

HOUSE BILL No. 5302

February 2, 2016, Introduced by Reps. Barrett, Runestad, Johnson, Aaron Miller, Chatfield, Glenn, Kelly and Cole and referred to the Committee on Judiciary.

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 12 and 15 (MCL 28.432 and 28.435), section 12 as amended by 2010 PA 209 and section 15 as added by 2000 PA 265.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 12. (1) Section 2 does not apply to any of the following:
- 2 (a) A police or correctional agency of the United States or of
- 3 this state or any subdivision of this state.

1 (b) The United States ~~army, air force, navy,~~ **ARMY, AIR FORCE,**
2 **NAVY,** or ~~marine corps.~~ **MARINE CORPS.**

3 (c) An organization authorized by law to purchase or receive
4 weapons from the United States or from this state.

5 (d) The ~~national guard, armed forces reserves,~~ **NATIONAL GUARD,**
6 **UNITED STATES ARMED FORCES RESERVES,** or other duly authorized
7 military organization.

8 (e) A member of an entity or organization described in
9 subdivisions (a) through (d) for a pistol while engaged in the
10 course of his or her duties with that entity or while going to or
11 returning from those duties.

12 (f) A United States citizen holding a license to carry a
13 pistol concealed upon his or her person issued by another state.

14 (g) The regular and ordinary possession and transportation of
15 a pistol as merchandise by an authorized agent of a person licensed
16 to manufacture firearms or a licensed dealer.

17 (h) Purchasing, owning, carrying, possessing, using, or
18 transporting an antique firearm. ~~As used in this subdivision,~~
19 ~~"antique firearm" means that term as defined in section 231a of the~~
20 ~~Michigan penal code, 1931 PA 328, MCL 750.231a.~~

21 (i) An individual carrying, possessing, using, or transporting
22 a pistol belonging to another individual, if the other individual's
23 possession of the pistol is authorized by law and the individual
24 carrying, possessing, using, or transporting the pistol has
25 obtained a license under section 5b to carry a concealed pistol or
26 is exempt from licensure as provided in section 12a.

27 (2) The amendatory act that added subsection (1)(h) shall be

1 known and may be cited as the "Janet Kukuk act".

2 Sec. 15. (1) Except as provided in subsection (2), a federally
3 licensed firearms dealer shall not sell a firearm in this state
4 unless the sale includes 1 of the following:

5 (a) A commercially available trigger lock or other device
6 designed to disable the firearm and prevent the discharge of the
7 firearm.

8 (b) A commercially available gun case or storage container
9 that can be secured to prevent unauthorized access to the firearm.

10 (2) This section does not apply to any of the following:

11 (a) The sale of a firearm to a police officer or a police
12 agency.

13 (b) The sale of a firearm to a person who presents to the
14 federally licensed firearms dealer 1 of the following:

15 (i) A trigger lock or other device designed to disable the
16 firearm and prevent the discharge of the firearm together with a
17 copy of the purchase receipt for the federally licensed firearms
18 dealer to keep. A separate trigger lock or device and a separate
19 purchase receipt ~~shall be~~ **IS** required for each firearm purchased.

20 (ii) A gun case or storage container that can be secured to
21 prevent unauthorized access to the firearm together with a copy of
22 the purchase receipt for the federally licensed firearms dealer to
23 keep. A separate gun case or storage container and a separate
24 purchase receipt ~~shall be~~ **IS** required for each firearm purchased.

25 (c) The sale of an antique firearm. ~~As used in this~~
26 ~~subdivision, "antique firearm" means that term as defined in~~
27 ~~section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.~~

1 (d) The sale or transfer of a firearm if the seller is not a
2 federally licensed firearms dealer.

3 (3) A federally licensed firearms dealer shall not sell a
4 firearm in this state unless the firearm is accompanied with, free
5 of charge, a brochure or pamphlet that includes safety information
6 on the use and storage of the firearm in a home environment.

7 (4) Upon the sale of a firearm, a federally licensed firearms
8 dealer shall sign a statement and require the purchaser to sign a
9 statement stating that the sale is in compliance with subsections
10 (1), (2), and (3).

11 (5) A federally licensed firearms dealer shall retain a copy
12 of the signed statements prescribed in subsection (4) and, if
13 applicable, a copy of the receipt prescribed in subsection (2)(b),
14 for at least 6 years.

15 (6) A federally licensed firearms dealer in this state shall
16 post in a conspicuous manner at the entrances, exits, and all
17 points of sale on the premises where firearms are sold a notice
18 that says the following: "You may be criminally and civilly liable
19 for any harm caused by a person less than 18 years of age who
20 lawfully gains unsupervised access to your firearm if unlawfully
21 stored."

22 (7) A federally licensed firearms dealer is not liable for
23 damages arising from the use or misuse of a firearm if the sale
24 complies with this section, any other applicable law of this state,
25 and applicable federal law.

26 (8) This section does not create a civil action or liability
27 for damages arising from the use or misuse of a firearm or

1 ammunition for a person, other than a federally licensed firearms
2 dealer, who produces a firearm or ammunition.

3 (9) Subject to subsections (10) to (12), a political
4 subdivision shall not bring a civil action against any person who
5 produces a firearm or ammunition. The authority to bring a civil
6 action under this section is reserved exclusively to the state and
7 can be brought only by the attorney general. The court shall award
8 costs and reasonable attorney fees to each defendant named in a
9 civil action filed in violation of this subsection.

10 (10) Subject to subsection (11), subsection (9) does not
11 prohibit a civil action by a political subdivision based on 1 or
12 more of the following, which the court shall narrowly construe:

13 (a) A breach of contract, other contract issue, or an action
14 based on a provision of the uniform commercial code, 1962 PA 174,
15 MCL 440.1101 to ~~440.11102~~, **440.9994**, in which the political
16 subdivision is the purchaser and owner of the firearm or
17 ammunition.

18 (b) Expressed or implied warranties arising from the purchase
19 of a firearm or ammunition by the political subdivision or the use
20 of a firearm or ammunition by an employee or agent of the political
21 subdivision.

22 (c) A product liability, personal injury, or wrongful death
23 action when an employee or agent or property of the political
24 subdivision has been injured or damaged as a result of a defect in
25 the design or manufacture of the firearm or ammunition purchased
26 and owned by the political subdivision.

27 (11) Subsection (10) does not allow an action based on any of

1 the following:

2 (a) A firearm's or ammunition's inherent potential to cause
3 injury, damage, or death.

4 (b) Failure to warn the purchaser, transferee, or user of the
5 firearm's or ammunition's inherent potential to cause injury,
6 damage, or death.

7 (c) Failure to sell with or incorporate into the product a
8 device or mechanism to prevent a firearm or ammunition from being
9 discharged by an unauthorized person unless specifically provided
10 for by contract.

11 (12) Subsections (9) through (11) do not create a civil
12 action.

13 (13) Subsections (9) through (11) are intended only to clarify
14 the current status of the law in this state, are remedial in
15 nature, and, therefore, apply to a civil action pending on ~~the~~
16 ~~effective date of this act.~~ **JUNE 29, 2000.**

17 (14) Beginning September 1, 2000, a person who violates this
18 section is guilty of a crime as follows:

19 (a) Except as provided in subdivision (b) or (c), the person
20 is guilty of a misdemeanor punishable by imprisonment for not more
21 than 93 days or a fine of not more than \$500.00, or both.

22 (b) For a second conviction, the person is guilty of a
23 misdemeanor punishable by imprisonment for not more than 1 year or
24 a fine of not more than \$1,000.00, or both.

25 (c) For a third or subsequent conviction, the person is guilty
26 of a felony punishable by imprisonment for not more than 2 years or
27 a fine of not more than \$5,000.00, or both.

1 (15) As used in this section:

2 (a) "Federally licensed firearms dealer" means a person
3 licensed under ~~section 923 of title 18 of the United States Code,~~
4 18 U.S.C.—USC 923.

5 (b) "Firearm or ammunition" includes a component of a firearm
6 or ammunition.

7 (c) "Person" means an individual, partnership, corporation,
8 association, or other legal entity.

9 (d) "Political subdivision" means a county, city, village,
10 township, charter township, school district, community college, or
11 public university or college.

12 (e) "Produce" means to manufacture, construct, design,
13 formulate, develop standards for, prepare, process, assemble,
14 inspect, test, list, certify, give a warning or instructions
15 regarding, market, sell, advertise, package, label, distribute, or
16 transfer.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. ____ or House Bill No. 5301 (request no.
19 04120'15 *) of the 98th Legislature is enacted into law.