



HOUSE BILL No. 5121

November 10, 1999, Introduced by Reps. Tabor, Green, Bradstreet, Voorhees, Allen, Sheltroun, DeHart, Schermesser, Kowall, Julian and DeVuyst and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license; to provide for the forfeiture of firearms possessed in violation of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

by amending sections 1 and 2 (MCL 28.421 and 28.422), section 1 as amended by 1992 PA 219 and section 2 as amended by 1994 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Firearm" means a weapon from which a dangerous projec-
3 tile may be propelled by an explosive, or by gas or air. Firearm
4 does not include a smooth bore rifle or handgun designed and

1 manufactured exclusively for propelling by a spring, or by gas or
2 air, BB's not exceeding .177 caliber.

3 (b) "Pistol" means a loaded or unloaded firearm that is 30
4 inches or less in length, or a loaded or unloaded firearm that by
5 its construction and appearance conceals it as a firearm.

6 (c) ~~"Purchaser" means a person who receives a pistol from~~
7 ~~another person by purchase, gift, or loan~~ "PURCHASE" MEANS
8 RECEIPT OF A PISTOL FROM ANOTHER PERSON BY SALE, BARTER, GIFT, OR
9 LOAN. PURCHASE DOES NOT INCLUDE RECEIPT OF A PISTOL FROM A
10 FAMILY MEMBER WHILE USING THE PISTOL AT A FIRING RANGE.

11 (d) "Seller" means a person who sells, furnishes, loans, or
12 gives a pistol to another person.

13 Sec. 2. (1) Except as provided in ~~subsection~~ SUBSECTIONS
14 (2), (7), AND (13), a person shall not purchase, carry, or trans-
15 port a pistol in this state without first having obtained a
16 license for the pistol as prescribed in this section.

17 (2) A person who brings a pistol into this state who is on
18 leave from active duty with the armed forces of the United States
19 or who has been discharged from active duty with the armed forces
20 of the United States shall obtain a license for the pistol within
21 30 days after his or her arrival in this state.

22 (3) The commissioner or chief of police of a city, township,
23 or village police department that issues licenses to purchase,
24 carry, or transport pistols, or his or her duly authorized
25 deputy, or the sheriff or his or her duly authorized deputy, in
26 the parts of a county not included within a city, township, or
27 village having an organized police department, in discharging the

1 duty to issue licenses shall with due speed and diligence issue
2 licenses to purchase, carry, or transport pistols to qualified
3 applicants residing within the city, village, township, or
4 county, as applicable unless he or she has probable cause to
5 believe that the applicant would be a threat to himself or her-
6 self or to other individuals, or would commit an offense with the
7 pistol that would violate a law of this or another state or of
8 the United States. An applicant is qualified if all of the fol-
9 lowing circumstances exist:

10 (a) The person is not subject to an order or disposition for
11 which he or she has received notice and an opportunity for a
12 hearing, and which was entered into the law enforcement informa-
13 tion network pursuant to any of the following:

14 (i) Section 464a(1) of the mental health code, ~~Act No. 258~~
15 ~~of the Public Acts of 1974, being section 330.1464a of the~~
16 ~~Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1464A.

17 (ii) Section ~~444a(1)~~ 444A of the revised probate code,
18 ~~Act No. 642 of the Public Acts of 1978, being section 700.444a~~
19 ~~of the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A, OR SEC-
20 TION 5107 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA
21 368, MCL 700.5107.

22 (iii) Section ~~2950(9)~~ of the revised judicature act of
23 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~
24 ~~600.2950 of the Michigan Compiled Laws~~ 2950 OR 2950A OF THE
25 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2950 AND
26 600.2950A.

1 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
2 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

3 (iv) ~~(v) Section 14(7) 14 of chapter 84 of the Revised~~
4 ~~Statutes of 1846, being section 552.14 of the Michigan Compiled~~
5 ~~Laws 1846 RS 84, MCL 552.14.~~

6 (v) ~~(vi) Section 6b(5) 6B of chapter V of the code of~~
7 ~~criminal procedure, Act No. 175 of the Public Acts of 1927,~~
8 ~~being section 765.6b of the Michigan Compiled Laws 1927 PA 175,~~
9 ~~MCL 765.6B, if the order has a condition imposed pursuant to sec-~~
10 ~~tion 6b(3) of chapter V of Act No. 175 of the Public Acts of~~
11 ~~1927 THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 765.6B.~~

12 (vi) ~~(vii) Section 16b(1) 16B of chapter IX of Act~~
13 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~
14 ~~Michigan Compiled Laws 1927 PA 175, MCL 769.16B.~~

15 (b) The person is 18 years of age or older or, if the seller
16 is licensed pursuant to section 923 of title 18 of the United
17 States Code, 18 U.S.C. 923, is 21 years of age or older.

18 (c) The person is a citizen of the United States and is a
19 legal resident of this state.

20 (d) A felony charge against the person is not pending at the
21 time of application.

22 (e) The person is not prohibited from possessing, using,
23 transporting, selling, purchasing, carrying, shipping, receiving,
24 or distributing a firearm under section 224f of the Michigan
25 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
26 ~~tion 750.224f of the Michigan Compiled Laws 1931 PA 328, MCL~~
27 ~~750.224F.~~

1 (f) The person has not been adjudged insane in this state or
2 elsewhere unless he or she has been adjudged restored to sanity
3 by court order.

4 (g) The person is not under an order of involuntary commit-
5 ment in an inpatient or outpatient setting due to mental
6 illness.

7 (h) The person has not been adjudged legally incapacitated
8 in this state or elsewhere. This subdivision does not apply to a
9 person who has had his or her legal capacity restored by order of
10 the court.

11 (i) The person correctly answers 70% or more of the ques-
12 tions on a basic pistol safety review questionnaire approved by
13 the basic pistol safety review board and provided to the individ-
14 ual free of charge by the licensing authority. If the person
15 fails to correctly answer 70% or more of the questions on the
16 basic pistol safety review questionnaire, the licensing authority
17 shall inform the person of the questions he or she answered
18 incorrectly and allow the person to attempt to complete another
19 basic pistol safety review questionnaire. The person shall not
20 be allowed to attempt to complete more than 2 basic pistol safety
21 review questionnaires on any single day. The licensing authority
22 shall allow the person to attempt to complete the questionnaire
23 during normal business hours on the day the person applies for
24 his or her license.

25 (4) Applications for licenses under this section shall be
26 signed by the applicant under oath upon forms provided by the
27 director of the department of state police. Licenses to

1 purchase, carry, or transport pistols shall be executed in
2 triplicate upon forms provided by the director of the department
3 of state police and shall be signed by the licensing authority.
4 Three copies of the license shall be delivered to the applicant
5 by the licensing authority.

6 (5) Upon the sale of the pistol, the seller shall fill out
7 the license forms describing the pistol sold, together with the
8 date of sale, and sign his or her name in ink indicating that the
9 pistol was sold to the licensee. The licensee shall also sign
10 his or her name in ink indicating the purchase of the pistol from
11 the seller. The seller may retain a copy of the license as a
12 record of the sale of the pistol. The licensee shall return
13 2 copies of the license to the licensing authority within 10 days
14 following the purchase of the pistol.

15 (6) One copy of the license shall be retained by the licens-
16 ing authority as an official record for a period of 6 years. The
17 other copy of the license shall be forwarded by the licensing
18 authority within 48 hours to the director of the department of
19 state police. A license is void unless used within 10 days after
20 the date of its issue.

21 (7) This section does not apply to the purchase of pistols
22 from wholesalers by dealers regularly engaged in the business of
23 selling pistols at retail, or to the sale, barter, or exchange of
24 pistols kept solely as relics, curios, or antiques not made for
25 modern ammunition or permanently deactivated. This section does
26 not prevent the transfer of ownership of pistols that are
27 inherited if the license to purchase is approved by the

1 commissioner or chief of police, sheriff, or their authorized
2 deputies, and signed by the personal representative of the estate
3 or by the next of kin having authority to dispose of the pistol.

4 (8) The licensing authority shall provide a basic pistol
5 safety brochure to each applicant for a license under this sec-
6 tion before the applicant answers the basic pistol safety review
7 questionnaire. A basic pistol safety brochure shall contain, but
8 is not limited to providing, information on all of the following
9 subjects:

10 (a) Rules for safe handling and use of pistols.

11 (b) Safe storage of pistols.

12 (c) Nomenclature and description of various types of
13 pistols.

14 (d) The responsibilities of owning a pistol.

15 (9) The basic pistol safety brochure shall be supplied in
16 addition to the safety pamphlet required by section 9b.

17 (10) The basic pistol safety brochure required in subsection
18 (8) shall be A BROCHURE produced by a national nonprofit member-
19 ship organization that provides voluntary pistol safety programs
20 that include training individuals in the safe handling and use of
21 pistols.

22 (11) A person who forges any matter on an application for a
23 license under this section is guilty of a felony, punishable by
24 imprisonment for not more than 4 years or a fine of not more than
25 \$2,000.00, or both.

26 (12) A licensing authority shall implement this section
27 during all of the licensing authority's normal business hours and

1 shall set hours for implementation that allow an applicant to use
2 the license within the time period set forth in subsection (6).

3 (13) THIS SECTION DOES NOT APPLY TO A PERSON WHO LOANS A
4 PISTOL TO, OR WHO BORROWS A PISTOL FROM, ANOTHER FAMILY MEMBER
5 WHILE USING THE PISTOL AT A FIRING RANGE.