

HOUSE BILL No. 5076

August 1, 2007, Introduced by Rep. Nitz 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 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 2 and 9 (MCL 28.422 and 28.429), section 2 as amended by 2004 PA 101 and section 9 as amended by 2004 PA 100.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as provided in ~~subsection~~ **SUBSECTIONS** (2)

1 **AND (8)**, a person shall not purchase, carry, or transport a pistol
2 in this state without first having obtained a license for the
3 pistol as prescribed in this section.

4 (2) A person who brings a pistol into this state who is on
5 leave from active duty with the armed forces of the United States
6 or who has been discharged from active duty with the armed forces
7 of the United States shall obtain a license for the pistol within
8 30 days after his or her arrival in this state.

9 (3) The commissioner or chief of police of a city, township,
10 or village police department that issues licenses to purchase,
11 carry, or transport pistols, or his or her duly authorized deputy,
12 or the sheriff or his or her duly authorized deputy, in the parts
13 of a county not included within a city, township, or village having
14 an organized police department, in discharging the duty to issue
15 licenses shall with due speed and diligence issue licenses to
16 purchase, carry, or transport pistols to qualified applicants
17 residing within the city, village, township, or county, as
18 applicable unless he or she has probable cause to believe that the
19 applicant would be a threat to himself or herself or to other
20 individuals, or would commit an offense with the pistol that would
21 violate a law of this or another state or of the United States. An
22 applicant is qualified if all of the following circumstances exist:

23 (a) The person is not subject to an order or disposition for
24 which he or she has received notice and an opportunity for a
25 hearing, and which was entered into the law enforcement information
26 network pursuant to any of the following:

27 (i) Section 464a(1) of the mental health code, 1974 PA 258, MCL

1 330.1464a.

2 (ii) Section 5107 of the estates and protected individuals
3 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA
4 642.

5 (iii) Section 2950(9) of the revised judicature act of 1961,
6 1961 PA 236, MCL 600.2950.

7 (iv) Section 2950a(7) of 1961 PA 236, MCL 600.2950a.

8 (v) Section 14 of 1846 RS 84, MCL 552.14.

9 (vi) Section 6b(5) of chapter V of the code of criminal
10 procedure, 1927 PA 175, MCL 765.6b, if the order has a condition
11 imposed pursuant to section 6b(3) of chapter V of 1927 PA 175, MCL
12 765.6b.

13 (vii) Section 16b(1) of chapter IX of 1927 PA 175, MCL 769.16b.

14 (b) The person is 18 years of age or older or, if the seller
15 is licensed pursuant to section 923 of title 18 of the United
16 States Code, 18 USC 923, is 21 years of age or older.

17 (c) The person is a citizen of the United States and is a
18 legal resident of this state.

19 (d) A felony charge against the person is not pending at the
20 time of application.

21 (e) The person is not prohibited from possessing, using,
22 transporting, selling, purchasing, carrying, shipping, receiving,
23 or distributing a firearm under section 224f of the Michigan penal
24 code, 1931 PA 328, MCL 750.224f.

25 (f) The person has not been adjudged insane in this state or
26 elsewhere unless he or she has been adjudged restored to sanity by
27 court order.

1 (g) The person is not under an order of involuntary commitment
2 in an inpatient or outpatient setting due to mental illness.

3 (h) The person has not been adjudged legally incapacitated in
4 this state or elsewhere. This subdivision does not apply to a
5 person who has had his or her legal capacity restored by order of
6 the court.

7 (i) The person correctly answers 70% or more of the questions
8 on a basic pistol safety review questionnaire approved by the basic
9 pistol safety review board and provided to the individual free of
10 charge by the licensing authority. If the person fails to correctly
11 answer 70% or more of the questions on the basic pistol safety
12 review questionnaire, the licensing authority shall inform the
13 person of the questions he or she answered incorrectly and allow
14 the person to attempt to complete another basic pistol safety
15 review questionnaire. The person shall not be allowed to attempt to
16 complete more than 2 basic pistol safety review questionnaires on
17 any single day. The licensing authority shall allow the person to
18 attempt to complete the questionnaire during normal business hours
19 on the day the person applies for his or her license.

20 (4) Applications for licenses under this section shall be
21 signed by the applicant under oath upon forms provided by the
22 director of the department of state police. Licenses to purchase,
23 carry, or transport pistols shall be executed in triplicate upon
24 forms provided by the director of the department of state police
25 and shall be signed by the licensing authority. Three copies of the
26 license shall be delivered to the applicant by the licensing
27 authority.

1 (5) Upon the sale of the pistol, the seller shall fill out the
2 license forms describing the pistol sold, together with the date of
3 sale, and sign his or her name in ink indicating that the pistol
4 was sold to the licensee. The licensee shall also sign his or her
5 name in ink indicating the purchase of the pistol from the seller.
6 The seller may retain a copy of the license as a record of the sale
7 of the pistol. The licensee shall return 2 copies of the license to
8 the licensing authority within 10 days following the purchase of
9 the pistol.

10 (6) One copy of the license shall be retained by the licensing
11 authority as an official record for a period of 6 years. The other
12 copy of the license shall be forwarded by the licensing authority
13 within 48 hours to the director of the department of state police.
14 A license is void unless used within 10 days after the date of its
15 issue.

16 (7) This section does not apply to the purchase of pistols
17 from wholesalers by dealers regularly engaged in the business of
18 selling pistols at retail, or to the sale, barter, or exchange of
19 pistols kept as relics or curios not made for modern ammunition or
20 permanently deactivated. This section does not prevent the transfer
21 of ownership of pistols that are inherited if the license to
22 purchase is approved by the commissioner or chief of police,
23 sheriff, or their authorized deputies, and signed by the personal
24 representative of the estate or by the next of kin having authority
25 to dispose of the pistol.

26 (8) **THIS SECTION DOES NOT PROHIBIT A NONRESIDENT FROM CARRYING**
27 **OR TRANSPORTING A PISTOL THAT HE OR SHE LAWFULLY BROUGHT INTO THIS**

1 STATE FOR HIS OR HER OWN USE IF BOTH OF THE FOLLOWING APPLY:

2 (A) THE INDIVIDUAL IS LICENSED IN HIS OR HER STATE OF
3 RESIDENCE TO PURCHASE, CARRY, OR TRANSPORT A PISTOL.

4 (B) THE INDIVIDUAL IS IN THIS STATE FOR A PERIOD OF 180 DAYS
5 OR LESS AND DOES NOT INTEND TO ESTABLISH RESIDENCY.

6 (9) ~~(8)~~—The licensing authority shall provide a basic pistol
7 safety brochure to each applicant for a license under this section
8 before the applicant answers the basic pistol safety review
9 questionnaire. A basic pistol safety brochure shall contain, but is
10 not limited to providing, information on all of the following
11 subjects:

12 (a) Rules for safe handling and use of pistols.

13 (b) Safe storage of pistols.

14 (c) Nomenclature and description of various types of pistols.

15 (d) The responsibilities of owning a pistol.

16 (10) ~~(9)~~—The basic pistol safety brochure shall be supplied in
17 addition to the safety pamphlet required by section 9b.

18 (11) ~~(10)~~—The basic pistol safety brochure required in
19 subsection ~~(8)~~—(9) shall be produced by a national nonprofit
20 membership organization that provides voluntary pistol safety
21 programs that include training individuals in the safe handling and
22 use of pistols.

23 (12) ~~(11)~~—A person who forges any matter on an application for
24 a license under this section is guilty of a felony, punishable by
25 imprisonment for not more than 4 years or a fine of not more than
26 \$2,000.00, or both.

27 (13) ~~(12)~~—A licensing authority shall implement this section

1 during all of the licensing authority's normal business hours and
2 shall set hours for implementation that allow an applicant to use
3 the license within the time period set forth in subsection (6).

4 Sec. 9. (1) ~~A—EXCEPT AS PROVIDED IN SUBSECTION (2),~~ A person
5 within the state who owns or comes into possession of a pistol
6 shall, if he or she resides in a city, township, or village having
7 an organized police department, present the pistol for safety
8 inspection to the commissioner or chief of police of the city,
9 township, or village police department or to a duly authorized
10 deputy of the commissioner or chief of police. If that person
11 resides in a part of the county not included within a city,
12 township, or village having an organized police department, he or
13 she shall present the pistol for safety inspection to the sheriff
14 of the county or to a duly authorized deputy of the sheriff. If the
15 person presenting the pistol is eligible to possess a pistol under
16 section 2(1), a certificate of inspection shall be issued in
17 triplicate on a form provided by the director of the department of
18 state police, containing the name, age, address, description, and
19 signature of the person presenting the pistol for inspection,
20 together with a full description of the pistol. The original of the
21 certificate shall be delivered to the registrant. The duplicate of
22 the certificate shall be mailed within 48 hours to the director of
23 the department of state police and filed and indexed by the
24 department and kept as a permanent official record. The triplicate
25 of the certificate shall be retained and filed in the office of the
26 sheriff, commissioner, or chief of police. This section does not
27 apply to a wholesale or retail dealer in firearms who regularly

1 engages in the business of selling pistols at retail, or to a
2 person who holds a collection of pistols kept for the purpose of
3 display as relics or curios and that are not made for modern
4 ammunition or are permanently deactivated.

5 **(2) THIS SECTION DOES NOT APPLY TO A PISTOL BROUGHT INTO THIS**
6 **STATE BY A NONRESIDENT UNDER SECTION 2(8).**

7 **(3)** ~~(2)~~—A person who presents a pistol for a safety inspection
8 under subsection (1) shall ensure that the pistol is unloaded and
9 that the pistol is equipped with a trigger lock or other disabling
10 mechanism or encased when the pistol is presented for inspection. A
11 person who violates this subsection is responsible for a state
12 civil infraction and may be ordered to pay a civil fine of not more
13 than \$50.00.