

**SUBSTITUTE FOR
HOUSE BILL NO. 5225**

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 or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

by amending sections 2b, 6, and 14a (MCL 28.422b, 28.426, and 28.434a), section 2b as amended by 2001 PA 199, section 6 as added by 2005 PA 242, and section 14a as added by 2010 PA 295, and by adding section 2c; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2b. (1) Except as provided in subsection (6), upon entry
2 of an order or disposition into the law enforcement information
3 network under any provision of law described in ~~section 2(3)(a)~~,
4 **SUBSECTION (7)**, the department of state police shall immediately
5 send written notice of that entry to the person who is the subject
6 of the order or disposition. The notice shall be sent by first-
7 class mail to the last known address of the person. The notice
8 shall include at least all of the following:

9 (a) The name of the person.

10 (b) The date the order or disposition was entered into the law
11 enforcement information network.

12 (c) A statement that the person cannot obtain ~~a license to~~
13 ~~purchase a pistol or obtain a~~ concealed weapon license until the
14 order or disposition is removed from the law enforcement
15 information network.

16 (d) A statement that the person may request that the state
17 police correct or expunge inaccurate information entered into the
18 law enforcement information network.

19 (2) A person who is the subject of an order entered into the
20 law enforcement information network under any provision of law
21 described in ~~section 2(3)(a)~~**SUBSECTION (7)** may request that the
22 department of state police do either of the following:

23 (a) Amend an inaccuracy in the information entered into the
24 law enforcement information network under any provision of law
25 described in ~~section 2(3)(a)~~**SUBSECTION (7)**.

26 (b) Expunge the person's name and other information concerning
27 the person from the law enforcement information network regarding 1

1 or more specific entries in the law enforcement information network
2 under any provision of law described in ~~section 2(3)(a)~~ **SUBSECTION**
3 **(7)** because 1 or more of the following circumstances exist:

4 (i) The person is not subject to an order of involuntary
5 commitment in an inpatient or outpatient setting due to mental
6 illness.

7 (ii) The person is not subject to an order or disposition
8 determining that the person is legally incapacitated.

9 (iii) The person is not subject to a personal protection order
10 issued under any of the following:

11 (A) Section 2950 of the revised judicature act of 1961, 1961
12 PA 236, MCL 600.2950.

13 (B) Section 2950a of the revised judicature act of 1961, 1961
14 PA 236, MCL 600.2950a.

15 (C) Section 14 of 1846 RS 84, MCL 552.14.

16 (iv) The person is not subject to an order for release subject
17 to protective conditions that prohibits the purchase or possession
18 of a firearm by the person issued under section 6b of chapter V of
19 the code of criminal procedure, 1927 PA 175, MCL 765.6b.

20 (3) Before the expiration of 30 days after a request is made
21 to amend an inaccuracy in the law enforcement information network
22 under subsection ~~(2)(a)~~ **(7)** or to expunge 1 or more specific
23 entries from the law enforcement information network under
24 subsection (2)(b)(i) to (iv), the department of state police shall
25 conduct an investigation concerning the accuracy of the information
26 contained in the law enforcement information network, either grant
27 or deny the request and provide the person with written notice of

1 that grant or denial. A notice of denial shall include a statement
2 specifying the basis of the denial, and that a person may appeal
3 the denial ~~pursuant to~~ **UNDER** the administrative procedures act of
4 1969, 1969 PA 306, MCL 24.201 to 24.328.

5 (4) If the department of state police refuses a request by a
6 person for amendment or expunction under subsection (2), or fails
7 to act within 30 days after receiving the request under subsection
8 (2), the person may request a hearing before a hearing officer
9 appointed by the department of state police for a determination of
10 whether information entered into the law enforcement information
11 network should be amended or expunged because it is inaccurate or
12 false. The department of state police shall conduct the hearing
13 ~~pursuant to~~ **IN COMPLIANCE WITH** the administrative procedures act of
14 1969, 1969 PA 306, MCL 24.201 to 24.328.

15 (5) Information contained in an order or disposition filed
16 with the department of state police under any provision of law
17 described in ~~section 2(3)(a)(i) to (vii)~~ **SUBSECTION (7)** is exempt
18 from public disclosure under the freedom of information act, 1976
19 PA 442, MCL 15.231 to 15.246.

20 (6) The department of state police shall not send written
21 notice of an entry of an order or disposition into the law
22 enforcement information network as required for a personal
23 protection order issued under section 2950 or 2950a of the revised
24 judiciary act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a,
25 until that department has received notice that the respondent of
26 the order has been served with or has received notice of the
27 personal protection order.

1 (7) THE ORDERS OR DISPOSITIONS TO WHICH THIS SECTION APPLIES
2 ARE AS FOLLOWS:

3 (A) SECTION 464A OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL
4 330.1464A.

5 (B) SECTION 5107 OF THE ESTATES AND PROTECTED INDIVIDUALS
6 CODE, 1998 PA 386, MCL 700.5107, OR SECTION 444A OF FORMER 1978 PA
7 642.

8 (C) SECTION 2950 OF THE REVISED JUDICATURE ACT OF 1961, 1961
9 PA 236, MCL 600.2950.

10 (D) SECTION 2950A OF THE REVISED JUDICATURE ACT OF 1961, 1961
11 PA 236, MCL 600.2950A.

12 (E) SECTION 14 OF 1846 RS 84, MCL 552.14.

13 (F) SECTION 6B OF CHAPTER V OF THE CODE OF CRIMINAL PROCEDURE,
14 1927 PA 175, MCL 765.6B, IF THE ORDER HAS A CONDITION IMPOSED UNDER
15 SECTION 6B(3) OF CHAPTER V OF THE CODE OF CRIMINAL PROCEDURE, 1927
16 PA 175, MCL 765.6B.

17 (G) SECTION 16B OF CHAPTER IX OF THE CODE OF CRIMINAL
18 PROCEDURE, 1927 PA 175, MCL 769.16B.

19 SEC. 2C. (1) THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE,
20 THE SHERIFF OF EACH COUNTY, AND THE COMMISSIONER OR CHIEF OF POLICE
21 OF EACH CITY, VILLAGE, AND TOWNSHIP POLICE DEPARTMENT SHALL DESTROY
22 ALL RECORDS HELD BY OR UNDER THE CONTROL OF THAT POLICE DEPARTMENT
23 OR SHERIFF'S DEPARTMENT THAT WERE RECEIVED, COMPILED, OR RETAINED
24 UNDER SECTION 2, 2A, OR 11, OR UNDER FORMER SECTION 9, INCLUDING
25 ALL COPIES OF THOSE RECORDS. EXCEPT AS PROVIDED IN SUBSECTION (2),
26 THE DESTRUCTION OF THOSE RECORDS SHALL BE COMPLETED WITHIN 6 MONTHS
27 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS

1 SECTION.

2 (2) SUBSECTION (1) DOES NOT APPLY TO A RECORD OR COPY OF A
3 RECORD THAT IS BEING HELD AS EVIDENCE IN A CRIMINAL PROSECUTION OR
4 CIVIL PROCEEDING THAT HAS BEEN INITIATED AND IS PENDING ON THE
5 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.
6 HOWEVER, IF A RECORD OR COPY OF A RECORD IS HELD AS EVIDENCE, THE
7 RECORD OR COPY OF A RECORD SHALL BE DESTROYED WITHIN 30 DAYS AFTER
8 IT IS NO LONGER BEING HELD AS EVIDENCE IN THAT CIVIL OR CRIMINAL
9 PROSECUTION OR CIVIL PROCEEDING.

10 (3) EACH DEPARTMENT SHALL PROVIDE A REPORT OF ITS COMPLIANCE
11 WITH THIS SECTION TO THE SECRETARY OF THE SENATE AND THE CLERK OF
12 THE HOUSE OF REPRESENTATIVES WITHIN 30 DAYS AFTER THE 6-MONTH
13 PERIOD DESCRIBED IN SUBSECTION (1) HAS EXPIRED. THE REPORT REQUIRED
14 UNDER THIS SECTION SHALL SEPARATELY IDENTIFY THE NUMBER OF RECORDS
15 AND COPIES OF RECORDS RETAINED AS EVIDENCE UNDER SUBSECTION (2).
16 EACH DEPARTMENT SHALL ALSO PROVIDE A REPORT TO THE SECRETARY OF THE
17 SENATE AND THE CLERK OF THE HOUSE OF REPRESENTATIVES BY JANUARY 1
18 OF EACH YEAR OF THE NUMBER OF RECORDS AND COPIES OF RECORDS
19 RETAINED BY OR DESTROYED BY THAT DEPARTMENT UNDER SUBSECTION (2)
20 DURING THAT YEAR UNTIL ALL OF THOSE RECORDS AND COPIES OF RECORDS
21 ARE DESTROYED IN COMPLIANCE WITH THIS SECTION.

22 Sec. 6. A license shall not be issued to an applicant under
23 section ~~2-04~~5b unless both of the following apply:

24 (a) The issuing agency has determined through the federal
25 national instant criminal background check system (NICS) that the
26 applicant is not prohibited under federal law from possessing or
27 transporting a firearm.

1 (b) If the applicant is not a United States citizen, the
2 issuing agency has verified through the United States immigration
3 and customs enforcement databases that the applicant is not an
4 illegal alien or a nonimmigrant alien.

5 Sec. 14a. (1) A law enforcement agency that seizes or
6 otherwise comes into possession of a firearm or a part of a firearm
7 subject to disposal under section 14 may, instead of forwarding the
8 firearm or part of a firearm to the director of the department of
9 state police or his or her designated representative for disposal
10 under that section, retain that firearm or part of a firearm for
11 the following purposes:

12 (a) For legal sale or trade to a federally licensed firearm
13 dealer. The proceeds from any sale or trade under this subdivision
14 shall be used by the law enforcement agency only for law
15 enforcement purposes. The law enforcement agency shall not sell or
16 trade a firearm or part of a firearm under this subdivision to any
17 individual who is a member of that law enforcement agency unless
18 the individual is a federally licensed firearms dealer and the sale
19 is made pursuant to a public auction.

20 (b) For official use by members of the seizing law enforcement
21 agency who are employed as peace officers. A firearm or part of a
22 firearm shall not be sold under this subdivision.

23 ~~—— (2) A law enforcement agency that sells or trades any pistol~~
24 ~~to a licensed dealer under subsection (1)(a) or retains any pistol~~
25 ~~under subsection (1)(b) shall complete a record of the transaction~~
26 ~~under section 2 or section 2a, as applicable.~~

27 (2) ~~(3)~~—A law enforcement agency that sells or trades a

1 firearm or part of a firearm under this section shall retain a
2 receipt of the sale or trade for a period of not less than 7 years.
3 The law enforcement agency shall make all receipts retained under
4 this subsection available for inspection by the department of state
5 police upon demand and for auditing purposes by the state and the
6 local unit of government of which the agency is a part.

7 (3) ~~(4)~~—Before disposing of a firearm under this section, the
8 law enforcement agency shall do both of the following:

9 (a) Determine through the law enforcement information network
10 whether the firearm has been reported lost or stolen. If the
11 firearm has been reported lost or stolen and the name and address
12 of the owner can be determined, the law enforcement agency shall
13 provide 30 days' written notice of its intent to dispose of the
14 firearm under this section to the owner, and allow the owner to
15 claim the firearm within that 30-day period if he or she is
16 authorized to possess the firearm. If the police agency determines
17 that a serial number has been altered or has been removed or
18 obliterated from the firearm, the police agency shall submit the
19 firearm to the department of state police or a forensic laboratory
20 for serial number verification or restoration to determine legal
21 ownership.

22 (b) Provide 30 days' notice to the public on a website
23 maintained by the law enforcement agency of its intent to dispose
24 of the firearm under this section. The notice shall include a
25 description of the firearm and shall state the firearm's serial
26 number, if the serial number can be determined. The law enforcement
27 agency shall allow the owner of the firearm to claim the firearm

1 within that 30-day period if he or she is authorized to possess the
2 firearm. The 30-day period required under this subdivision is in
3 addition to the 30-day period required under subdivision (a).

4 (4) ~~(5)~~—The law enforcement agency is immune from civil
5 liability for disposing of a firearm in compliance with this
6 section.

7 (5) ~~(6)~~—As used in this section, "law enforcement agency"
8 means any agency that employs peace officers.

9 Enacting section 1. Sections 2, 2a, 9a, 9b, 9c, 11, 12, and
10 12b of 1927 PA 372, MCL 28.422, 28.422a, 28.429a, 28.429b, 28.429c,
11 28.431, 28.432, and 28.432b, are repealed.