

## **Carrying with an Expired Permit in this State Could Make You a Felon**

*By Brenden Boudreau, Executive Director of Great Lakes Gun Rights*

Getting caught carrying a concealed pistol in Michigan with an expired Concealed Pistol License (CPL) can turn an otherwise law-abiding citizen into a felon.

Whether it is expired by one day or by one year, Michigan law treats a person with an expired CPL the same as if they never obtained a permit in the first place; as if they never received the requisite training, passed a stringent background check, provided their fingerprints, or complied with the administrative process.

With such barriers to obtaining a permit, one would expect there to be grace for a CPL holder if life happens to get busy and they fail to renew before the expiration date. Sadly, no.

Picture this.

You are member of your church's security team, having recently received additional training to help protect your family and fellow churchgoers in a world where attacks on places of worship are becoming all too common.

Your friends, family and fellow church members consider you to be a model citizen.

But in the midst of taking care of your children and bedridden pregnant wife, you forget to go through all of the bureaucratic traps to renew your CPL.

The next thing you know during an unrelated traffic stop you are forced by law to disclose to a law enforcement officer that you are in possession of a pistol and you are abruptly reminded that your CPL is expired and now facing a five year felony conviction.

This is the sad truth for a father of four children from Washtenaw County, Michigan, who is now having his life turned upside down because of an overzealous prosecutor trying to make an example of an otherwise law-abiding gun owner.

By the time it is all said and done, he will not only have spent multiple humiliating days in jail treated like a common criminal and have lost his gun rights for at least the next five years of his life, but it will cost him personally over \$10,000 in lost wages as well as in legal and court fees.

Jim Makowski, the Washtenaw County man's attorney and Second Amendment advocate, shared with me that this is an all too common occurrence in Michigan.

He reports that he gets at least one expired CPL case per month, with more than a hundred occurring statewide each year.

While the majority of states treat the act of carrying without a permit either as a misdemeanor or have no penalty for those otherwise not prohibited by law from carrying, also known as

Constitutional Carry states, Michigan penalizes concealed carry without a permit with a strict five-year felony.

What is sad is that even California is more forgiving towards carrying without a permit than Michigan.

While there are decent judges and prosecutors across much of state that will allow first-time offenders to plea down to a misdemeanor, not all such officials will employ their discretion.

The law, as currently written, is ripe for abuse by overzealous prosecutors looking to make a name for themselves on their way to running for higher office.

While the ultimate solution would be for Michigan to repeal the requirement to obtain a permit to carry a concealed handgun, the likelihood of that happening with Democrat Governor Gretchen Whitmer in office is slim.

Being that the open carry of a pistol is completely legal in the State of Michigan without a permit, it is simply the act of putting on a coat during the state's harsh winters that requires obtaining a permit, making it nothing more than a "coat tax."

While it would seem to be common sense to treat open carry and concealed carry the same under the law, the anti-gun crowd's fear mongering all but assures that such a legislative solution will not be supported by most rank-and-file Democrats.

That being said, there is at least one legislative solution currently being floated in Lansing that already has bipartisan support.

House Bill 4434, introduced by Republican State Representative Matt Hall, reduces the punishment for carrying a concealed pistol with an expired CPL from a 5yr felony to a \$330 civil infraction, provided that the license has been expired for not more than one year and the licensee is still otherwise eligible for a license. It also allows the fine to be waived if the licensee renews their license within 60 business days.

The bill was introduced with 32 cosponsors, 13 of which are Democrats.

Not part of this bill package is a "look back period" that would clear any individuals convicted of the five year felony within the last few years.

This leaves individuals, like the man currently being prosecuted in Washtenaw County, punished for a crime that no longer exists.

However, Jim Makowski reports that if House Bill 4434 became law, it would at least give him the ability to file a motion to release from judgment for his client, giving much better hope to clearing his client's record now instead of having to work to get his record expunged six years down the road.

Makowski further reports that if HB 4434 became law, the overwhelming majority of his expired CPL caseload would disappear and predicts the same across the state.

While this would be a loss of money to his practice, Makowski reports that he would gladly give up that income to save law-abiding gun owners from getting their lives ruined for an honest mistake.

Tom Lambert, President of Michigan Open Carry, likes the chances of House Bill 4434 arriving on the Governor's desk and is hopeful that she will do the right thing and sign it into law, given the broad bipartisan support for this legislation.

The bipartisan support is certainly an encouraging sign, but shouldn't be too surprising since it is areas of the state represented by Democrats that are hit the most with this type of violation.

A larger theme in the relationship between the Republican-controlled Legislature and Democrat Governor Gretchen Whitmer is where the two parties can work together. One often repeated area is the issue of criminal justice reform.

House Bill 4434 certainly fits the mold, but will push the outer limits of the already tenuous relationship with gun rights being brought into the mix.

Great Lakes Gun Rights, the organization that I oversee, will continue pushing for Constitutional Carry through the Whitmer years, to keep driving home the point that the CPL is nothing more than a "coat tax" and is clearly a burdensome requirement that does nothing to deter crime, but rather trips up law-abiding gun owners.

That being said, the passage of House Bill 4434 would help bring Michigan more in line with the rest of the nation by not ruining someone's life with a felony conviction for accidentally carrying with an expired CPL.

It's a step in the right direction for a state that is in serious need of pro-gun reform and should be supported by gun owners across the state.

