

# SENATE BILL No. 810

February 18, 2016, Introduced by Senators WARREN, GREGORY, YOUNG, BIEDA and HERTEL 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, 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 2015 PA 200 and section 2a as amended by 2016 PA 6.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 prescribed in this section.

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

7 (3) The commissioner or chief of police of a city, township,  
8 or village police department that issues licenses to purchase,  
9 carry, possess, or transport pistols, or his or her duly authorized  
10 deputy, or the sheriff or his or her duly authorized deputy, in the  
11 parts of a county not included within a city, township, or village  
12 having an organized police department, in discharging the duty to  
13 issue licenses shall with due speed and diligence issue licenses to  
14 purchase, carry, possess, or transport pistols to qualified  
15 applicants unless he or she has probable cause to believe that the  
16 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~~ **INDIVIDUAL** is not subject to an order or  
21 disposition for which he or she has received notice and an  
22 opportunity for a hearing, and which was entered into the law  
23 enforcement information network under 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  
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 of chapter IX of the code of criminal  
12 procedure, 1927 PA 175, MCL 769.16b.

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

16 (c) The ~~person~~-**INDIVIDUAL** is a citizen of the United States or  
17 an alien lawfully admitted into the United States and is a legal  
18 resident of this state. For the purposes of this section, ~~a person~~  
19 **AN INDIVIDUAL** is considered a legal resident of this state if any  
20 of the following apply:

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

25 (ii) The ~~person~~-**INDIVIDUAL** is lawfully registered to vote in  
26 this state.

27 (iii) The ~~person~~-**INDIVIDUAL** is on active duty status with the

1 United States ~~armed forces~~ **ARMED FORCES** and is stationed outside of  
2 this state, but the ~~person's~~ **INDIVIDUAL'S** home of record is in this  
3 state.

4 (iv) The ~~person~~ **INDIVIDUAL** is on active duty status with the  
5 United States ~~armed forces~~ **ARMED FORCES** and is permanently  
6 stationed in this state, but the ~~person's~~ **INDIVIDUAL'S** home of  
7 record is in another state.

8 (d) A felony charge or a criminal charge listed in section 5b  
9 against the ~~person~~ **INDIVIDUAL** is not pending at the time of  
10 application.

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

15 (f) The ~~person~~ **INDIVIDUAL** has not been adjudged insane in this  
16 state or elsewhere unless he or she has been adjudged restored to  
17 sanity by court order.

18 (g) The ~~person~~ **INDIVIDUAL** is not under an order of involuntary  
19 commitment in an inpatient or outpatient setting due to mental  
20 illness.

21 (h) The ~~person~~ **INDIVIDUAL** has not been adjudged legally  
22 incapacitated in this state or elsewhere. This subdivision does not  
23 apply to a ~~person~~ **AN INDIVIDUAL** who has had his or her legal  
24 capacity restored by order of the court.

25 **(I) THE INDIVIDUAL IS NOT LISTED ON THE CONSOLIDATED TERRORIST**  
26 **WATCH LIST MAINTAINED BY THE TERRORIST SCREENING CENTER**  
27 **ADMINISTERED BY THE FEDERAL BUREAU OF INVESTIGATION.**

1           (4) Applications for licenses under this section shall be  
2 signed by the applicant under oath upon forms provided by the  
3 director of the department of state police. Licenses to purchase,  
4 carry, possess, or transport pistols shall be executed in  
5 triplicate upon forms provided by the director of the department of  
6 state police and shall be signed by the licensing authority. Three  
7 copies of the license shall be delivered to the applicant by the  
8 licensing authority. A license is void unless used within 30 days  
9 after the date it is issued.

10           (5) If an individual purchases or otherwise acquires a pistol,  
11 the seller shall fill out the license forms describing the pistol,  
12 together with the date of sale or acquisition, and sign his or her  
13 name in ink indicating that the pistol was sold to or otherwise  
14 acquired by the purchaser. The purchaser shall also sign his or her  
15 name in ink indicating the purchase or other acquisition of the  
16 pistol from the seller. The seller may retain a copy of the license  
17 as a record of the transaction. The purchaser shall receive 2  
18 copies of the license. The purchaser shall return 1 copy of the  
19 license to the licensing authority within 10 days after the date  
20 the pistol is purchased or acquired. The return of the copy to the  
21 licensing authority may be made in person or may be made by first-  
22 class mail or certified mail sent within the 10-day period to the  
23 proper address of the licensing authority. A purchaser who fails to  
24 comply with the requirements of this subsection is responsible for  
25 a state civil infraction and may be fined not more than \$250.00. If  
26 a purchaser is found responsible for a state civil infraction under  
27 this subsection, the court shall notify the department of state

1 police of that determination.

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

27 (7) This section does not apply to the purchase of pistols

1 from wholesalers by dealers regularly engaged in the business of  
2 selling pistols at retail, or to the sale, barter, or exchange of  
3 pistols kept as relics or curios not made for modern ammunition or  
4 permanently deactivated.

5 (8) This section does not prevent the transfer of ownership of  
6 pistols to an heir or devisee, whether by testamentary bequest or  
7 by the laws of intestacy regardless of whether the pistol is  
8 registered with this state. An individual who has inherited a  
9 pistol shall obtain a license as required in this section within 30  
10 days of taking physical possession of the pistol. The license may  
11 be signed by a next of kin of the decedent or the person authorized  
12 to dispose of property under the estates and protected individuals  
13 code, 1998 PA 386, MCL 700.1101 to 700.8206, including when the  
14 next of kin is the individual inheriting the pistol. If the heir or  
15 devisee is not qualified for a license under this section, the heir  
16 or devisee may direct the next of kin or person authorized to  
17 dispose of property under the estates and protected individuals  
18 code, 1998 PA 386, MCL 700.1101 to 700.8206, to dispose of the  
19 pistol in any manner that is lawful and the heir or devisee  
20 considers appropriate. The person authorized to dispose of property  
21 under the estates and protected individuals code, 1998 PA 386, MCL  
22 700.1101 to 700.8206, is not required to obtain a license under  
23 this section if he or she takes temporary lawful possession of the  
24 pistol in the process of disposing of the pistol pursuant to the  
25 decedent's testamentary bequest or the laws of intestacy. A law  
26 enforcement agency may not seize or confiscate a pistol being  
27 transferred by testamentary bequest or the laws of intestacy unless

1 the heir or devisee does not qualify for obtaining a license under  
2 this section and the next of kin or person authorized to dispose of  
3 property under the estates and protected individuals code, 1998 PA  
4 386, MCL 700.1101 to 700.8206, is unable to retain his or her  
5 temporary possession of the pistol or find alternative lawful  
6 storage. If a law enforcement agency seizes or confiscates a pistol  
7 under this subsection, the heir or devisee who is not qualified to  
8 obtain a license under this section retains ownership interest in  
9 the pistol and, within 30 days of being notified of the seizure or  
10 confiscation, may file with a court of competent jurisdiction to  
11 direct the law enforcement agency to lawfully transfer or otherwise  
12 dispose of the pistol. A pistol seized under this subsection shall  
13 not be destroyed, sold, or used while in possession of the seizing  
14 entity or its agents until 30 days have passed since the heir or  
15 devisee has been notified of the seizure and no legal action  
16 regarding the lawful possession or ownership of the seized pistol  
17 has been filed in any court and is pending. As used in this  
18 subsection:

19 (a) "Devisee" means that term as defined in section 1103 of  
20 the estates and protected individuals code, 1998 PA 386, MCL  
21 700.1103.

22 (b) "Heir" means that term as defined in section 1104 of the  
23 estates and protected individuals code, 1998 PA 386, MCL 700.1104.

24 (9) An individual who is not a resident of this state is not  
25 required to obtain a license under this section if all of the  
26 following conditions apply:

27 (a) The individual is licensed in his or her state of



1 residence to purchase, carry, or transport a pistol.

2 (b) The individual is in possession of the license described  
3 in subdivision (a).

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

6 (d) The individual possesses the pistol for a lawful purpose.

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

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

14 (11) The licensing authority may require ~~a person~~ **AN**  
15 **INDIVIDUAL** claiming active duty status with the United States ~~armed~~  
16 ~~forces~~ **ARMED FORCES** to provide proof of 1 or both of the following:

17 (a) The ~~person's~~ **INDIVIDUAL'S** home of record.

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

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

22 (a) The ~~person~~ **INDIVIDUAL** is not otherwise prohibited from  
23 possessing that pistol.

24 (b) The ~~person~~ **INDIVIDUAL** is at a recognized target range.

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

27 (d) The ~~person~~ **INDIVIDUAL** is in the physical presence and

1 under the direct supervision of any of the following:

2 (i) The ~~person's~~ **INDIVIDUAL'S** parent.

3 (ii) The ~~person's~~ **INDIVIDUAL'S** guardian.

4 (iii) An individual who is 21 years of age or older, who is  
5 authorized by the ~~person's~~ **INDIVIDUAL'S** parent or guardian, and who  
6 has successfully completed a pistol safety training course or class  
7 that meets the requirements of section 5j(1)(a), (b), or (d), and  
8 received a certificate of completion.

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

10 (13) This section does not apply to ~~a person~~ **AN INDIVIDUAL** who  
11 possesses a pistol if all of the following conditions apply:

12 (a) The ~~person~~ **INDIVIDUAL** is not otherwise prohibited from  
13 possessing a pistol.

14 (b) The ~~person~~ **INDIVIDUAL** is at a recognized target range or  
15 shooting facility.

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

18 (d) The owner of the pistol is physically present and  
19 supervising the use of the pistol.

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

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

1       Sec. 2a. (1) The following individuals are not required to  
2 obtain a license under section 2 to purchase, carry, possess, use,  
3 or transport a pistol:

4       (a) An individual licensed under section 5b, except for ~~an~~**ANY**  
5 **OF THE FOLLOWING:**

6       (i) **AN** individual who has an emergency license issued under  
7 section 5a(4). ~~or~~

8       (ii) **AN INDIVIDUAL WHO HAS** a receipt serving as a concealed  
9 pistol license under section 5b(9) or 5l(3).

10       (iii) **AN INDIVIDUAL WHO IS LISTED ON THE CONSOLIDATED**  
11 **TERRORIST WATCH LIST MAINTAINED BY THE TERRORIST SCREENING CENTER**  
12 **ADMINISTERED BY THE FEDERAL BUREAU OF INVESTIGATION.**

13       (b) A federally licensed firearms dealer.

14       (c) An individual who purchases a pistol from a federally  
15 licensed firearms dealer in compliance with 18 USC 922(t), **EXCEPT**  
16 **FOR AN INDIVIDUAL WHO IS LISTED ON THE CONSOLIDATED TERRORIST WATCH**  
17 **LIST MAINTAINED BY THE TERRORIST SCREENING CENTER ADMINISTERED BY**  
18 **THE FEDERAL BUREAU OF INVESTIGATION.**

19       (d) An individual currently employed as a police officer,  
20 certified under the commission on law enforcement standards act,  
21 1965 PA 203, MCL 28.601 to 28.616.

22       (2) If an individual described in subsection (1) purchases or  
23 otherwise acquires a pistol, the seller shall complete a record in  
24 triplicate on a form provided by the department of state police.  
25 The record shall include the purchaser's concealed weapon license  
26 number, the number of the purchaser's certificate issued under the  
27 commission on law enforcement standards act, 1965 PA 203, MCL

28.601 to 28.616, or, if the purchaser is a federally licensed firearms dealer, his or her dealer license number. If the purchaser is not licensed under section 5b or does not have a certificate issued under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, and is not a federally licensed firearms dealer, the record shall include the dealer license number of the federally licensed firearms dealer who is selling the pistol. The purchaser shall sign the record. The seller may retain 1 copy of the record. The purchaser shall receive 2 copies of the record and forward 1 copy to the police department of the city, village, or township in which the purchaser resides, or, if the purchaser does not reside in a city, village, or township having a police department, to the county sheriff, within 10 days following the purchase or acquisition. The return of the copy to the police department or county sheriff may be made in person or may be made by first-class mail or certified mail sent within the 10-day period to the proper address of the police department or county sheriff. A purchaser who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined not more than \$250.00. If a purchaser is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police. If the purchaser is licensed under section 5b, the court shall notify the licensing authority of that determination.

(3) Within 10 days after receiving the record copy returned under subsection (2), the police department or county sheriff shall 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) The Michigan commission on law enforcement standards shall  
6 provide certificate information to the department of state police  
7 to verify the requirements of this section.

8 (8) As used in this section:

9 (a) Before December 18, 2012, "federally licensed firearms  
10 dealer" means an individual who holds a type 01 dealer license  
11 under 18 USC 923.

12 (b) Beginning December 18, 2012, "federally licensed firearms  
13 dealer" means a person licensed to sell firearms under 18 USC 923.

14 (c) "Person" means an individual, partnership, corporation,  
15 association, or other legal entity.