

STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012

Introduced by Senators Jones and Hansen

ENROLLED SENATE BILL No. 30

AN ACT 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 the title and sections 5f, 5g, 5k, and 5o (MCL 28.425f, 28.425g, 28.425k, and 28.425o), the title as amended and sections 5g and 5k as added by 2000 PA 381, section 5f as amended by 2008 PA 194, and section 5o as amended by 2008 PA 407.

The People of the State of Michigan enact:

TITLE

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.

Sec. 5f. (1) An individual who is licensed under this act to carry a concealed pistol shall have his or her license to carry that pistol in his or her possession at all times he or she is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology.

(2) An individual who is licensed under this act to carry a concealed pistol and who is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology shall show both of the following to a peace officer upon request by that peace officer:

- (a) His or her license to carry a concealed pistol.
- (b) His or her driver license or Michigan personal identification card.

(3) An individual licensed under this act to carry a concealed pistol and who is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a pistol or a portable device that uses electro-muscular disruption technology concealed upon his or her person or in his or her vehicle.

(4) An individual who violates subsection (1) or (2) is responsible for a state civil infraction and may be fined not more than \$100.00.

(5) An individual who violates subsection (3) is responsible for a state civil infraction and may be fined as follows:

(a) For a first offense, by a fine of not more than \$500.00 or by the individual's license to carry a concealed pistol being suspended for 6 months, or both.

(b) For a subsequent offense within 3 years of a prior offense, by a fine of not more than \$1,000.00 and by the individual's license to carry a concealed pistol being revoked.

(6) If an individual is found responsible for a state civil infraction under this section, the court shall notify the department of state police and the concealed weapon licensing board that issued the license of that determination.

(7) A pistol or portable device that uses electro-muscular disruption technology carried in violation of this section is subject to immediate seizure by a peace officer. If a peace officer seizes a pistol or portable device that uses electro-muscular disruption technology under this subsection, the individual has 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer. If the individual displays his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer within the 45-day period, the authorized employee of that law enforcement entity shall return the pistol or portable device that uses electro-muscular disruption technology to the individual unless the individual is prohibited by law from possessing a firearm or portable device that uses electro-muscular disruption technology. If the individual does not display his or her license or documentation within the 45-day period, the pistol or portable device that uses electro-muscular disruption technology is subject to forfeiture as provided in section 5g. A pistol or portable device that uses electro-muscular disruption technology is not subject to immediate seizure under this subsection if both of the following circumstances exist:

(a) The individual has his or her driver license or Michigan personal identification card in his or her possession when the violation occurs.

(b) The peace officer verifies through the law enforcement information network that the individual is licensed under this act to carry a concealed pistol.

(8) As used in this section, "peace officer" includes a motor carrier officer appointed under section 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the state under section 6c of 1935 PA 59, MCL 28.6c.

Sec. 5g. A pistol or portable device that uses electro-muscular disruption technology carried in violation of this act is subject to seizure and forfeiture in the same manner that property is subject to seizure and forfeiture under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. This section does not apply if the violation is a state civil infraction under section 5f unless the individual fails to present his or her license within the 45-day period described in that section.

Sec. 5k. (1) Acceptance of a license issued under this act to carry a concealed pistol constitutes implied consent to submit to a chemical analysis under this section. This section also applies to individuals listed in section 12a.

(2) An individual shall not carry a concealed pistol or portable device that uses electro-muscular disruption technology while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of .10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or \$100.00, or both. The court shall order the concealed weapon licensing board that issued the individual a license to carry a concealed pistol to permanently revoke the license. The concealed weapon licensing board shall permanently revoke the license as ordered by the court.

(b) If the person had a bodily alcohol content of .08 or more but less than .10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or \$100.00, or both. The court may order the concealed weapon licensing board that issued the individual a license to carry a concealed pistol to revoke the license for not more than 3 years. The concealed weapon licensing board shall revoke the license as ordered by the court.

(c) If the person had a bodily alcohol content of .02 or more but less than .08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a state civil infraction and may be fined not more than \$100.00. The court may order the concealed weapon licensing board that issued the individual the license

to revoke the license for 1 year. The concealed weapon licensing board shall revoke the license as ordered by the court. The court shall notify the concealed weapon licensing board that issued the individual a license to carry a concealed pistol if an individual is found responsible for a subsequent violation of this subdivision.

(3) This section does not prohibit an individual licensed under this act to carry a concealed pistol who has any bodily alcohol content from doing any of the following:

(a) Transporting that pistol in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(b) Transporting that pistol on a vessel if the pistol is transported unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(c) Transporting a portable device using electro-muscular disruption technology in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger, or, if the vehicle does not have a trunk, from transporting that portable device in a locked compartment or container.

(d) Transporting a portable device using electro-muscular disruption technology on a vessel if the portable device is transported in a locked compartment or container.

(4) A peace officer who has probable cause to believe an individual is carrying a concealed pistol or a portable device using electro-muscular disruption technology in violation of this section may require the individual to submit to a chemical analysis of his or her breath, blood, or urine.

(5) Before an individual is required to submit to a chemical analysis under subsection (4), the peace officer shall inform the individual of all of the following:

(a) The individual may refuse to submit to the chemical analysis, but if he or she chooses to do so, all of the following apply:

(i) The officer may obtain a court order requiring the individual to submit to a chemical analysis.

(ii) The refusal may result in his or her license to carry a concealed pistol being suspended or revoked.

(b) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis described in subsection (4) from a person of his or her own choosing.

(6) The collection and testing of breath, blood, and urine specimens under this section shall be conducted in the same manner that breath, blood, and urine specimens are collected and tested for alcohol- and controlled-substance-related driving violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(7) If a person refuses to take a chemical test authorized under this section, the peace officer shall promptly report the refusal in writing to the concealed weapon licensing board that issued the license to the individual to carry a concealed pistol.

(8) If a person takes a chemical test authorized under this section and the test results indicate that the individual had any bodily alcohol content while carrying a concealed pistol, the peace officer shall promptly report the violation in writing to the concealed weapon licensing board that issued the license to the individual to carry a concealed pistol.

(9) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

Sec. 50. (1) Subject to subsection (5), an individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises. This subdivision does not apply to an owner or employee of the business. The Michigan liquor control commission shall develop and make available to holders of licenses under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign stating that "This establishment prohibits patrons from carrying concealed weapons". The owner or operator of an establishment licensed under the Michigan liquor control code of 1998,

1998 PA 58, MCL 436.1101 to 436.2303, may, but is not required to, post the sign developed under this subdivision. A record made available by an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce this subdivision is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) Subject to subsection (5), an individual shall not carry a portable device that uses electro-muscular disruption technology on any of the premises described in subsection (1).

(3) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(4) As used in subsection (1), "premises" does not include parking areas of the places identified under subsection (1).

(5) Subsections (1) and (2) do not apply to any of the following:

(a) An individual licensed under this act who is a retired police officer or retired law enforcement officer. The concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

(b) An individual who is licensed under this act and who is employed or contracted by an entity described under subsection (1) to provide security services and is required by his or her employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.

(c) An individual who is licensed as a private investigator or private detective under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851.

(d) An individual who is licensed under this act and who is a corrections officer of a county sheriff's department.

(e) An individual who is licensed under this act and who is a motor carrier officer or capitol security officer of the department of state police.

(f) An individual who is licensed under this act and who is a member of a sheriff's posse.

(g) An individual who is licensed under this act and who is an auxiliary officer or reserve officer of a police or sheriff's department.

(h) An individual who is licensed under this act and who is a parole or probation officer of the department of corrections.

(i) A state court judge or state court retired judge who is licensed under this act. The concealed weapon licensing board may require a state court retired judge to obtain and carry a letter from the judicial tenure commission stating that the state court retired judge is in good standing as authorized under section 30 of article VI of the state constitution of 1963, and rules promulgated under that section, in order to qualify under this subdivision.

(j) An individual who is licensed under this act and who is a court officer.

(6) An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a state civil infraction and may be fined not more than \$500.00. The court shall order the individual's license to carry a concealed pistol suspended for 6 months.

(b) For a second violation, the individual is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00. The court shall order the individual's license to carry a concealed pistol revoked.

(c) For a third or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both. The court shall order the individual's license to carry a concealed pistol revoked.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 29 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor