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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair  
2019 - 2020 Regular

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**Bill No:** AB 1297                      **Hearing Date:** July 2, 2019  
**Author:** McCarty  
**Version:** February 22, 2019  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** GC

**Subject:** *Firearms: Concealed Carry License*

## HISTORY

Source: Author

Prior Legislation: AB 450, 2016, vetoed

Support: California Brady United Against Gun Violence

Opposition: California Rifle and Pistol Association; Gun Owners of California; League of California Cities; National Rifle Association

Assembly Floor Vote: 48 - 21

## PURPOSE

*The purpose of this bill is to require the licensing authority for any city or county issuing concealed firearm licenses (CCW permits) to charge an applicant a fee sufficient to cover the reasonable costs of processing, issuing enforcement of the license, and eliminates the existing \$100 limit to process a new concealed carry license.*

*Existing law* states that a county sheriff or municipal police chief may issue a license to carry a handgun capable of being concealed upon the person upon proof of all of the following:

- 1) The person applying is of good moral character (Penal Code §§ 26150 and 26155(a)(1));
- 2) Good cause exists for the issuance (Penal Code §§ 26150 and 26155(a)(2));
- 3) The person applying meets the appropriate residency requirements (Penal Code §§ 26150 and 26155(a)(3)); and,
- 4) The person has completed the appropriate training course, as specified. (Penal Code §§ 26150 and 26155(a)(4)).

*Existing law* states that a county sheriff or a chief of a municipal police department may issue a license to carry a concealed handgun in either of the following formats:

- 1) A license to carry a concealed handgun upon his or her person (Penal Code §§ 26150 and 26155(b)(1)); or,
- 2) A license to carry a loaded and exposed handgun if the population of the county, or the county in which the city is located, is less than 200,000 persons according to the most

recent federal decennial census. (Penal Code §§ 26150 and 26155(b)(2).)

*Existing law* provides that a chief of a municipal police department shall not be precluded from entering into an agreement with the sheriff of the county in which the city is located for the sheriff to process all applications for licenses, or renewal of licenses, to carry a concealed handgun upon the person. (Penal Code § 26155(b)(3).)

*Existing law* provides that a license to carry a concealed handgun is valid for up to two years, three years for judicial officers, or four years in the case of a reserve or auxiliary peace officer. (Penal Code § 26220.)

*Existing law* provides that a license may include any reasonable restrictions or conditions that the issuing authority deems warranted. (Penal Code § 26200.)

*Existing law* states that the fingerprints of each applicant are taken and submitted to the Department of Justice (DOJ). Provides criminal penalties for knowingly filing a false application for a concealed weapon license. (Penal Code §§ 26180 and 26185.)

*Existing law* requires the fingerprints of each applicant for a license to carry a concealed handgun be taken and two copies on forms prescribed by the DOJ and be forwarded to DOJ. Upon receipt of the fingerprints and the required fee, DOJ must promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office, including information as to whether the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. (Penal Code § 26185(a).)

*Existing law* states that if the license applicant has previously applied to the same licensing authority for a license to carry firearms and the applicant's fingerprints and fee have been previously forwarded to DOJ, the licensing authority must note the previous identification numbers and other data that would provide positive identification in the files of DOJ on the copy of any subsequent license submitted DOJ and no additional application form or fingerprints are required. (Penal Code § 26185(b).)

*Existing law* states that if a license applicant has a license issued and the applicant's fingerprints have been previously forwarded to DOJ the licensing authority must note the previous identification numbers and other data that would provide positive identification in the files of DOJ on the copy of any subsequent license submitted to DOJ and no additional fingerprints are required. (Penal Code § 26185(c).)

*Existing law* states that each applicant for a new license to carry a concealed handgun, or for the renewal of a license, must pay at the time of filing the application a fee determined by DOJ. The fee cannot exceed the application processing costs of DOJ. (Penal Code § 26190(a).)

*Existing law* allows the licensing authority of any city, city and county, or county to charge an additional fee in an amount equal to the actual costs for processing the application for a new license, including any required notices, excluding fingerprint and training costs, but in no case to exceed one hundred dollars (\$100), and must transmit the additional fee, if any, to the city, city and county, or county treasury. The first 20 percent of this additional local fee may be collected

upon filing of the initial application. The balance of the fee shall be collected only upon issuance of the license. (Penal Code § 26190(b).)

*Existing law* allows the licensing authority to charge an additional fee, not to exceed twenty-five dollars (\$25), for processing the application for a license renewal, and shall transmit an additional fee, if any, to the city, city and county, or county treasury. (Penal Code § 26190(c).)

*This bill* requires, rather than authorizes, the local licensing authority to charge the fee and would require the fee to be in an amount equal to the reasonable costs for processing the application, issuing the license, and enforcing the license, as specified.

*This bill* deletes the prohibition on charging more than \$100 for the fee.

## COMMENTS

### 1. Need for This Bill

According to the author:

Current state law prohibits any person from carrying a concealed weapon unless the person applies for and obtains a permit. The requirements for obtaining concealed carry (CCW) permits are that the applicant must show that they have a “good cause” to obtain the license and that they are of good moral character. The issuing authority, usually a county sheriff, may charge a fee to process the permit application.

There is a lack of guidance on what constitutes a “good cause” or how much to charge for the application fee. Given this vagueness, it is unsurprising that different issuing authorities have interpreted the law differently. This has led to unequal treatment across the state for permit applicants.

In 2017, the California State Auditor performed an audit on the San Diego, Sacramento and Los Angeles Sheriff Department’s CCW issuing policies. The audit found vast inconsistencies between the different departments and even within the application of each department’s own internal policies. It also found inconsistencies in the fees charged by each department.

For instance, Sacramento County is facing a shortfall of approximately \$400,000 this year alone caused by inadequate CCW application fees. Whereas, San Diego and Los Angeles could not even determine whether their CCW programs operated at a surplus or a deficit.

A CCW permit is a special privilege and should only be given to those who have gone through a thorough background check and have shown a real need to carry a concealed firearm. Already strained local governments shouldn't be forced to cut essential programs because the fees for this privilege don't cover the full costs to Police and Sheriff's Departments.

## 2. 2017 California State Auditor Report on Concealed Carry Weapon Licenses

On December 14, 2017, the California State Auditor issued a report that found that Sheriffs in California have implemented their local programs on concealed carry weapon licenses inconsistently and sometimes inadequately.<sup>1</sup>

According to the report, state law allows licensing authorities—such as county sheriff’s departments—to issue CCW licenses to members of the general public upon proof of an applicant’s good moral character, that good cause exists for the license, that an applicant resides within the licensing authority’s jurisdiction, and that the applicant has completed firearms training. State law does not further define good moral character or good cause for a license, and therefore licensing authorities have broad discretion in the decision to issue licenses. The review focused on the programs run by the Los Angeles, Sacramento, and San Diego County sheriff’s departments.

The report concluded that the three sheriff’s departments they reviewed each use the discretion provided to them by state law to implement their licensing programs differently than one another. However, the departments they reviewed failed to consistently apply their own licensing policies or standards in the licenses we reviewed at each department. The auditor also reviewed fiscal information about the CCW programs to determine whether the programs negatively affect county budgets. The report found that each program was relatively small when compared to each sheriff department’s expenditures and overall county expenditures and therefore did not have a significant fiscal effect on the county. *Although the three sheriffs’ departments they reviewed charge application processing fees for CCW licensing, these fees do not appear to cover the costs of the programs.* Further, the auditor found that licensing authorities differ in their interpretations of state law’s maximum allowable fees for CCW licenses.

*The auditor recommend that the Legislature clarify the law that limits the fees and that each department increase their fees to the maximum extent allowed by state law.* Some have argued that state law needs to change to remove the broad discretion licensing authorities have to issue licenses. After reviewing the CCW program at these three departments, including license issuance rates and license revocations, the auditor did not identify a bad effect due directly to the different approaches departments take to issuing licenses. As a result, the auditor did not conclude state law needs to change to clarify the issuance criteria. However, the auditor did recommend that each department take steps to strengthen their local programs, including modifying licensing policies, establishing or modifying license processing procedures, and improving staff training.

## 3. Sacramento Bee Editorial

According to a 2016 Sacramento Bee editorial:

Sacramento County Sheriff Scott Jones seems to be within his rights in issuing concealed weapons permits to law-abiding county residents essentially for the

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<sup>1</sup> <https://www.auditor.ca.gov/pdfs/reports/2017-101.pdf>

asking. But taxpayers shouldn't be asked to foot the bill for his politically popular perk, and that's what's happening.

State law dictates the amount that sheriffs can charge to issue concealed weapons permits, essentially \$100, plus the cost of fingerprinting. The law also allows local officials to raise fees by no more than the Consumer Price Index. Sacramento County hasn't done so, and at the very least, it should do that.

Even if the county were to take that step, the cost of issuing concealed-carry permits evidently exceeds inflation. According to Jones' budget numbers, the staffing cost to grant permits will run about \$461,000 this year. But the fees charged to permit seekers will cover less than half that, meaning that taxpayers must pick up the remainder, almost \$239,000. Worse, the cost to Sacramento taxpayers more than doubled between the 2014-15 fiscal year and the current fiscal year.

The California State Sheriffs' Association has not asked the Legislature for authority to raise the fees.

Kern County Sheriff Donny Youngblood, president of the sheriffs' association, told an editorial board member that he has "no appetite" to make concealed-carry permits more expensive. We understand the reluctance. Sheriffs, too, must get elected.

But the Legislature could and should force the issue, especially this month as the new budget is being written. Lawmakers ought to insert language into one of the budget-related trailer bills making clear that local authorities can charge the full cost of issuing concealed-carry permits.

Under Jones, the number of permits has soared, from 350 when he took office five years ago to nearly 8,000 now, making Sacramento County home to the state's third-largest number of concealed-carry permits, after Fresno and Orange counties.

Jones assigns one full-time deputy to the task, and as many as 10 on-call employees, depending on demand. Permit seekers pay a \$20 application fee, \$80 upon issuance, and \$122 for fingerprinting. A combined fee of \$222 hardly seems exorbitant.

Jones said in an email that issuing permits "is not a business enterprise," and that when the department tried to make the operation cost-neutral, the "delays and backup were untenable." But unless a gun owner is in immediate danger – and we doubt that all 8,000 of the Sacramento County residents with permits are being actively threatened – what exactly is the rush?

Jones also invokes a note of populism, saying in an email that "raising fees would have a disproportionate impact on our lower income residents." Even if that's true – and we're guessing people who can afford guns and ammunition are not

destitute – sheriffs could, if authorized by the Legislature, impose surcharges on wealthier gun owners to help the lower-income permit seekers.

In Sacramento County’s \$3.6 billion budget, \$239,000 is a blip. But as they write their new budget, supervisors should consider other uses for that \$239,000. Supervisor Phil Serna, for one, has cited a need for a Spanish-speaking psychologist. Shelter providers could use \$239,000 to find housing for homeless people. Jones could hire additional deputies who are well-trained in the use of firearms.

Jones defends his liberal gun permit policy, telling The Sacramento Bee’s Hudson Sangree and Phillip Reese that allowing people to carry concealed weapons empowers them “to feel like they are safer in a world that is increasingly not safe.”

We disagree. We do not feel safer now that one in every 135 Sacramento County residents has a concealed-carry permit. And we certainly don’t believe taxpayers should pay for the gun owners’ privilege.<sup>2</sup>

#### **4. This Bill Implements the State Auditor Recommendations**

Existing law *allows* the licensing authority of any city, city and county, or county to charge a fee in an amount equal to the actual costs for processing the application for a new CCW up to one hundred dollars. (Penal Code § 26190(b).) The intent of this legislation is to *require* that the licensing authority charge “a fee sufficient to cover the reasonable costs of issuing and enforcement of the license.” That said, this legislation does not delete or modify the existing provision that allows the licensing authority to charge a fee-- meaning that there would be one section in the Penal Code with a permissive fee and a different section with a mandatory fee.

#### **5. Governor’s Veto of AB 450 (McCarty) vs. Findings by the State Auditor**

AB 450 (McCarty), of the 2015-2016 Legislative Session was identical to this bill, and was vetoed by the Governor. In his veto message the Governor stated, “I am returning this bill without my signature. This bill repeals the statutory cap on the fees that a sheriff may charge for issuance of a concealed carry permit. This bill was spurred by a local dispute in one county. I am unaware of a larger problem that merits a statewide change at this time.”

Since the issuance of this veto where the Governor said he was unaware of a statewide problem, the State Auditor has issued a report wherein she indicated there was a statewide problem. The auditor also indicated that this problem, at least in part, could be addressed by recommending that the Legislature clarify the law that limits the fees and that each department increase their fees to the maximum extent allowed by state law.

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<sup>2</sup> *Sheriff Jones’ liberal gun permit policy costs all taxpayers*, Sacramento Bee Editorial Board, Sacramento Bee, May 31, 2016, <http://www.sacbee.com/opinion/editorials/article 81014202.html>.

## 6. Argument in Support

According to California Brady United Against Violence:

Under existing law, a county sheriff or municipal police chief may issue a license to carry a handgun capable of being concealed upon the person (CCW license). The licensing authority *may* charge a fee for the actual cost of processing the application, not to exceed \$100. The lack of clear guidelines in statute, as well as the permissible maximum fee, have resulted in some issuing authorities charging inadequate fees to cover the cost of issuing and overseeing the CCW license. This has necessitated local governments to divert funds to cover the shortfall.

Brady California finds it troubling that in jurisdictions where the fee for a CCW license does not cover the cost, funds are diverted from other local programs and services to subsidize the issuance and enforcement of CCW licenses.

Since the enactment of Proposition 13 in 1978, California has, over time, adopted a “fee for service received” model. With the exception of basic services, a fee is levied for virtually every transaction or application to recover the cost. Carrying a loaded, hidden gun in public is a privilege and this same standard should apply to CCW license application fees.

AB 1297 would *require* the local licensing authority to charge the fee and would additionally require the fee to include the costs of issuing the CCW license and enforcement of the license. The bill would delete the prohibition on charging more than \$100.

## 6. Argument in Opposition

According to the California Rifle and Pistol Association:

Existing law provides that an applicant for a new or renewed CCW must pay a fee to cover the Department of Justice’s (DOJ) application processing costs and provides the fees charged shall increase at a rate not to exceed an annual cost-of-living adjustment. Existing law further permits a licensing authority to charge an additional fee for the actual costs of processing the application for a new license, including any required notices, excluding fingerprint and training costs, not to exceed \$100. A local licensing authority may also charge an additional fee of up to \$25 for processing the application for a license renewal and a fee not to exceed \$10 to process an amended license. These local fees may be increased at a rate not to exceed any increase in the California Consumer Price Index. Additionally, if psychological testing on the initial application is required by the licensing authority, the applicant may be charged for the actual cost of the testing in an amount not to exceed \$150.

We believe this bill is unnecessary given the existing fee structure and authority. Current law requires the submission of fees to DOJ to cover its costs and permits local authorities to address its costs, based upon local needs and resources. The statute directs fee authority to local entities and removes the \$100 cap on fees. We believe this will result in high and inconsistent fees charged throughout the state. Cost recovery, fee control and consistency are already accomplished by existing law.

**-- END --**