

LFC Requester:

**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original Amendment
Correction Substitute

Date Jan 16, 2017

Bill No: SJR 5

Sponsor: Steven P. Neville

Agency Code: 264

Short Title: Concealed Firearms Without A

Person Writing Gary Cade

Title: Permit

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		

(Parenthesis () Indicate Expenditure Decreases)

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ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SJR 5 would amend the New Mexico Constitution to permit persons who are 18 years old of age or older to carry a concealed firearm (of any type), without a permit, if they are not otherwise prohibited by federal or state law from owning or carrying a firearm.

FISCAL IMPLICATIONS

Unknown. The Concealed Handgun Carry Act which is now in effect includes application fees of \$100 and renewal fees of \$75 for a concealed handgun carry license, unless the licensee is currently involved with or retired from law enforcement, or is in the military or an honorably discharged veteran.

SIGNIFICANT ISSUES: SJR 5 would amend the New Mexico Constitution so, “A person who is eighteen years of age or older and who is not prohibited by federal or state law from owning or carrying a firearm may carry a concealed firearm without a permit.” The New Mexico Supreme Court has previously determined that anything in the Concealed Handgun Carry Act (“Act”) in conflict with the “right to bear arms” set forth in Article II, Section 6 of the New Mexico Constitution cannot stand and resulted in the entire being voided as unconstitutional. See, *Baca v. New Mexico Dep’t. of Public Safety*, 2002—NMSC—017. It is likely that any requirements in the Act regarding firearms more restrictive than what is in the simple sentence set forth above could no longer be required for most adults. That would result in many people currently prohibited by the Act from carrying a concealed and loaded handgun being able to legally carry a concealed firearm of any type, including a concealed handgun or long gun. Cf., Sect. 29-19-2, NMSA(F). (The Act limits concealed weapons to handguns, i.e. a barrel length of no more than 12 inches.)

Among other things, if SJR 5 is adopted adults could probably carry a concealed firearm without being required to undergo any training and would not have to prove they meet minimum standards for skillfully and safely handling firearms, both of which are now required as a prerequisite to obtain a license to legally carry a concealed loaded handgun. See, Sects. 29-19-4 to 29-19-7, NMSA 1978. Currently, persons convicted of certain misdemeanor convictions preceding their application for a concealed carry license a crime of violence (within ten years), driving while intoxicated (within five years), possession or abuse of a controlled substance (within ten years), or assault, battery or battery against a household member are prohibited from receiving a concealed handgun license. See, Sect. 29-19-4(B), NMSA 1978. All those persons could carry a concealed firearm—of any type—unless they had been convicted of battery on a household member if SJR 5 is passed and adopted by the voters.

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The Act now limits a concealed handgun license to United States citizens, residents of New Mexico or members of the armed forces permanently assigned to a duty station in New Mexico and their dependents, persons age 21 or older, and who are not a fugitive from justice, or convicted of a felony crime, or under indictment for a felony in New Mexico or other jurisdiction, or been adjudicated mentally incompetent or committed to a mental institution, or addicted to alcohol or controlled substances, and who have satisfactorily completed a firearms training course which covers the largest caliber of handgun they want to carry. See, Sect. 29-19-4(A), NMSA 1978. SJR 5 would probably also override several of those other existing prohibitions in the Act. Young people 18—20 years of age (instead of age 21 and older), alcoholics, and people who had not completed a firearms training course and proven their ability to safely and skillfully use a firearm and who have not been screened through a formal application process, would also be allowed to carry a concealed firearm of any type. Most foreign aliens and others passing through New Mexico could also do so.

The only prohibition likely to pass muster if the constitutional amendment is adopted is persons “prohibited by federal or state law from owning or carrying a firearm.” However, those limits are less restrictive than those currently provided by the Act. See, 18 U.S.C. 992(g) (Possession of a firearm is prohibited for persons in the following categories: (1) convicted felon; (2) fugitive from justice; (3) unlawful user of or addicted to a controlled substance; (4) been adjudicated a mental defective or committed to a mental institution; (5) illegal alien or unlawfully in the United States; (6) dishonorably discharged from military service; (7) renounced United States citizenship; (8) is subject to a court order regarding harassing, stalking or threatening an intimate partner or their children; or, (9) convicted of a misdemeanor offense of domestic violence.) Convicted felons may not lawfully possess a firearm unless they received a deferred sentence or at least ten years have passed since completion of their sentence or probation, or they have been pardoned. See, Sect. 30-7-16, NMSA 1978.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS