

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5225**

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 2 and 2a (MCL 28.422 and 28.422a), section 2 as amended by 2010 PA 20 and section 2a as amended by 2010 PA 210; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. (1) Except as otherwise provided in this ~~section~~**ACT**,
2 a person shall not purchase, carry, possess, or transport a pistol

1 in this state without first having obtained a license for the
2 pistol as prescribed in this section.

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

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

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

26 (i) Section 464a of the mental health code, 1974 PA 258, MCL
27 330.1464a.

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

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

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

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

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

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

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

17 (c) The person is a citizen of the United States **OR AN ALIEN**
18 **LAWFULLY ADMITTED INTO THE UNITED STATES** and is a legal resident of
19 this state. For the purposes of this section, a person shall be
20 considered a legal resident of this state if any of the following
21 apply:

22 (i) The person has a valid, lawfully obtained Michigan driver
23 license issued under the Michigan vehicle code, 1949 PA 300, MCL
24 257.1 to 257.923, or an official state personal identification card
25 issued under 1972 PA 222, MCL 28.291 to 28.300.

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

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

1 armed forces and is stationed outside of this state, but the
2 person's home of record is in this state.

3 (iv) The person is on active duty status with the United States
4 armed forces and is permanently stationed in this state, but the
5 person's home of record is in another state.

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~~ **TRIPLICATE** upon forms provided by the director of the
12 department of state police and shall be signed by the licensing
13 authority. ~~Four~~ **THREE** copies of the license shall be delivered to
14 the applicant by the licensing authority. A license is void unless
15 used within ~~10~~ **30** 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~~ **2**
24 copies of the license. The purchaser shall return ~~2 copies~~ **1 COPY**
25 of the license to the licensing authority within 10 days after the
26 date the pistol is purchased or acquired. The return of the ~~copies~~
27 **COPY** to the licensing authority may be made in person or may be

1 made by first-class mail or certified mail sent within the 10-day
2 period to the proper address of the licensing authority. A
3 purchaser who fails to comply with the requirements of this
4 subsection is responsible for a state civil infraction and may be
5 fined not more than \$250.00. If a purchaser is found responsible
6 for a state civil infraction under this subsection, the court shall
7 notify the 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~~ **COPY** returned under subsection
14 (5), the licensing authority shall electronically enter the
15 information into the pistol entry database as required by the
16 department of state police if it has the ability to electronically
17 enter that information. If the licensing authority does not have
18 that ability, the licensing authority shall provide that
19 information to the department of state police in a manner otherwise
20 required by the department of state police. Any licensing authority
21 that provided pistol descriptions to the department of state police
22 under former section 9 of this act shall continue to provide pistol
23 descriptions to the department of state police under this
24 subsection. **WITHIN 48 HOURS AFTER ENTERING OR OTHERWISE PROVIDING**
25 **THE INFORMATION ON THE LICENSE COPY RETURNED UNDER SUBSECTION (5)**
26 **TO THE DEPARTMENT OF STATE POLICE, THE LICENSING AUTHORITY SHALL**
27 **FORWARD THE COPY OF THE LICENSE TO THE DEPARTMENT OF STATE POLICE.**

1 The purchaser has the right to obtain a copy of the information
2 placed in the pistol entry database under this subsection to verify
3 the accuracy of that information. The licensing authority may
4 charge a fee not to exceed \$1.00 for the cost of providing the
5 copy. The licensee may carry, use, possess, and transport the
6 pistol for 30 days beginning on the date of purchase or acquisition
7 only while he or she is in possession of his or her copy of the
8 license. However, the person is not required to have the license in
9 his or her possession while carrying, using, possessing, or
10 transporting the pistol after this period.

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

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

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

26 (b) The individual is in possession of the license described
27 in subdivision (a).

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

3 (d) The individual possesses the pistol for a lawful purpose
4 as that term is defined in section 231a of the Michigan penal code,
5 1931 PA 328, MCL 750.231a.

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

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

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

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

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

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

21 (a) The person is not otherwise prohibited from possessing
22 that pistol.

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

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

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

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

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

4 (a) The person is not otherwise prohibited from possessing a
5 pistol.

6 (b) The person is at a recognized target range or shooting
7 facility.

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

10 (d) The owner of the pistol is physically present and
11 supervising the use of the pistol.

12 ~~—— (13) The licensing authority shall provide a basic pistol~~
13 ~~safety brochure to each applicant for a license under this section~~
14 ~~before the applicant answers the basic pistol safety review~~
15 ~~questionnaire. A basic pistol safety brochure shall contain, but is~~
16 ~~not limited to providing, information on all of the following~~
17 ~~subjects.~~

18 ~~—— (a) Rules for safe handling and use of pistols.~~

19 ~~—— (b) Safe storage of pistols.~~

20 ~~—— (c) Nomenclature and description of various types of pistols.~~

21 ~~—— (d) The responsibilities of owning a pistol.~~

22 ~~—— (14) The basic pistol safety brochure shall be supplied in~~
23 ~~addition to the safety pamphlet required by section 9b.~~

24 ~~—— (15) The basic pistol safety brochure required in subsection~~
25 ~~(13) shall be produced by a national nonprofit membership~~
26 ~~organization that provides voluntary pistol safety programs that~~
27 ~~include training individuals in the safe handling and use of~~

1 ~~pistols.~~

2 (13) ~~(16)~~ A person who forges any matter on an application for
3 a license under this section is guilty of a felony, punishable by
4 imprisonment for not more than 4 years or a fine of not more than
5 \$2,000.00, or both.

6 (14) ~~(17)~~ A licensing authority shall implement this section
7 during all of the licensing authority's normal business hours and
8 shall set hours for implementation that allow an applicant to use
9 the license within the time period set forth in subsection (4).

10 Sec. 2a. (1) ~~An individual who is licensed under section 5b to~~
11 ~~carry a concealed pistol or who is a federally licensed firearms~~
12 ~~dealer is~~ **THE FOLLOWING INDIVIDUALS ARE** not required to obtain a
13 license under section 2 to purchase, carry, possess, **USE**, or
14 transport a pistol: -

15 (A) **AN INDIVIDUAL LICENSED UNDER SECTION 5B.**

16 (B) **A FEDERALLY LICENSED FIREARMS DEALER.**

17 (C) **AN INDIVIDUAL WHO PURCHASES A PISTOL FROM A FEDERALLY**
18 **LICENSED FIREARMS DEALER IN COMPLIANCE WITH 18 USC 922(T) .**

19 (2) If an individual ~~licensed under section 5b or a federally~~
20 ~~licensed firearms dealer~~ **DESCRIBED IN SUBSECTION (1)** purchases or
21 otherwise acquires a pistol, the seller shall complete a record in
22 ~~quadruplicate~~ **TRIPLICATE** on a form provided by the department of
23 state police. The record shall include the purchaser's concealed
24 weapon license number or, if the purchaser is a federally licensed
25 firearms dealer, his or her dealer license number. **IF THE PURCHASER**
26 **IS NOT LICENSED UNDER SECTION 5B AND IS NOT A FEDERALLY LICENSED**
27 **FIREARMS DEALER, THE RECORD SHALL INCLUDE THE DEALER LICENSE NUMBER**

House Bill No. 5225 (S-3) as amended December 13, 2012

1 **OF THE FEDERALLY LICENSED FIREARMS DEALER WHO IS SELLING THE**

2 **PISTOL.** The purchaser shall sign the record. The seller may retain

3 1 copy of the record. The purchaser shall receive ~~3~~2 copies of the

4 record and forward ~~2 copies~~1 **COPY** to the police department of the

5 city, village, or township in which the purchaser resides, or, if

6 the purchaser does not reside in a city, village, or township

7 having a police department, to the county sheriff, within 10 days

8 following the purchase or acquisition. The return of the ~~copies~~

9 **COPY** to the police department or county sheriff may be made in

10 person or may be made by first-class mail or certified mail sent

11 within the 10-day period to the proper address of the police

12 department or county sheriff. A purchaser who fails to comply with

13 the requirements of this subsection is responsible for a state

14 civil infraction and may be fined not more than \$250.00. If a

15 purchaser is found responsible for a state civil infraction under

16 this subsection, the court shall notify the department of state

17 police. If the purchaser is licensed under section 5b, the court

18 shall notify the ~~[concealed weapon licensing board that issued the~~

19 ~~license~~ **LICENSING AUTHORITY**] of that determination.

20 (3) ~~Within 48 hours after receiving the record copies returned~~

21 ~~under subsection (2), the police department or county sheriff shall~~

22 ~~forward 1 copy of the record to the department of state police. The~~

23 ~~police department or county sheriff shall retain the other copy of~~

24 ~~the record as an official record for not less than 6 years. Within~~

25 10 days after receiving the record ~~copies~~**COPY** returned under

26 subsection (2), the police department or county sheriff shall

27 electronically enter the information into the pistol entry database

1 as required by the department of state police if it has the ability
2 to electronically enter that information. If the police department
3 or county sheriff does not have that ability, the police department
4 or county sheriff shall provide that information to the department
5 of state police in a manner otherwise required by the department of
6 state police. Any police department or county sheriff that provided
7 pistol descriptions to the department of state police under former
8 section 9 of this act shall continue to provide pistol descriptions
9 to the department of state police under this subsection. **WITHIN 48**
10 **HOURS AFTER ENTERING OR OTHERWISE PROVIDING THE INFORMATION ON THE**
11 **RECORD COPY RETURNED UNDER SUBSECTION (2) TO THE DEPARTMENT OF**
12 **STATE POLICE, THE POLICE DEPARTMENT OR COUNTY SHERIFF SHALL FORWARD**
13 **THE COPY OF THE RECORD TO THE DEPARTMENT OF STATE POLICE.** The
14 purchaser has the right to obtain a copy of the information placed
15 in the pistol entry database under this subsection to verify the
16 accuracy of that information. The police department or county
17 sheriff may charge a fee not to exceed \$1.00 for the cost of
18 providing the copy. The purchaser may carry, use, possess, and
19 transport the pistol for 30 days beginning on the date of purchase
20 or acquisition only while he or she is in possession of his or her
21 copy of the record. However, the person is not required to have the
22 record in his or her possession while carrying, using, possessing,
23 or transporting the pistol after this period.

24 (4) This section does not apply to a person or entity exempt
25 under section 2(7).

26 (5) An individual who makes a material false statement on a
27 sales record under this section is guilty of a felony punishable by

1 imprisonment for not more than 4 years or a fine of not more than
2 \$2,500.00, or both.

3 (6) The department of state police may promulgate rules to
4 implement this section.

5 (7) As used in this section, "federally licensed firearms
6 dealer" means an individual who holds a type 01 dealer license
7 under 18 USC 923.

8 Enacting section 1. Sections 9a, 9b, 9c, and 11 of 1927 PA
9 372, MCL 28.429a, 28.429b, 28.429c, and 28.431, are repealed.