

HOUSE BILL No. 5472

September 25, 2009, Introduced by Reps. Segal, Huckleberry, Sheltroun, Ball, Horn, Haveman, Calley, Crawford, Roberts, Neumann, Agema, Rick Jones, Kowall, Amash, Lund, Genetski, Walsh, Daley, Pavlov, Kurtz, Schuitmaker, LeBlanc, Hansen, Polidori, McDowell, Simpson, Spade, Terry Brown, Meekhof, Caul, Angerer, Haase and Bolger and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

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 section 2 (MCL 28.422), as amended by 2008 PA 406.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as otherwise provided in this section, a
2 person shall not purchase, carry, possess, or transport a pistol in
3 this state without first having obtained a license for the pistol
4 as prescribed in this section.

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

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

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

24 (i) Section 464a(1) of the mental health code, 1974 PA 258, MCL
25 330.1464a.

26 (ii) Section 5107 of the estates and protected individuals
27 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA

1 642.

2 (iii) Section 2950(10) of the revised judicature act of 1961,
3 1961 PA 236, MCL 600.2950.

4 (iv) Section 2950a(7) of the revised judicature act of 1961,
5 1961 PA 236, MCL 600.2950a.

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

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

11 (vii) Section 16b(1) of chapter IX of the code of criminal
12 procedure, 1927 PA 175, MCL 769.16b.

13 (b) The person is 18 years of age or older or, if the seller
14 is licensed under 18 USC 923, is 21 years of age or older.

15 (c) The person is a citizen of the United States and is a
16 legal resident of this state. For the purposes of this section, a
17 person shall be considered a legal resident of this state if any of
18 the following apply:

19 (i) The person has a valid, lawfully obtained Michigan driver
20 license issued under the Michigan vehicle code, 1949 PA 300, MCL
21 257.1 to 257.923, or an official state personal identification card
22 issued under 1972 PA 222, MCL 28.291 to 28.300.

23 (ii) The person is lawfully registered to vote in this state.

24 (iii) The person is on active duty status with the United States
25 armed forces and is stationed outside of this state, but the
26 person's home of record is in this state.

27 (iv) The person is on active duty status with the United States

1 armed forces and is permanently stationed in this state, but the
2 person's home of record is in another state. **THIS SUBPARAGRAPH**
3 **SHALL NOT BE CONSTRUED TO REQUIRE A MEMBER OF THE UNITED STATES**
4 **ARMED FORCES TO OBTAIN A LICENSE UNDER THIS SECTION IF THE PERSON**
5 **IS EXEMPT UNDER SECTION 12A.**

6 (d) A felony charge or a criminal charge listed in section 5b
7 against the person is not pending at the time of application.

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

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

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

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

21 (i) The person correctly answers 70% or more of the questions
22 on a basic pistol safety review questionnaire approved by the
23 department of state police and provided to the individual free of
24 charge by the licensing authority. If the person fails to correctly
25 answer 70% or more of the questions on the basic pistol safety
26 review questionnaire, the licensing authority shall inform the
27 person of the questions he or she answered incorrectly and allow

1 the person to attempt to complete another basic pistol safety
2 review questionnaire. The person shall not be allowed to attempt to
3 complete more than 2 basic pistol safety review questionnaires on
4 any single day. The licensing authority shall allow the person to
5 attempt to complete the questionnaire during normal business hours
6 on the day the person applies for his or her license.

7 (4) Applications for licenses under this section shall be
8 signed by the applicant under oath upon forms provided by the
9 director of the department of state police. Licenses to purchase,
10 carry, possess, or transport pistols shall be executed in
11 quadruplicate upon forms provided by the director of the department
12 of state police and shall be signed by the licensing authority.
13 Four copies of the license shall be delivered to the applicant by
14 the licensing authority. A license is void unless used within 10
15 days after the date it is issued.

16 (5) If an individual purchases or otherwise acquires a pistol,
17 the seller shall fill out the license forms describing the pistol,
18 together with the date of sale or acquisition, and sign his or her
19 name in ink indicating that the pistol was sold to or otherwise
20 acquired by the purchaser. The purchaser shall also sign his or her
21 name in ink indicating the purchase or other acquisition of the
22 pistol from the seller. The seller may retain a copy of the license
23 as a record of the transaction. The purchaser shall receive 3
24 copies of the license. The purchaser shall return 2 copies of the
25 license to the licensing authority within 10 days after the date
26 the pistol is purchased or acquired. The return of the copies to
27 the licensing authority may be made in person or may be made by

1 first-class mail or certified mail sent within the 10-day period to
2 the proper address of the licensing authority. A purchaser who
3 fails to comply with the requirements of this subsection is
4 responsible for a state civil infraction and may be fined not more
5 than \$250.00. If a purchaser is found responsible for a state civil
6 infraction under this subsection, the court shall notify the
7 department of state police of that determination.

8 (6) Within 48 hours after receiving the license copies
9 returned under subsection (5), the licensing authority shall
10 forward 1 copy of the license to the department of state police.
11 The licensing authority shall retain the other copy of the license
12 as an official record for not less than 6 years. Within 10 days
13 after receiving the license copies returned under subsection (5),
14 the licensing authority shall electronically enter the information
15 into the pistol entry database as required by the department of
16 state police if it has the ability to electronically enter that
17 information. If the licensing authority does not have that ability,
18 the licensing authority shall provide that information to the
19 department of state police in a manner otherwise required by the
20 department of state police. Any licensing authority that provided
21 pistol descriptions to the department of state police under former
22 section 9 of this act shall continue to provide pistol descriptions
23 to the department of state police under this subsection. The
24 purchaser has the right to obtain a copy of the information placed
25 in the pistol entry database under this subsection to verify the
26 accuracy of that information. The licensing authority may charge a
27 fee not to exceed \$1.00 for the cost of providing the copy. The

1 licensee may carry, use, possess, and transport the pistol for 30
2 days beginning on the date of purchase or acquisition only while he
3 or she is in possession of his or her copy of the license. However,
4 the person is not required to have the license in his or her
5 possession while carrying, using, possessing, or transporting the
6 pistol after this period.

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

17 (8) An individual who is not a resident of this state is not
18 required to obtain a license under this section if all of the
19 following conditions apply:

20 (a) The individual is licensed in his or her state of
21 residence to purchase, carry, or transport a pistol.

22 (b) The individual is in possession of the license described
23 in subdivision (a).

24 (c) The individual is the owner of the pistol he or she
25 possesses, carries, or transports.

26 (d) The individual possesses the pistol for a lawful purpose
27 as that term is defined in section 231a of the Michigan penal code,

1 1931 PA 328, MCL 750.231a.

2 (e) The individual is in this state for a period of 180 days
3 or less and does not intend to establish residency in this state.

4 (9) An individual who is a nonresident of this state shall
5 present the license described in subsection (8)(a) upon the demand
6 of a police officer. An individual who violates this subsection is
7 guilty of a misdemeanor punishable by imprisonment for not more
8 than 90 days or a fine of not more than \$100.00, or both.

9 (10) The licensing authority may require a person claiming
10 active duty status with the United States armed forces to provide
11 proof of 1 or both of the following:

12 (a) The person's home of record.

13 (b) Permanent active duty assignment in this state.

14 (11) This section does not apply to a person who is younger
15 than the age required under subsection (3)(b) and who possesses a
16 pistol if all of the following conditions apply:

17 (a) The person is not otherwise prohibited from possessing
18 that pistol.

19 (b) The person is at a recognized target range.

20 (c) The person possesses the pistol for the purpose of target
21 practice or instruction in the safe use of a pistol.

22 (d) The person's parent or guardian is physically present and
23 supervising the person.

24 (e) The owner of the pistol is physically present.

25 (12) This section does not apply to a person who possesses a
26 pistol if all of the following conditions apply:

27 (a) The person is not otherwise prohibited from possessing a

1 pistol.

2 (b) The person is at a recognized target range or shooting
3 facility.

4 (c) The person possesses the pistol for the purpose of target
5 practice or instruction in the safe use of a pistol.

6 (d) The owner of the pistol is physically present and
7 supervising the use of the pistol.

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

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

15 (b) Safe storage of pistols.

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

17 (d) The responsibilities of owning a pistol.

18 (14) The basic pistol safety brochure shall be supplied in
19 addition to the safety pamphlet required by section 9b.

20 (15) The basic pistol safety brochure required in subsection
21 (13) shall be produced by a national nonprofit membership
22 organization that provides voluntary pistol safety programs that
23 include training individuals in the safe handling and use of
24 pistols.

25 (16) A person who forges any matter on an application for a
26 license under this section is guilty of a felony ~~—~~punishable by
27 imprisonment for not more than 4 years or a fine of not more than

1 \$2,000.00, or both.

2 (17) A licensing authority shall implement this section during
3 all of the licensing authority's normal business hours and shall
4 set hours for implementation that allow an applicant to use the
5 license within the time period set forth in subsection (4).