

HOUSE BILL No. 5781

May 11, 2000, Introduced by Reps. Tabor, DeVuyst, Birkholz, Julian, Mead, Pumford, Gosselin, Van Woerkom, Howell, DeRossett, Caul, Jelinek, Kuipers, Pappageorge, DeWeese, Hager, Ehardt, Toy, Kowall, Koetje and Cassis and referred to the Committee on Conservation and Outdoor Recreation.

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; to provide for the forfeiture of firearms possessed in violation of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

(MCL 28.421 to 28.434) by amending the title, as amended by 1990 PA 320, and by adding section 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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An act to regulate and license the selling, purchasing, pos-

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sessing, and carrying of certain firearms and gas ejecting

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devices; to prohibit the buying, selling, or carrying of certain

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firearms and gas ejecting devices without a license; to provide

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for the forfeiture of firearms possessed in violation of this

HB5781, As Passed House, May 24, 2000

H.B. 5781 as amended May 24, 2000 2

1 act; TO PROVIDE FOR PENALTIES AND REMEDIES FOR VIOLATIONS OF THIS
2 ACT; to provide immunity from civil liability under certain cir-
3 cumstances; to prescribe the powers and duties of certain state
4 and local agencies; and to repeal all acts and parts of acts
5 inconsistent with the provisions of this act.

6 SEC. 15. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), A FEDER-
7 ALLY LICENSED FIREARMS DEALER SHALL NOT SELL A FIREARM IN THIS
8 STATE UNLESS THE SALE INCLUDES 1 OF THE FOLLOWING:

9 (A) A COMMERCIALY AVAILABLE TRIGGER LOCK OR OTHER DEVICE
10 DESIGNED TO DISABLE THE FIREARM AND PREVENT THE DISCHARGE OF THE
11 FIREARM.

12 (B) A COMMERCIALY AVAILABLE GUN CASE OR STORAGE CONTAINER
13 THAT CAN BE SECURED TO PREVENT UNAUTHORIZED ACCESS TO THE
14 FIREARM.

15 (2) THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

16 (A) THE SALE OF A FIREARM TO A POLICE OFFICER OR A POLICE
17 AGENCY.

18 (B) THE SALE OF A FIREARM TO A PERSON WHO PRESENTS TO THE
19 FEDERALLY LICENSED FIREARMS DEALER 1 OF THE FOLLOWING:

20 (i) A TRIGGER LOCK OR OTHER DEVICE DESIGNED TO DISABLE THE
21 FIREARM AND PREVENT THE DISCHARGE OF THE FIREARM TOGETHER WITH A
22 COPY OF THE PURCHASE RECEIPT FOR THE FEDERALLY LICENSED FIREARMS
23 DEALER TO KEEP. [A SEPARATE TRIGGER LOCK OR DEVICE AND A SEPARATE
PURCHASE RECEIPT SHALL BE REQUIRED FOR EACH FIREARM PURCHASED.]

24 (ii) A GUN CASE OR STORAGE CONTAINER THAT CAN BE SECURED TO
25 PREVENT UNAUTHORIZED ACCESS TO THE FIREARM TOGETHER WITH A COPY
26 OF THE PURCHASE RECEIPT FOR THE FEDERALLY LICENSED FIREARMS
27 DEALER TO KEEP. [A SEPARATE GUN CASE OR STORAGE CONTAINER AND A
SEPARATE PURCHASE RECEIPT SHALL BE REQUIRED FOR EACH FIREARM
PURCHASED.]

1 (C) THE SALE OF AN ANTIQUE FIREARM. AS USED IN THIS
2 SUBDIVISION, "ANTIQUÉ FIREARM" MEANS THAT TERM AS DEFINED IN SEC-
3 TION 231A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.231A.

4 (D) THE SALE OR TRANSFER OF A FIREARM IF THE SELLER IS NOT A
5 FEDERALLY LICENSED FIREARMS DEALER.

6 (3) A FEDERALLY LICENSED FIREARMS DEALER SHALL NOT SELL A
7 FIREARM IN THIS STATE UNLESS THE FIREARM IS ACCOMPANIED WITH,
8 FREE OF CHARGE, A BROCHURE OR PAMPHLET THAT INCLUDES SAFETY
9 INFORMATION ON THE USE AND STORAGE OF THE FIREARM IN A HOME
10 ENVIRONMENT.

11 (4) UPON THE SALE OF A FIREARM, A FEDERALLY LICENSED FIRE-
12 ARMS DEALER SHALL SIGN A STATEMENT AND REQUIRE THE PURCHASER TO
13 SIGN A STATEMENT STATING THAT THE SALE IS IN COMPLIANCE WITH SUB-
14 SECTIONS (1), (2), AND (3).

15 (5) A FEDERALLY LICENSED FIREARMS DEALER SHALL RETAIN A COPY
16 OF THE SIGNED STATEMENTS PRESCRIBED IN SUBSECTION (4) AND, IF
17 APPLICABLE, A COPY OF THE RECEIPT PRESCRIBED IN SUBSECTION
18 (2)(B), FOR AT LEAST 6 YEARS.

19 (6) A FEDERALLY LICENSED FIREARMS DEALER IN THIS STATE SHALL
20 POST IN A CONSPICUOUS MANNER AT THE ENTRANCES, EXITS, AND ALL
21 POINTS OF SALE ON THE PREMISES WHERE FIREARMS ARE SOLD A NOTICE
22 THAT SAYS THE FOLLOWING: "YOU MAY BE CRIMINALLY AND CIVILLY
23 LIABLE FOR ANY HARM CAUSED BY A PERSON LESS THAN 18 YEARS OF AGE
24 WHO LAWFULLY GAINS UNSUPERVISED ACCESS TO YOUR FIREARM IF UNLAW-
25 FULLY STORED."

26 (7) A FEDERALLY LICENSED FIREARMS DEALER IS NOT LIABLE FOR
27 DAMAGES ARISING FROM THE USE OR MISUSE OF A FIREARM IF THE SALE

1 COMPLIES WITH THIS SECTION, ANY OTHER APPLICABLE LAW OF THIS
2 STATE, AND APPLICABLE FEDERAL LAW.

3 (8) THIS SECTION DOES NOT CREATE A CIVIL ACTION OR LIABILITY
4 FOR DAMAGES ARISING FROM THE USE OR MISUSE OF A FIREARM OR AMMU-
5 NITION FOR A PERSON, OTHER THAN A FEDERALLY LICENSED FIREARMS
6 DEALER, WHO PRODUCES A FIREARM OR AMMUNITION.

7 (9) SUBJECT TO SUBSECTIONS (10) TO (12), A POLITICAL SUBDI-
8 VISION SHALL NOT BRING A CIVIL ACTION AGAINST ANY PERSON WHO
9 PRODUCES A FIREARM OR AMMUNITION. THE AUTHORITY TO BRING A CIVIL
10 ACTION UNDER THIS SECTION IS RESERVED EXCLUSIVELY TO THE STATE
11 AND CAN BE BROUGHT ONLY BY THE ATTORNEY GENERAL. THE COURT SHALL
12 AWARD COSTS AND REASONABLE ATTORNEY FEES TO EACH DEFENDANT NAMED
13 IN A CIVIL ACTION FILED IN VIOLATION OF THIS SUBSECTION.

14 (10) SUBJECT TO SUBSECTION (11), SUBSECTION (9) DOES NOT
15 PROHIBIT A CIVIL ACTION BY A POLITICAL SUBDIVISION BASED ON 1 OR
16 MORE OF THE FOLLOWING, WHICH THE COURT SHALL NARROWLY CONSTRUE:

17 (A) A BREACH OF CONTRACT, OTHER CONTRACT ISSUE, OR AN ACTION
18 BASED ON A PROVISION OF THE UNIFORM COMMERCIAL CODE, 1962 PA 174,
19 MCL 440.1101 TO 440.11102, IN WHICH THE POLITICAL SUBDIVISION IS
20 THE PURCHASER AND OWNER OF THE FIREARM OR AMMUNITION.

21 (B) EXPRESSED OR IMPLIED WARRANTIES ARISING FROM THE PUR-
22 CHASE OF A FIREARM OR AMMUNITION BY THE POLITICAL SUBDIVISION OR
23 THE USE OF A FIREARM OR AMMUNITION BY AN EMPLOYEE OR AGENT OF THE
24 POLITICAL SUBDIVISION.

25 (C) A PRODUCT LIABILITY, PERSONAL INJURY, OR WRONGFUL DEATH
26 ACTION WHEN AN EMPLOYEE OR AGENT OR PROPERTY OF THE POLITICAL
27 SUBDIVISION HAS BEEN INJURED OR DAMAGED AS A RESULT OF A DEFECT

1 IN THE DESIGN OR MANUFACTURE OF THE FIREARM OR AMMUNITION
2 PURCHASED AND OWNED BY THE POLITICAL SUBDIVISION.

3 (11) SUBSECTION (10) DOES NOT ALLOW AN ACTION BASED ON ANY
4 OF THE FOLLOWING:

5 (A) A FIREARM'S OR AMMUNITION'S INHERENT POTENTIAL TO CAUSE
6 INJURY, DAMAGE, OR DEATH.

7 (B) FAILURE TO WARN THE PURCHASER, TRANSFEREE, OR USER OF
8 THE FIREARM'S OR AMMUNITION'S INHERENT POTENTIAL TO CAUSE INJURY,
9 DAMAGE, OR DEATH.

10 (C) FAILURE TO SELL WITH OR INCORPORATE INTO THE PRODUCT A
11 DEVICE OR MECHANISM TO PREVENT A FIREARM OR AMMUNITION FROM BEING
12 DISCHARGED BY AN UNAUTHORIZED PERSON UNLESS SPECIFICALLY PROVIDED
13 FOR BY CONTRACT.

14 (12) SUBSECTIONS (9) THROUGH (11) DO NOT CREATE A CIVIL
15 ACTION.

16 (13) SUBSECTIONS (9) THROUGH (11) ARE INTENDED ONLY TO CLAR-
17 IFY THE CURRENT STATUS OF THE LAW IN THIS STATE, ARE REMEDIAL IN
18 NATURE, AND, THEREFORE, APPLY TO A CIVIL ACTION PENDING ON THE
19 EFFECTIVE DATE OF THIS ACT.

20 (14) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CRIME
21 AS FOLLOWS:

22 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B) OR (C), THE PERSON
23 IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT
24 MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

25 (B) FOR A SECOND CONVICTION, THE PERSON IS GUILTY OF A MIS-
26 DEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A
27 FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

1 (C) FOR A THIRD OR SUBSEQUENT CONVICTION, THE PERSON IS
2 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2
3 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

4 (15) AS USED IN THIS SECTION:

5 (A) "FEDERALLY LICENSED FIREARMS DEALER" MEANS A PERSON
6 LICENSED UNDER SECTION 923 OF TITLE 18 OF THE UNITED STATES CODE,
7 18 U.S.C. 923.

8 (B) "FIREARM OR AMMUNITION" INCLUDES A COMPONENT OF A FIRE-
9 ARM OR AMMUNITION.

10 (C) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
11 ASSOCIATION, OR OTHER LEGAL ENTITY.

12 (D) "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY, VILLAGE,
13 TOWNSHIP, CHARTER TOWNSHIP, SCHOOL DISTRICT, COMMUNITY COLLEGE,
14 OR PUBLIC UNIVERSITY OR COLLEGE.

15 (E) "PRODUCE" MEANS TO MANUFACTURE, CONSTRUCT, DESIGN, FOR-
16 MULATE, DEVELOP STANDARDS FOR, PREPARE, PROCESS, ASSEMBLE,
17 INSPECT, TEST, LIST, CERTIFY, GIVE A WARNING OR INSTRUCTIONS
18 REGARDING, MARKET, SELL, ADVERTISE, PACKAGE, LABEL, DISTRIBUTE,
19 OR TRANSFER.