescribed by statute. Mich. Comp. Laws § 28.425b(1). Michigan affords statutory recognition to non-residents who are licensed by another state to carry a concealed pistol. Mich. Comp. Laws § 28.432a(1)(h). That recognition is not tied to the nature of any background checks performed by the other state.

A license applicant must demonstrate knowledge and training in the safe use and handling of a pistol by successfully completing a pistol safety training program that meets statutorily prescribed requirements. Mich. Comp. Laws § 28.425b(7)(c). The training program must consist of at least eight hours of instruction, must cover specified subject areas, must include at least three hours on a firing range, must require firing at least 30 rounds of ammunition, and must be taught by an instructor certified by the state or by a national organization. Mich. Comp. Laws § 28.425j(1). The training program must provide an instructor-signed certificate indicating that the program meets the statutory requirements and was successfully completed by the license applicant and the applicant must include a copy of that certificate with the license application. Mich. Comp. Laws §§ 28.425b(1)(j) and 28.425j(1)(c).

After submitting an application, an applicant is statutorily required to submit a fingerprint card to the state police. Mich. Comp. Laws § 28.425b(9)-(10). The fingerprints are sent to the FBI and checked against state police records. Mich. Comp. Laws § 28.425b(10). Within 10 days after receiving fingerprint comparison results from the FBI, the state police must provide a fingerprint report to the appropriate county concealed weapon licensing board. Mich. Comp. Laws § 28.425b(10). The licensing board must grant or deny a license within 45 days after receiving the fingerprint report, except that if the state police do not send a fingerprint report to the licensing board within 60 days after results are received from the FBI, then the licensing board shall issue the applicant a temporary license which is valid for 180 days. Mich. Comp. Laws § 28.425b(13)-(14).

License denial decisions must be issued in writing with reasons and supporting facts. Mich. Comp. Laws § 28.425b(13). Denial decisions may be appealed to the circuit court of the jurisdiction in which the applicant resides. Mich. Comp. Laws § 28.425d(1). Court review is based on the written record of the application proceeding, except in cases in which a determination has been made that the applicant is a safety risk, in which case there is a hearing de novo before the court. Mich. Comp. Laws § 28.425d(1).

If a license holder is charged with a disqualifying criminal offense, the prosecuting attorney must promptly notify the county licensing board. Mich. Comp. Laws § 28.425m. The prosecutor must also notify the board of the subsequent disposition of the charge. Mich. Comp. Laws § 28.425m. Upon receiving notice that a licensee has been charged with a disqualifying offense, a licensing board must immediately suspend the person's license until there is a final disposition of the charge. Mich. Comp. Laws § 28.428(3). The licensee must be given written notice of the suspension and may request a prompt administrative hearing on the suspension. Mich. Comp. Laws § 28.428(3). If the licensing board determines that a licensee is no longer eligible for a license, the license shall be revoked. Mich. Comp. Laws § 28.428(4).

Illinois

Illinois does not issue licenses for the carrying of concealed weapons.

See "Analysis by the Department of Justice" in the Department's order adopting the permanent rules, DOJ-2012-01.

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