## SUBSTITUTE FOR

# HOUSE BILL NO. 5497

## A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices 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 1, 2a, and 12a (MCL 28.421, 28.422a, and 28.432a), sections 1 and 12a as amended by 2015 PA 207 and section 2a as amended by 2016 PA 6.

# THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

Sec. 1. (1) As used in this act:

(a) "Corrections officer of the department of corrections"
 means a state correctional officer as that term is defined in
 section 2 of the correctional officers' training act of 1982, 1982
 PA 415, MCL 791.502.

5 (b) "Felony" means, except as otherwise provided in this 6 subdivision, that term as defined in section 1 of chapter I of the 7 code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation 8 of a law of the United States or another state that is designated 9 as a felony or that is punishable by death or by imprisonment for 10 more than 1 year. Felony does not include a violation of a penal 11 law of this state that is expressly designated as a misdemeanor.

12 (c) "Firearm" means any weapon which will, is designed to, or 13 may readily be converted to expel a projectile by action of an 14 explosive.

(d) "Firearms records" means any form, information, or record
required for submission to a government agency under sections 2,
2a, 2b, and 5b, or any form, permit, or license issued by a
government agency under this act.

(e) "Local corrections officer" means that term as defined in
section 2 of the local corrections officers training act, 2003 PA
125, MCL 791.532.

(f) "Misdemeanor" means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

H00913'15 g (H-1)

ELJ

(g) "Parole or probation officer of the department of
 corrections" means any individual employed by the department of
 corrections to supervise felony probationers or parolees or that
 individual's immediate supervisor.

5 (h) "Peace officer" means, except as otherwise provided in this act, an individual who is employed as a law enforcement 6 officer, as that term is defined under section 2 of the MICHIGAN 7 commission on law enforcement standards act, 1965 PA 203, MCL 8 9 28.602, by this state or another state, a political subdivision of 10 this state or another state, or the United States, and who is 11 required to carry a firearm in the course of his or her duties as a 12 law enforcement officer.

(i) "Pistol" means a loaded or unloaded firearm that is 26
inches or less in length, or a loaded or unloaded firearm that by
its construction and appearance conceals it as a firearm.

16 (j) "Purchaser" means a person who receives a pistol from17 another person by purchase or gift.

18 (k) "Reserve peace officer", "auxiliary officer", or "reserve 19 officer" means, except as otherwise provided in this act, an 20 individual authorized on a voluntary or irregular basis by a duly 21 authorized police agency of this state or a political subdivision 22 of this state to act as a law enforcement officer, who is 23 responsible for the preservation of the peace, the prevention and 24 detection of crime, and the enforcement of the general criminal 25 laws of this state, and who is otherwise eligible to possess a 26 firearm under this act.

27

(*l*) "Retired corrections officer of the department of

## H00913'15 q (H-1)

ELJ

corrections" means an individual who was a corrections officer of
 the department of corrections and who retired in good standing from
 his or her employment as a corrections officer of the department of
 corrections.

5 (m) "Retired federal law enforcement officer" means an 6 individual who was an officer or agent employed by a law 7 enforcement agency of the United States government whose primary 8 responsibility was enforcing laws of the United States, who was 9 required to carry a firearm in the course of his or her duties as a 10 law enforcement officer, and who retired in good standing from his 11 or her employment as a federal law enforcement officer.

(n) "Retired parole or probation officer of the department of corrections" means an individual who was a parole or probation officer of the department of corrections and who retired in good standing from his or her employment as a parole or probation officer of the department of corrections.

17 (o) "Retired police officer" or "retired law enforcement officer" means an individual who was a police officer or law 18 19 enforcement officer who was **LICENSED OR** certified as described under section 9a of IN the MICHIGAN commission on law enforcement 20 21 standards act, 1965 PA 203, MCL 28.609a, 28.601 TO 28.615, and 22 retired in good standing from his or her employment as a police 23 officer or law enforcement officer. A police officer or law 24 enforcement officer retired in good standing if he or she receives a pension or other retirement benefit for his or her service as a 25 26 police officer or law enforcement officer or actively maintained a 27 Michigan commission on law enforcement standards or equivalent

## H00913'15 g (H-1)

ELJ

1 state certification OR LICENSE for 10 or more NOT LESS THAN 10
2 consecutive years.

3 (p) "Seller" means a person who sells or gives a pistol to4 another person.

5 (q) "State court judge" means a judge of the district court,
6 circuit court, probate court, or court of appeals or justice of the
7 supreme court of this state who is serving either by election or
8 appointment.

9 (r) "State court retired judge" means a judge or justice
10 described in subdivision (q) who is retired, or a retired judge of
11 the recorders court.

(2) A person may lawfully own, possess, carry, or transport as
a pistol a firearm greater than 26 inches in length if all of the
following conditions apply:

15 (a) The person registered the firearm as a pistol under16 section 2 or 2a before January 1, 2013.

17 (b) The person who registered the firearm as described in
18 subdivision (a) has maintained registration of the firearm since
19 January 1, 2013 without lapse.

20 (c) The person possesses a copy of the license or record21 issued to him or her under section 2 or 2a.

(3) A person who satisfies all of the conditions listed under
subsection (2) nevertheless may elect to have the firearm not be
considered to be a pistol. A person who makes the election under
this subsection shall notify the department of state police of the
election in a manner prescribed by that department.

27 Sec. 2a. (1) The following individuals are not required to

H00913'15 g (H-1)

obtain a license under section 2 to purchase, carry, possess, use,
 or transport a pistol:

3 (a) An individual licensed under section 5b, except for an
4 individual who has an emergency license issued under section 5a(4)
5 or a receipt serving as a concealed pistol license under section
6 5b(9) or 5l(3).

7

(b) A federally licensed firearms dealer.

8 (c) An individual who purchases a pistol from a federally9 licensed firearms dealer in compliance with 18 USC 922(t).

(d) An individual currently employed as a police officer , WHO
 IS LICENSED OR certified under the MICHIGAN commission on law
 enforcement standards act, 1965 PA 203, MCL 28.601 to

# **13** 28.616.28.615.

14 (2) If an individual described in subsection (1) purchases or otherwise acquires a pistol, the seller shall complete a record in 15 16 triplicate on a form provided by the department of state police. 17 The record shall include the purchaser's concealed weapon license 18 number, the number of the purchaser's **LICENSE OR** certificate issued 19 under the MICHIGAN commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, 28.615, or, if the purchaser is 20 21 a federally licensed firearms dealer, his or her dealer license 22 number. If the purchaser is not licensed under section 5b or does 23 not have a LICENSE OR certificate issued under the MICHIGAN commission on law enforcement standards act, 1965 PA 203, MCL 24 25 28.601 to 28.616, 28.615, and is not a federally licensed firearms 26 dealer, the record shall include the dealer license number of the 27 federally licensed firearms dealer who is selling the pistol. The

# H00913'15 g (H-1)

ELJ

1 purchaser shall sign the record. The seller may retain 1 copy of 2 the record. The purchaser shall receive 2 copies of the record and 3 forward 1 copy to the police department of the city, village, or 4 township in which the purchaser resides, or, if the purchaser does not reside in a city, village, or township having a police 5 department, to the county sheriff, within 10 days following the 6 purchase or acquisition. The return of the copy to the police 7 department or county sheriff may be made in person or may be made 8 by first-class mail or certified mail sent within the 10-day period 9 10 to the proper address of the police department or county sheriff. A 11 purchaser who fails to comply with the requirements of this 12 subsection is responsible for a state civil infraction and may be fined not more than \$250.00. If a purchaser is found responsible 13 for a state civil infraction under this subsection, the court shall 14 notify the department of state police. If the purchaser is licensed 15 under section 5b, the court shall notify the licensing authority of 16 that determination. 17

(3) Within 10 days after receiving the record copy returned 18 19 under subsection (2), the police department or county sheriff shall 20 electronically enter the information into the pistol entry database 21 as required by the department of state police if it has the ability to electronically enter that information. If the police department 22 23 or county sheriff does not have that ability, the police department 24 or county sheriff shall provide that information to the department 25 of state police in a manner otherwise required by the department of 26 state police. Any police department or county sheriff that provided 27 pistol descriptions to the department of state police under former

7

ELJ

section 9 of this act shall continue to provide pistol descriptions 1 2 to the department of state police under this subsection. Within 48 hours after entering or otherwise providing the information on the 3 4 record copy returned under subsection (2) to the department of 5 state police, the police department or county sheriff shall forward 6 the copy of the record to the department of state police. The purchaser has the right to obtain a copy of the information placed 7 in the pistol entry database under this subsection to verify the 8 9 accuracy of that information. The police department or county sheriff may charge a fee not to exceed \$1.00 for the cost of 10 11 providing the copy. The purchaser may carry, use, possess, and 12 transport the pistol for 30 days beginning on the date of purchase 13 or acquisition only while he or she is in possession of his or her 14 copy of the record. However, the person is not required to have the record in his or her possession while carrying, using, possessing, 15 16 or transporting the pistol after this period.

17 (4) This section does not apply to a person or entity exempt18 under section 2(7).

19 (5) An individual who makes a material false statement on a 20 sales record under this section is guilty of a felony punishable by 21 imprisonment for not more than 4 years or a fine of not more than 22 \$2,500.00, or both.

23 (6) The department of state police may promulgate rules to24 implement this section.

(7) The Michigan commission on law enforcement standards shall
provide LICENSE OR certificate information, AS APPLICABLE, to the
department of state police to verify the requirements of this

## H00913'15 q (H-1)

ELJ

1 section.

2

(8) As used in this section:

3 (a) Before December 18, 2012, "federally licensed firearms
4 dealer" means an individual who holds a type 01 dealer license
5 under 18 USC 923.

6 (A) (b) Beginning December 18, 2012, "federally "FEDERALLY
7 licensed firearms dealer" means a person licensed to sell firearms
8 under 18 USC 923.

9 (B) (c)—"Person" means an individual, partnership,
10 corporation, association, or other legal entity.

Sec. 12a. The requirements of this act for obtaining a license to carry a concealed pistol do not apply to any of the following: (a) A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or a subdivision of this state, except a township constable.

(b) A constable who is trained and LICENSED OR certified under
the MICHIGAN commission on law enforcement standards act, 1965 PA
203, MCL 28.601 to 28.616, 28.615, while engaged in his or her
official duties or going to or coming from his or her official
duties, and who is regularly employed and paid by a political
subdivision of this state.

(c) An individual regularly employed by the department of
corrections and authorized in writing by the director of the
department of corrections to carry a concealed pistol during the
performance of his or her duties or while going to or returning

# H00913'15 q (H-1)

ELJ

1 from his or her duties.

2 (d) An individual regularly employed as a local corrections
3 officer by a county sheriff, who is trained in the use of force and
4 is authorized in writing by the county sheriff to carry a concealed
5 pistol during the performance of his or her duties.

6 (e) An individual regularly employed in a city jail or lockup
7 who has custody of individuals detained or incarcerated in the jail
8 or lockup, is trained in the use of force, and is authorized in
9 writing by the chief of police or the county sheriff to carry a
10 concealed pistol during the performance of his or her duties.

(f) A member of the United States Army, Air Force, Navy, or Marine Corps while carrying a concealed pistol in the line of duty. (g) A member of the National Guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while going to or returning from his or her place of assembly or practice or while carrying a concealed pistol for purposes of that military organization.

18 (h) A resident of another state who is licensed by that state19 to carry a concealed pistol.

20 (i) The regular and ordinary transportation of a pistol as
21 merchandise by an authorized agent of a person licensed to
22 manufacture firearms.

(j) An individual while carrying a pistol unloaded in a
wrapper or container in the trunk of his or her vehicle or, if the
vehicle does not have a trunk, from transporting that pistol
unloaded in a locked compartment or container that is separated
from the ammunition for that pistol from the place of purchase to

H00913'15 g (H-1)

ELJ

his or her home or place of business or to a place of repair or
 back to his or her home or place of business, or in moving goods
 from 1 place of abode or business to another place of abode or
 business.

5 (k) A peace officer or law enforcement officer from Canada.
6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.

8 Enacting section 2. This amendatory act does not take effect
9 unless Senate Bill No. 92 or House Bill No. \_\_\_\_ (request no.
10 00913'15 \*) of the 98th Legislature is enacted into law.