

HOUSE BILL No. 4591

April 27, 2011, Introduced by Rep. Foster 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 5k and 5o (MCL 28.425k and 28.425o), section 5k as added by 2000 PA 381 and section 5o as amended by 2008 PA 407.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 5k. (1) Acceptance of a license issued under this act to

1 carry a concealed pistol constitutes implied consent to submit to a
2 chemical analysis under this section. This section also applies to
3 individuals listed in section ~~12a(a)~~**12A(1)(A)** to ~~(f)~~**(H)**.

4 (2) An individual shall not carry a concealed pistol while he
5 or she is under the influence of alcoholic liquor or a controlled
6 substance or while having a bodily alcohol content prohibited under
7 this section. A person who violates this section is responsible for
8 a state civil infraction or guilty of a crime as follows:

9 (a) If the person was under the influence of alcoholic liquor
10 or a controlled substance or a combination of alcoholic liquor and
11 a controlled substance, or had a bodily alcohol content of .10 or
12 more grams per 100 milliliters of blood, per 210 liters of breath,
13 or per 67 milliliters of urine, the individual is guilty of a
14 misdemeanor punishable by imprisonment for not more than 93 days or
15 \$100.00, or both. The court shall order the concealed weapon
16 licensing board that issued the individual a license to carry a
17 concealed pistol to permanently revoke the license. The concealed
18 weapon licensing board shall permanently revoke the license as
19 ordered by the court.

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

1 license as ordered by the court.

2 (c) If the person had a bodily alcohol content of .02 or more
3 but less than .08 grams per 100 milliliters of blood, per 210
4 liters of breath, or per 67 milliliters of urine, the individual is
5 responsible for a state civil infraction and may be fined not more
6 than \$100.00. The court may order the concealed weapon licensing
7 board that issued the individual the license to revoke the license
8 for 1 year. The concealed weapon licensing board shall revoke the
9 license as ordered by the court. The court shall notify the
10 concealed weapon licensing board that issued the individual a
11 license to carry a concealed pistol if an individual is found
12 responsible for a subsequent violation of this subdivision.

13 (3) This section does not prohibit an individual licensed
14 under this act to carry a concealed pistol who has any bodily
15 alcohol content from transporting that pistol in the locked trunk
16 of his or her motor vehicle or another motor vehicle in which he or
17 she is a passenger or, if the vehicle does not have a trunk, from
18 transporting that pistol unloaded in a locked compartment or
19 container that is separated from the ammunition for that pistol or
20 on a vessel if the pistol is transported unloaded in a locked
21 compartment or container that is separated from the ammunition for
22 that pistol.

23 (4) A peace officer who has probable cause to believe an
24 individual is carrying a concealed pistol in violation of this
25 section may require the individual to submit to a chemical analysis
26 of his or her breath, blood, or urine.

27 (5) Before an individual is required to submit to a chemical

1 analysis under subsection (4), the peace officer shall inform the
2 individual of all of the following:

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

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

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

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

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

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

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

1 (9) As used in this section:

2 (a) "Alcoholic liquor" means that term as defined in section
3 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
4 436.1105.

5 (b) "Controlled substance" means that term as defined in
6 section 7104 of the public health code, 1978 PA 368, MCL ~~333.7401~~
7 **333.7104**.

8 Sec. 50. (1) Subject to subsection (4), an individual licensed
9 under this act to carry a concealed pistol, or who is exempt from
10 licensure under section ~~12a(1)(f)~~ **12A(1)(H)**, shall not carry a
11 concealed pistol on the premises of any of the following:

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

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

22 (c) A sports arena or stadium.

23 (d) A bar or tavern licensed under the Michigan liquor control
24 code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the
25 primary source of income of the business is the sale of alcoholic
26 liquor by the glass and consumed on the premises. This subdivision
27 does not apply to an owner or employee of the business. The

1 Michigan liquor control commission shall develop and make available
2 to holders of licenses under the Michigan liquor control code of
3 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign
4 stating that "This establishment prohibits patrons from carrying
5 concealed weapons". The owner or operator of an establishment
6 licensed under the Michigan liquor control code of 1998, 1998 PA
7 58, MCL 436.1101 to 436.2303, may, but is not required to, post the
8 sign developed under this subdivision. A record made available by
9 an establishment licensed under the Michigan liquor control code of
10 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce
11 this subdivision is exempt from disclosure under the freedom of
12 information act, 1976 PA 442, MCL 15.231 to 15.246.

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

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

23 (g) A hospital.

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

26 (2) An individual licensed under this act to carry a concealed
27 pistol, or who is exempt from licensure under section ~~12a(1)(f)~~

1 12A(1) (H), shall not carry a concealed pistol in violation of R
2 432.1212 or a successor rule of the Michigan administrative code
3 promulgated under the Michigan gaming control and revenue act, 1996
4 IL 1, MCL 432.201 to 432.226.

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

7 (4) Subsection (1) does not apply to any of the following:

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

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

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

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

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

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

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

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

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

13 **(J) AN INDIVIDUAL LICENSED UNDER THIS ACT WHO IS A RETIRED**
14 **FEDERAL LAW ENFORCEMENT OFFICER WHO CARRIED A FIREARM DURING THE**
15 **COURSE OF HIS OR HER EMPLOYMENT AS A FEDERAL LAW ENFORCEMENT**
16 **OFFICER. THE CONCEALED WEAPON LICENSING BOARD MAY REQUIRE A LETTER**
17 **FROM THE LAW ENFORCEMENT AGENCY THAT EMPLOYED THE OFFICER**
18 **IMMEDIATELY PRIOR TO HIS OR HER RETIREMENT STATING THAT THE RETIRED**
19 **OFFICER RETIRED IN GOOD STANDING. AS USED IN THIS SUBDIVISION,**
20 **"FEDERAL LAW ENFORCEMENT OFFICER" MEANS AN OFFICER OR AGENT**
21 **EMPLOYED BY A LAW ENFORCEMENT AGENCY OF THE UNITED STATES**
22 **GOVERNMENT WHOSE PRIMARY RESPONSIBILITY IS ENFORCING THE LAWS OF**
23 **THE UNITED STATES.**

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

26 (a) Except as provided in subdivisions (b) and (c), the
27 individual is responsible for a state civil infraction and may be

1 fined not more than \$500.00. The court shall order the individual's
2 license to carry a concealed pistol suspended for 6 months.

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

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