

# HOUSE BILL No. 4645

April 24, 2001, Introduced by Reps. Lemmons, Lipsey, Kolb, Minore, Waters, Richardville, Garza, Jacobs, Murphy and McConico and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 223 (MCL 750.223), as amended by 1992 PA 221.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 223. ~~(1) A person who knowingly sells a pistol with-~~  
2 ~~out complying with section 2 of Act No. 372 of the Public Acts of~~  
3 ~~1927, as amended, being section 28.422 of the Michigan Compiled~~  
4 ~~Laws, is guilty of a misdemeanor, punishable by imprisonment for~~  
5 ~~not more than 90 days, or a fine of not more than \$100.00, or~~  
6 ~~both.~~

7       ~~(2) A person who knowingly sells a firearm more than 30~~  
8 ~~inches in length to a person under 18 years of age is guilty of a~~  
9 ~~misdemeanor, punishable by imprisonment for not more than 90~~  
10 ~~days, or a fine of not more than \$500.00, or both. A second or~~

~~1 subsequent violation of this subsection is a felony punishable by  
2 imprisonment for not more than 4 years, or a fine of not more  
3 than \$2,000.00, or both. It is an affirmative defense to a pros-  
4 ecution under this subsection that the person who sold the fire-  
5 arm asked to see and was shown a driver's license or identifica-  
6 tion card issued by a state that identified the purchaser as  
7 being 18 years of age or older.~~

~~8 (3) A seller shall not sell a firearm or ammunition to a  
9 person if the seller knows that either of the following circum-  
10 stances exists:~~

~~11 (a) The person is under indictment for a felony. As used in  
12 this subdivision, "felony" means a violation of a law of this  
13 state, or of another state, or of the United States that is pun-  
14 ishable by imprisonment for 4 years or more.~~

~~15 (b) The person is prohibited under section 224f from pos-  
16 sessing, using, transporting, selling, purchasing, carrying,  
17 shipping, receiving, or distributing a firearm.~~

~~18 (4) A person who violates subsection (3) is guilty of a  
19 felony, punishable by imprisonment for not more than 10 years, or  
20 by a fine of not more than \$5,000.00, or both.~~

~~21 (5) As used in this section, "licensed dealer" means a  
22 person licensed under section 923 of chapter 44 of title 18 of  
23 the United States Code who regularly buys and sells firearms as a  
24 commercial activity with the principal objective of livelihood  
25 and profit.~~

~~26 (1) A PERSON SHALL NOT DO ANY OF THE FOLLOWING:~~

1 (A) PURCHASE OR ATTEMPT TO PURCHASE A PISTOL WITH THE INTENT  
2 TO SELL OR OTHERWISE FURNISH THAT PISTOL TO A PERSON HE OR SHE  
3 KNOWS IS NOT LICENSED UNDER SECTION 2 OF 1927 PA 372, MCL 28.422,  
4 TO PURCHASE A PISTOL.

5 (B) SELL OR OTHERWISE FURNISH A PISTOL TO A PERSON HE OR SHE  
6 KNOWS IS NOT LICENSED UNDER SECTION 2 OF 1927 PA 372, MCL 28.422,  
7 TO PURCHASE A PISTOL.

8 (C) PURCHASE OR ATTEMPT TO PURCHASE A FIREARM OTHER THAN A  
9 PISTOL WITH THE INTENT TO SELL OR OTHERWISE FURNISH THAT FIREARM  
10 TO A PERSON HE OR SHE KNOWS IS LESS THAN 18 YEARS OF AGE OR WHO  
11 HE OR SHE KNOWS IS OTHERWISE NOT LEGALLY QUALIFIED TO PURCHASE  
12 THAT FIREARM.

13 (D) SELL OR OTHERWISE FURNISH A FIREARM OTHER THAN A PISTOL  
14 TO A PERSON HE OR SHE KNOWS IS LESS THAN 18 YEARS OF AGE OR WHO  
15 HE OR SHE KNOWS IS OTHERWISE NOT LEGALLY QUALIFIED TO PURCHASE  
16 THAT FIREARM.

17 (E) PURCHASE OR ATTEMPT TO PURCHASE A FIREARM OR AMMUNITION  
18 WITH THE INTENT TO SELL OR OTHERWISE FURNISH THAT FIREARM OR  
19 AMMUNITION TO A PERSON IF HE OR SHE KNOWS EITHER OF THE FOLLOWING  
20 CIRCUMSTANCES EXIST:

21 (i) THE PERSON IS CHARGED WITH COMMITTING A FELONY.

22 (ii) THE PERSON IS PROHIBITED UNDER SECTION 224F FROM POS-  
23 SESSING, USING, TRANSPORTING, SELLING, PURCHASING, CARRYING,  
24 SHIPPING, RECEIVING, OR DISTRIBUTING A FIREARM.

25 (F) SELL OR OTHERWISE FURNISH A FIREARM OR AMMUNITION TO A  
26 PERSON IF HE OR SHE KNOWS EITHER OF THE FOLLOWING CIRCUMSTANCES  
27 EXIST:

1 (i) THE PERSON IS CHARGED WITH COMMITTING A FELONY.

2 (ii) THE PERSON IS PROHIBITED UNDER SECTION 224F FROM POS-  
3 SESSING, USING, TRANSPORTING, SELLING, PURCHASING, CARRYING,  
4 SHIPPING, RECEIVING, OR DISTRIBUTING A FIREARM.

5 (2) IT IS AN AFFIRMATIVE DEFENSE TO A PROSECUTION UNDER SUB-  
6 SECTION (1)(C) OR (D) FOR SELLING OR OTHERWISE FURNISHING A  
7 PISTOL TO AN INDIVIDUAL LESS THAN 18 YEARS OF AGE THAT THE PERSON  
8 WHO SOLD OR OTHERWISE FURNISHED THE FIREARM ASKED TO SEE AND WAS  
9 SHOWN A DRIVER LICENSE OR IDENTIFICATION CARD ISSUED BY ANOTHER  
10 STATE THAT IDENTIFIED THE MINOR AS BEING 18 YEARS OF AGE OR  
11 OLDER.

12 (3) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CRIME  
13 AS FOLLOWS:

14 (A) FOR A VIOLATION OF SUBSECTION (1)(A) OR (B), THE PERSON  
15 IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT  
16 MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$100.00, OR BOTH.

17 (B) EXCEPT AS PROVIDED IN SUBDIVISION (C), FOR A VIOLATION  
18 OF SUBSECTION (1)(C) OR (D), THE PERSON IS GUILTY OF A MISDE-  
19 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A  
20 FINE OF NOT MORE THAN \$500.00, OR BOTH.

21 (C) FOR A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION  
22 (1)(C) OR (D), THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY  
23 IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN  
24 \$2,000.00, OR BOTH.

25 (D) FOR A VIOLATION OF SUBSECTION (1)(E) OR (F), THE PERSON  
26 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
27 THAN 10 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

1           (4) AS USED IN THIS SECTION, "FELONY" MEANS A VIOLATION OF A  
2 LAW OF THIS STATE, ANOTHER STATE, OR THE UNITED STATES THAT IS  
3 PUNISHABLE BY IMPRISONMENT FOR 4 YEARS OR MORE.