

# HOUSE BILL No. 5584

May 1, 2012, Introduced by Rep. Johnson 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 section 2 (MCL 28.422), as amended by 2010 PA 20, and by adding section 2c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. (1) Except as otherwise provided in this section **AND**  
2 **SECTION 2C**, a person shall not purchase, carry, possess, or  
3 transport a pistol in this state without first having obtained a  
4 license for the pistol 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 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 of the revised judicature act of 1961, 1961  
3 PA 236, MCL 600.2950.

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

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

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

11 (vii) Section 16b 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.

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

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

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

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

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

18 (i) The person correctly answers 70% or more of the questions  
19 on a basic pistol safety review questionnaire approved by the  
20 department of state police and provided to the individual free of  
21 charge by the licensing authority. If the person fails to correctly  
22 answer 70% or more of the questions on the basic pistol safety  
23 review questionnaire, the licensing authority shall inform the  
24 person of the questions he or she answered incorrectly and allow  
25 the person to attempt to complete another basic pistol safety  
26 review questionnaire. The person shall not be allowed to attempt to  
27 complete more than 2 basic pistol safety review questionnaires on

1 any single day. The licensing authority shall allow the person to  
2 attempt to complete the questionnaire during normal business hours  
3 on the day the person applies for his or her license.

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

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

1 responsible for a state civil infraction and may be fined not more  
2 than \$250.00. If a purchaser is found responsible for a state civil  
3 infraction under this subsection, the court shall notify the  
4 department of state police of that determination.

5 (6) Within 48 hours after receiving the license copies  
6 returned under subsection (5), the licensing authority shall  
7 forward 1 copy of the license to the department of state police.  
8 The licensing authority shall retain the other copy of the license  
9 as an official record for not less than 6 years. Within 10 days  
10 after receiving the license copies returned under subsection (5),  
11 the licensing authority shall electronically enter the information  
12 into the pistol entry database as required by the department of  
13 state police if it has the ability to electronically enter that  
14 information. If the licensing authority does not have that ability,  
15 the licensing authority shall provide that information to the  
16 department of state police in a manner otherwise required by the  
17 department of state police. Any licensing authority that provided  
18 pistol descriptions to the department of state police under former  
19 section 9 of this act shall continue to provide pistol descriptions  
20 to the department of state police under this subsection. The  
21 purchaser has the right to obtain a copy of the information placed  
22 in the pistol entry database under this subsection to verify the  
23 accuracy of that information. The licensing authority may charge a  
24 fee not to exceed \$1.00 for the cost of providing the copy. The  
25 licensee may carry, use, possess, and transport the pistol for 30  
26 days beginning on the date of purchase or acquisition only while he  
27 or she is in possession of his or her copy of the license. However,

1 the person is not required to have the license in his or her  
2 possession while carrying, using, possessing, or transporting the  
3 pistol after this period.

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

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

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

19 (b) The individual is in possession of the license described  
20 in subdivision (a).

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

23 (d) The individual possesses the pistol for a lawful purpose  
24 as that term is defined in section 231a of the Michigan penal code,  
25 1931 PA 328, MCL 750.231a.

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

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

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

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

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

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

14           (a) The person is not otherwise prohibited from possessing  
15 that pistol.

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

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

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

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

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

24           (a) The person is not otherwise prohibited from possessing a  
25 pistol.

26           (b) The person is at a recognized target range or shooting  
27 facility.

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

3 (d) The owner of the pistol is physically present and  
4 supervising the use of the pistol.

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

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

12 (b) Safe storage of pistols.

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

14 (d) The responsibilities of owning a pistol.

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

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

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

26 (17) A licensing authority shall implement this section during  
27 all of the licensing authority's normal business hours and shall

1 set hours for implementation that allow an applicant to use the  
2 license within the time period set forth in subsection (4).

3 SEC. 2C. (1) AN INDIVIDUAL WHO IS EMPLOYED AS A PEACE OFFICER  
4 IS NOT REQUIRED TO OBTAIN A LICENSE UNDER SECTION 2 TO PURCHASE,  
5 CARRY, POSSESS, OR TRANSPORT A PISTOL BUT MAY INSTEAD PURCHASE,  
6 CARRY, POSSESS, AND TRANSPORT A PISTOL UNDER THIS SECTION.

7 (2) BEFORE AN INDIVIDUAL DESCRIBED IN SUBSECTION (1) PURCHASES  
8 OR OTHERWISE ACQUIRES A PISTOL, THE SELLER SHALL REQUIRE THE PERSON  
9 TO SHOW WRITTEN VERIFICATION OF EMPLOYMENT AS A PEACE OFFICER. A  
10 CURRENT DEPARTMENT-ISSUED IDENTIFICATION AS A PEACE OFFICER  
11 SATISFIES THE REQUIREMENT FOR VERIFICATION OF EMPLOYMENT AS A PEACE  
12 OFFICER UNDER THIS SECTION. UPON PURCHASE OR ACQUISITION OF THE  
13 PISTOL UNDER THIS SECTION, THE SELLER SHALL COMPLETE A RECORD IN  
14 QUADRUPLICATE ON A FORM PROVIDED BY THE DEPARTMENT OF STATE POLICE.  
15 THE RECORD SHALL INCLUDE THE NAME OF THE AGENCY THAT EMPLOYS THE  
16 INDIVIDUAL AND HIS OR HER EMPLOYEE NUMBER, IF ANY. THE PURCHASER  
17 SHALL SIGN THE RECORD. THE SELLER MAY RETAIN 1 COPY OF THE RECORD.  
18 THE PURCHASER SHALL RECEIVE 3 COPIES OF THE RECORD AND FORWARD 2  
19 COPIES TO THE POLICE DEPARTMENT OF THE CITY, VILLAGE, OR TOWNSHIP  
20 IN WHICH THE PURCHASER RESIDES, OR, IF THE PURCHASER DOES NOT  
21 RESIDE IN A CITY, VILLAGE, OR TOWNSHIP HAVING A POLICE DEPARTMENT,  
22 TO THE COUNTY SHERIFF, WITHIN 10 DAYS FOLLOWING THE PURCHASE OR  
23 ACQUISITION. THE RETURN OF THE COPIES TO THE POLICE DEPARTMENT OR  
24 COUNTY SHERIFF MAY BE MADE IN PERSON OR MAY BE MADE BY FIRST-CLASS  
25 MAIL OR CERTIFIED MAIL SENT WITHIN THE 10-DAY PERIOD TO THE PROPER  
26 ADDRESS OF THE POLICE DEPARTMENT OR COUNTY SHERIFF. A PURCHASER WHO  
27 FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION IS

1 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE FINED NOT MORE  
2 THAN \$250.00. IF A PURCHASER IS FOUND RESPONSIBLE FOR A STATE CIVIL  
3 INFRACTION UNDER THIS SUBSECTION, THE COURT SHALL NOTIFY THE  
4 DEPARTMENT OF STATE POLICE. IF THE PURCHASER IS LICENSED UNDER  
5 SECTION 5B, THE COURT SHALL NOTIFY THE CONCEALED WEAPON LICENSING  
6 BOARD THAT ISSUED THE LICENSE OF THAT DETERMINATION.

7 (3) WITHIN 48 HOURS AFTER RECEIVING THE RECORD COPIES RETURNED  
8 UNDER SUBSECTION (2), THE POLICE DEPARTMENT OR COUNTY SHERIFF SHALL  
9 FORWARD 1 COPY OF THE RECORD TO THE DEPARTMENT OF STATE POLICE. THE  
10 POLICE DEPARTMENT OR COUNTY SHERIFF SHALL RETAIN THE OTHER COPY OF  
11 THE RECORD AS AN OFFICIAL RECORD FOR NOT LESS THAN 6 YEARS. WITHIN  
12 10 DAYS AFTER RECEIVING THE RECORD COPIES RETURNED UNDER SUBSECTION  
13 (2), THE POLICE DEPARTMENT OR COUNTY SHERIFF SHALL ELECTRONICALLY  
14 ENTER THE INFORMATION INTO THE PISTOL ENTRY DATABASE AS REQUIRED BY  
15 THE DEPARTMENT OF STATE POLICE IF IT HAS THE ABILITY TO  
16 ELECTRONICALLY ENTER THAT INFORMATION. IF THE POLICE DEPARTMENT OR  
17 COUNTY SHERIFF DOES NOT HAVE THAT ABILITY, THE POLICE DEPARTMENT OR  
18 COUNTY SHERIFF SHALL PROVIDE THAT INFORMATION TO THE DEPARTMENT OF  
19 STATE POLICE IN A MANNER OTHERWISE REQUIRED BY THE DEPARTMENT OF  
20 STATE POLICE. ANY POLICE DEPARTMENT OR COUNTY SHERIFF 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 POLICE DEPARTMENT OR COUNTY  
27 SHERIFF MAY CHARGE A FEE NOT TO EXCEED \$1.00 FOR THE COST OF

1 PROVIDING THE COPY. THE PURCHASER MAY CARRY, USE, POSSESS, AND  
2 TRANSPORT THE PISTOL FOR 30 DAYS BEGINNING ON THE DATE OF PURCHASE  
3 OR ACQUISITION ONLY WHILE HE OR SHE IS IN POSSESSION OF HIS OR HER  
4 COPY OF THE RECORD. HOWEVER, THE PERSON IS NOT REQUIRED TO HAVE THE  
5 RECORD IN HIS OR HER POSSESSION WHILE CARRYING, USING, POSSESSING,  
6 OR TRANSPORTING THE PISTOL AFTER THIS PERIOD.

7 (4) THIS SECTION DOES NOT APPLY TO A PERSON OR ENTITY EXEMPT  
8 UNDER SECTION 2(7).

9 (5) AN INDIVIDUAL WHO MAKES A MATERIAL FALSE STATEMENT ON A  
10 SALES RECORD UNDER THIS SECTION IS GUILTY OF A FELONY PUNISHABLE BY  
11 IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN  
12 \$2,500.00, OR BOTH.

13 (6) THE DEPARTMENT OF STATE POLICE MAY PROMULGATE RULES TO  
14 IMPLEMENT THIS SECTION.