

# HOUSE BILL No. 4650

April 21, 2005, Introduced by Reps. Lemmons, III, Vagnozzi, Lemmons, Jr., Alma Smith, Hunter, Tobocman, Waters, Donigan, McConico and Cheeks and referred to the Committee on Judiciary.

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 without~~  
2 ~~complying with section 2 of Act No. 372 of the Public Acts of 1927,~~  
3 ~~as amended, being section 28.422 of the Michigan Compiled Laws, is~~  
4 ~~guilty of a misdemeanor, punishable by imprisonment for not more~~  
5 ~~than 90 days, or a fine of not more than \$100.00, or both.~~  
6       ~~(2) A person who knowingly sells a firearm more than 30 inches~~  
7 ~~in length to a person under 18 years of age is guilty of a~~  
8 ~~misdemeanor, punishable by imprisonment for not more than 90 days,~~

1 ~~or a fine of not more than \$500.00, or both. A second or subsequent~~  
 2 ~~violation of this subsection is a felony punishable by imprisonment~~  
 3 ~~for not more than 4 years, or a fine of not more than \$2,000.00, or~~  
 4 ~~both. It is an affirmative defense to a prosecution under this~~  
 5 ~~subsection that the person who sold the firearm asked to see and~~  
 6 ~~was shown a driver's license or identification card issued by a~~  
 7 ~~state that identified the purchaser as being 18 years of age or~~  
 8 ~~elder.~~

9 ~~—— (3) A seller shall not sell a firearm or ammunition to a~~  
 10 ~~person if the seller knows that either of the following~~  
 11 ~~circumstances exists:~~

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

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

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

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

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

27 **(A) PURCHASE OR ATTEMPT TO PURCHASE A PISTOL WITH THE INTENT**

1 TO SELL OR OTHERWISE FURNISH THAT PISTOL TO A PERSON HE OR SHE  
2 KNOWS IS NOT LICENSED OR EXEMPT FROM LICENSURE UNDER SECTION 2 OF  
3 1927 PA 372, MCL 28.422, TO PURCHASE A PISTOL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26           (4) AS USED IN SUBSECTION (1), "FELONY" MEANS A VIOLATION OF A  
27 LAW OF THIS STATE, ANOTHER STATE, OR THE UNITED STATES THAT IS

1 PUNISHABLE BY IMPRISONMENT FOR 4 YEARS OR MORE.