January 26, 2018

SENATE BILL No. 237

DIGEST OF SB 237 (Updated January 24, 2018 1:19 pm - DI 106)

Citations Affected: IC 35-47.

Synopsis: Handgun licensing. Replaces the dual license system (having "qualified" and "unlimited" licenses) with the single handgun license. Increases the duration of a four year handgun license to five years. Requires a law enforcement officer to whom an application for a handgun license is made to determine the applicant's: (1) country of citizenship; (2) place of birth; and (3) alien or admission number issued by United States Immigration and Customs Enforcement or any successor agency as applicable; when evaluating a noncitizen's application for a handgun license. Requires a law enforcement officer to whom an application for a handgun license is made to consult available local, state, and federal criminal history data banks, including the National Instant Criminal Background Check System (NICS), when determining whether possession of a firearm by an applicant would be a violation of state or federal law. Requires the superintendent of the state police to conduct a national fingerprint based criminal history check when investigating a person's eligibility for a license to carry a handgun. Prohibits a license to carry a handgun from being issued to a person who has certain pending charges.

Effective: July 1, 2018.

Bray

January 3, 2018, read first time and referred to Committee on Judiciary.
January 25, 2018, amended, reported favorably — Do Pass.

January 26, 2018

Second Regular Session 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

SENATE BILL No. 237

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-47-2-3, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) A person desiring a license to carry a handgun shall apply:

(1) to the chief of police or corresponding law enforcement officer of the municipality in which the applicant resides;

(2) if that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which the applicant resides after the applicant has obtained an application form prescribed by the superintendent; or

(3) if the applicant is a resident of another state and has a regular place of business or employment in Indiana, to the sheriff of the county in which the applicant has a regular place of business or employment.

The superintendent and local law enforcement agencies shall allow an applicant desiring to obtain or renew a license to carry a handgun to submit an application electronically under this chapter if funds are

available to establish and maintain an electronic application system.

(b) The law enforcement agency which accepts an application for a handgun license shall collect the following application fees:

(1) From a person applying for a ~~four (4)~~ **five (5)** year handgun license, a ten dollar ($10) application fee, five dollars ($5) of which shall be refunded if the license is not issued.

(2) From a person applying for a lifetime handgun license who does not currently possess a valid Indiana handgun license, a fifty dollar ($50) application fee, thirty dollars ($30) of which shall be refunded if the license is not issued.

(3) From a person applying for a lifetime handgun license who currently possesses a valid Indiana handgun license, a forty dollar ($40) application fee, thirty dollars ($30) of which shall be refunded if the license is not issued.

Except as provided in subsection (h), the fee shall be deposited into the law enforcement agency's firearms training fund or other appropriate training activities fund and used by the agency to train law enforcement officers in the proper use of firearms or in other law enforcement duties, or to purchase firearms, firearm related equipment, or body armor (as defined in IC 35-47-5-13(a)) for the law enforcement officers employed by the law enforcement agency. The state board of accounts shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(c) The officer to whom the application is made shall ascertain the applicant's name, full address, length of residence in the community, whether the applicant's residence is located within the limits of any city or town, the applicant's occupation, place of business or employment, criminal record, if any, and convictions (minor traffic offenses excepted), age, race, sex, nationality, date of birth, citizenship, height, weight, build, color of hair, color of eyes, scars and marks, whether the applicant has previously held an Indiana license to carry a handgun and, if so, the serial number of the license and year issued, whether the applicant's license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation, and the applicant's reason for desiring a license. **If the applicant is not a United States citizen, the officer to whom the application is made shall ascertain the applicant's country of citizenship, place of birth, and any alien or admission number issued by United States Immigration and Customs Enforcement or any successor agency as applicable.** The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify thereby the applicant's character and reputation, and shall in addition verify for accuracy the

information contained in the application, and shall forward this information together with the officer's recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant to the superintendent. **An investigation conducted under this section must include the performance of a national fingerprint based criminal history check and the consulting of available local, state, and federal criminal history data banks, including the National Instant Criminal Background Check System (NICS), to determine whether possession of a firearm by an applicant would be a violation of state or federal law.**

(d) The superintendent may make whatever further investigation the superintendent deems necessary. Whenever disapproval is recommended, the officer to whom the application is made shall provide the superintendent and the applicant with the officer's complete and specific reasons, in writing, for the recommendation of disapproval.

(e) If it appears to the superintendent that the applicant:

(1) has a proper reason for carrying a handgun;

(2) is of good character and reputation;

(3) is a proper person to be licensed; and

(4) is:

(A) a citizen of the United States; or

(B) not a citizen of the United States but is allowed to carry a firearm in the United States under federal law;

the superintendent shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the superintendent for at least ~~four (4)~~ **five (5)** years in the case of a ~~four (4)~~ **five (5)** year license. The superintendent may adopt guidelines to establish a records retention policy for a lifetime license. A ~~four (4)~~ **five (5)** year license shall be valid for a period of ~~four (4)~~ **five (5)** years from the date of issue. A lifetime license is valid for the life of the individual receiving the license. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have ~~*been honorably retired by a lawfully created pension board or its equivalent after*~~ twenty (20) or more years of service shall be valid for the life of these individuals. However, a lifetime license is automatically revoked if the license holder does not remain a proper person.

(f) At the time a license is issued and delivered to a licensee under

subsection (e), the superintendent shall include with the license information concerning handgun safety rules that:

(1) neither opposes nor supports an individual's right to bear arms; and

(2) is:

(A) recommended by a nonprofit educational organization that is dedicated to providing education on safe handling and use of firearms;

(B) prepared by the state police department; and

(C) approved by the superintendent.

The superintendent may not deny a license under this section because the information required under this subsection is unavailable at the time the superintendent would otherwise issue a license. The state police department may accept private donations or grants to defray the cost of printing and mailing the information required under this subsection.

(g) A license to carry a handgun shall not be issued to any person who:

(1) has been convicted of a felony;

(2) has had a license to carry a handgun suspended, unless the person's license has been reinstated;

(3) is under eighteen (18) years of age;

(4) is under twenty-three (23) years of age if the person has been adjudicated a delinquent child for an act that would be a felony if committed by an adult; ~~or~~

(5) has ~~been arrested~~ **pending charges** for a Class A or Class B felony for an offense committed before July 1, 2014, for a Level 1, Level 2, Level 3, or Level 4 felony for an offense committed after June 30, 2014, or any other felony that was committed while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged; **or**

(6) is prohibited by federal law from possessing or receiving firearms under 18 U.S.C. 922(g) through 18 U.S.C. 922(n).

In the case of an arrest under subdivision (5), a license to carry a handgun may be issued to a person who has been acquitted of the specific offense charged or if the charges for the specific offense are dismissed. The superintendent shall prescribe all forms to be used in connection with the administration of this chapter.

(h) If the law enforcement agency that charges a fee under subsection (b) is a city or town law enforcement agency, the fee shall be deposited in the law enforcement continuing education fund

established under IC 5-2-8-2.

(i) If a person who holds a valid license to carry a handgun issued under this chapter:

(1) changes the person's name;

(2) changes the person's address; or

(3) experiences a change, including an arrest or a conviction, that may affect the person's status as a proper person (as defined in IC 35-47-1-7) or otherwise disqualify the person from holding a license;

the person shall, not later than thirty (30) days after the date of a change described under subdivision (3), and not later than sixty (60) days after the date of the change described under subdivision (1) or (2), notify the superintendent, in writing, of the event described under subdivision (3) or, in the case of a change under subdivision (1) or (2), the person's new name or new address.

(j) The state police shall indicate on the form for a license to carry a handgun the notification requirements of subsection (i).

(k) The state police department shall adopt rules under IC 4-22-2 to:

(1) implement an electronic application system under subsection (a); *and*

(2) expedite the processing of an application made by a person described in ~~*IC 35-47-2-2.1(b).*~~ **section 2.1(b) of this chapter.**

Rules adopted under this section must require the superintendent to keep on file one (1) set of classifiable and legible fingerprints from every person who has received a license to carry a handgun so that a person who applies to renew a license will not be required to submit an additional set of fingerprints.

(l) Except as provided in subsection (m), for purposes of IC 5-14-3-4(a)(1), the following information is confidential, may not be published, and is not open to public inspection:

(1) Information submitted by a person under this section to:

(A) obtain; or

(B) renew;

a license to carry a handgun.

(2) Information obtained by a federal, state, or local government entity in the course of an investigation concerning a person who applies to:

(A) obtain; or

(B) renew;

a license to carry a handgun issued under this chapter.

(3) The name, address, and any other information that may be used to identify a person who holds a license to carry a handgun

issued under this chapter.

(m) Notwithstanding subsection (l):

(1) any information concerning an applicant for or a person who holds a license to carry a handgun issued under this chapter may be released to a federal, state, or local government entity:

(A) for law enforcement purposes; or

(B) to determine the validity of a license to carry a handgun; and

(2) general information concerning the issuance of licenses to carry handguns in Indiana may be released to a person conducting journalistic or academic research, but only if all personal information that could disclose the identity of any person who holds a license to carry a handgun issued under this chapter has been removed from the general information.

(n) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

SECTION 2. IC 35-47-2-4, AS AMENDED BY P.L.17-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) Licenses to carry handguns ~~shall be either qualified or unlimited, and~~ are valid for:

(1) ~~four (4)~~ **five (5)** years from the date of issue in the case of a ~~four (4)~~ **five (5)** year license; or

(2) the life of the individual receiving the license in the case of a lifetime license.

~~A qualified license shall be issued for hunting and target practice. The superintendent may adopt rules imposing limitations on the use and carrying of handguns under a license when handguns are carried by a licensee as a condition of employment. Unlimited licenses shall be issued for the purpose of the protection of life and property.~~

~~(b) In addition to the application fee, the fee for:~~

~~(1) a qualified license shall be:~~

~~(A) five dollars ($5) for a four (4) year qualified license;~~

~~(B) twenty-five dollars ($25) for a lifetime qualified license from a person who does not currently possess a valid Indiana handgun license; or~~

~~(C) twenty dollars ($20) for a lifetime qualified license from a person who currently possesses a valid Indiana handgun license; and~~

~~(2) an unlimited license shall be:~~

~~(A) thirty dollars ($30) for a four (4) year unlimited license;~~

~~(B) seventy-five dollars ($75) for a lifetime unlimited license from a person who does not currently possess a valid Indiana~~

~~handgun license; or~~

~~(C) sixty dollars ($60) for a lifetime unlimited license from a person who currently possesses a valid Indiana handgun license.~~

~~The superintendent shall charge a twenty dollar ($20) fee for the issuance of a duplicate license to replace a lost or damaged license.~~

(b) The superintendent shall charge:

(1) twenty dollars ($20) for the issuance of a duplicate or replacement five (5) year (or four (4) year, if the license is an unexpired four (4) year license) or lifetime license;

(2) seventy-five dollars ($75) for a lifetime license for a person who does not currently possess a valid Indiana handgun license; or

(3) sixty dollars ($60) for a lifetime license for a person who currently possesses a valid Indiana handgun license.

These fees shall be deposited in accordance with ~~subsection (f).~~ **subsection (e).**

~~(c) Licensed dealers are exempt from the payment of fees specified in subsection (b) for a qualified license or an unlimited license.~~

~~(d)~~ **(c)** The following officers of this state or the United States who have been honorably retired by a lawfully created pension board or its equivalent after at least twenty (20) years of service or because of a disability are exempt from the payment of ~~fees~~ **the fee** specified in subsection (b):

(1) Police officers.

(2) Sheriffs or their deputies.

(3) Law enforcement officers.

(4) Correctional officers.

~~(e)~~ **(d)** The following officers described in section 3(e) of this chapter who have at least twenty (20) years of service are exempt from the payment of ~~fees~~ **the fee** for a lifetime ~~qualified~~ license ~~or a lifetime unlimited license~~ specified in subsection (b):

(1) Police officers.

(2) Sheriffs or their deputies.

(3) Law enforcement officers of the United States government.

~~(f)~~ **(e)** Fees collected under this section shall be deposited in the state general fund.

~~(g)~~ **(f)** The superintendent may not issue a lifetime ~~qualified~~ license ~~or a lifetime unlimited license~~ to a person who is a resident of another state. The superintendent may issue a ~~four (4)~~ **five (5)** year ~~qualified~~ license ~~or a four (4) year unlimited license~~ to a person who is a resident of another state and who has a regular place of business or employment

in Indiana as described in section 3(a)(3) of this chapter.

~~(h)~~ **(g)** A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

(h) If the Bureau of Alcohol, Tobacco, Firearms and Explosives certifies the license described under this section as a valid National Instant Criminal Background Check System (NICS) compliant background check for firearm purchases, a:

(1) license issued under this section must conspicuously display the term "Brady Exempt"; and

(2) person bearing a valid license described in subdivision (1) is exempt from undergoing a:

(A) state; or

(B) federal;

background check when purchasing a firearm.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 237, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 5, after "include" insert "**the performance of a national fingerprint based criminal history check and the**".

Page 3, line 5, after "consulting" insert "**of**".

Page 3, line 29, after "least" strike "four (4)" and insert "**five (5)**".

Page 4, line 25, strike "been arrested" and insert "**pending charges**".

Page 6, line 18, strike "shall be either".

Page 6, line 19, strike "qualified or unlimited, and".

Page 6, strike lines 24 through 30.

Page 6, line 31, strike "(A) five dollars ($5) for a".

Page 6, line 31, delete "five (5)".

Page 6, line 31, strike "year qualified".

Page 6, strike lines 32 through 39.

Page 6, line 40, strike "(A) thirty dollars ($30) for a".

Page 6, line 40, delete "five (5)".

Page 6, line 40, strike "year unlimited".

Page 6, strike lines 41 through 42.

Page 7, strike lines 1 through 7, begin a new paragraph and insert:

"**(b) The superintendent shall charge:**

(1) twenty dollars ($20) for the issuance of a duplicate or replacement five (5) year (or four (4) year, if the license is an unexpired four (4) year license) or lifetime license;

(2) seventy-five dollars ($75) for a lifetime license for a person who does not currently possess a valid Indiana handgun license; or

(3) sixty dollars ($60) for a lifetime license for a person who currently possesses a valid Indiana handgun license.".

Page 7, line 8, strike "subsection (f)." and insert "**subsection (e).**".

Page 7, strike lines 9 through 10.

Page 7, line 11, strike "(d)" and insert "**(c)**".

Page 7, line 14, strike "fees" and insert "**the fee**".

Page 7, line 20, strike "(e)" and insert "**(d)**".

Page 7, line 22, strike "fees" and insert "**the fee**".

Page 7, line 22, strike "qualified".

Page 7, line 22, strike "or a lifetime unlimited".

Page 7, line 23, strike "license".

Page 7, line 27, strike "(f)" and insert "**(e)**".

Page 7, line 29, strike "(g)" and insert "**(f)**".
Page 7, line 29, strike "qualified".
Page 7, line 29, strike "or".
Page 7, line 30, strike "a lifetime unlimited license".
Page 7, line 31, strike "qualified".
Page 7, line 32, strike "or a".
Page 7, line 32, delete "five (5)".
Page 7, line 32, strike "year unlimited license".
Page 7, line 35, strike "(h)" and insert "**(g)**".
Page 7, line 37, delete "(i)" and insert "**(h)**".
Page 7, line 42, delete ""NICS Exempt";" and insert "**"Brady Exempt";**".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 237 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.