

SENATE BILL No. 851

March 9, 2016, Introduced by Senator YOUNG and referred to the Committee on Government Operations.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding chapter 49.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 49

SEC. 4901. AN OWNER OF A FIREARM SHALL PROVIDE SECURITY AGAINST LOSS RESULTING FROM LIABILITY IMPOSED BY LAW FOR BODILY INJURY OR DEATH SUFFERED BY A PERSON ARISING OUT OF THE DISCHARGE OF THAT FIREARM. THIS SECTION DOES NOT APPLY TO A GOVERNMENTAL AGENCY. AS USED IN THIS SECTION, "FIREARM" MEANS THAT TERM AS DEFINED IN SECTION 1 OF 1927 PA 372, MCL 28.421. HOWEVER, FIREARM DOES NOT MEAN AN ANTIQUE FIREARM AS THAT TERM IS DEFINED IN SECTION 231A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.231A.

SEC. 4903. (1) A PERSON WHO VIOLATES SECTION 4901 MAY BE ORDERED TO PAY A CIVIL FINE AS FOLLOWS:

SENATE BILL No. 851

1 (A) FOR THE FIRST VIOLATION, \$25.00.

2 (B) FOR THE SECOND AND EACH SUBSEQUENT VIOLATION, THE CIVIL
3 FINE IS DOUBLE THE AMOUNT OF THE CIVIL FINE OF THE IMMEDIATELY
4 PREVIOUS VIOLATION.

5 (C) THE PERSON SHALL PAY THE CIVIL FINE WITHIN 60 DAYS OF THE
6 ORDER TO PAY. AFTER 60 DAYS, UNPAID CIVIL FINES ACCRUE INTEREST AT
7 A RATE OF 10% PER MONTH UNTIL PAID.

8 (2) A CIVIL FINE COLLECTED UNDER SUBSECTION (1) MUST BE TURNED
9 OVER TO THE ILLEGAL FIREARM AUTHORITY CREATED UNDER SECTION 4925.

10 SEC. 4904. (1) THE FIREARMS CLAIMS ASSOCIATION IS CREATED AS
11 AN UNINCORPORATED, NONPROFIT ASSOCIATION. AN INSURER ENGAGED IN
12 WRITING INSURANCE COVERAGES THAT PROVIDE THE SECURITY REQUIRED BY
13 SECTION 4901 IN THIS STATE, AS A CONDITION OF ITS AUTHORITY TO
14 TRANSACT INSURANCE IN THIS STATE, SHALL BE A MEMBER OF AND IS BOUND
15 BY THE PLAN OF OPERATION OF THE ASSOCIATION. EXCEPT AS EXPRESSLY
16 PROVIDED IN THIS SECTION, THE ASSOCIATION IS NOT SUBJECT TO ANY
17 LAWS OF THIS STATE WITH RESPECT TO INSURERS, BUT IN ALL OTHER
18 RESPECTS THE ASSOCIATION IS SUBJECT TO THE LAWS OF THIS STATE TO
19 THE EXTENT THAT THE ASSOCIATION WOULD BE IF IT WERE AN INSURER
20 ORGANIZED AND SUBSISTING UNDER CHAPTER 50.

21 (2) THE ASSOCIATION SHALL PROVIDE AND EACH MEMBER SHALL ACCEPT
22 INDEMNIFICATION FOR 100% OF THE AMOUNT OF ULTIMATE LOSS SUSTAINED
23 UNDER FIREARM INSURANCE COVERAGES IN EXCESS OF THE AMOUNT OF
24 \$100,000.00 IN EACH LOSS OCCURRENCE. FOR A FIREARM POLICY ISSUED OR
25 RENEWED DURING THE PERIOD JULY 1, 2016 TO JUNE 30, 2018, THE AMOUNT
26 IS \$105,000.00. BEGINNING JULY 1, 2018, THIS \$105,000.00 AMOUNT
27 MUST BE INCREASED BIENNIALY ON JULY 1 OF EACH EVEN-NUMBERED YEAR,

1 FOR POLICIES ISSUED OR RENEWED BEFORE JULY 1 OF THE FOLLOWING EVEN-
2 NUMBERED YEAR, BY THE LESSER OF 6% OR THE CONSUMER PRICE INDEX, AND
3 ROUNDED TO THE NEAREST \$5,000.00. THE ASSOCIATION SHALL CALCULATE
4 THIS BIENNIAL ADJUSTMENT BY JANUARY 1 OF THE YEAR OF ITS JULY 1
5 EFFECTIVE DATE.

6 (3) AN INSURER MAY WITHDRAW FROM THE ASSOCIATION ONLY ON
7 CEASING TO WRITE INSURANCE THAT PROVIDES THE SECURITY REQUIRED BY
8 SECTION 4901 IN THIS STATE.

9 (4) AN INSURER WHOSE MEMBERSHIP IN THE ASSOCIATION HAS BEEN
10 TERMINATED BY WITHDRAWAL CONTINUES TO BE BOUND BY THE PLAN OF
11 OPERATION AND, ON WITHDRAWAL, ALL UNPAID PREMIUMS THAT HAVE BEEN
12 CHARGED TO THE WITHDRAWING MEMBER ARE PAYABLE ON THE EFFECTIVE DATE
13 OF THE WITHDRAWAL.

14 (5) AN UNSATISFIED NET LIABILITY TO THE ASSOCIATION OF AN
15 INSOLVENT MEMBER SHALL BE ASSUMED BY AND APPORTIONED AMONG THE
16 REMAINING MEMBERS OF THE ASSOCIATION AS PROVIDED IN THE PLAN OF
17 OPERATION. THE ASSOCIATION HAS ALL RIGHTS ALLOWED BY LAW ON BEHALF
18 OF THE REMAINING MEMBERS AGAINST THE ESTATE OR FUNDS OF THE
19 INSOLVENT MEMBER FOR MONEY DUE TO THE ASSOCIATION.

20 (6) IF A MEMBER HAS BEEN MERGED OR CONSOLIDATED INTO ANOTHER
21 INSURER OR ANOTHER INSURER HAS REINSURED A MEMBER'S ENTIRE BUSINESS
22 THAT PROVIDES THE SECURITY REQUIRED BY SECTION 4901 IN THIS STATE,
23 THE MEMBER AND SUCCESSORS IN INTEREST OF THE MEMBER REMAIN LIABLE
24 FOR THE MEMBER'S OBLIGATIONS.

25 (7) THE ASSOCIATION SHALL DO ALL OF THE FOLLOWING ON BEHALF OF
26 THE MEMBERS OF THE ASSOCIATION:

27 (A) ASSUME 100% OF ALL LIABILITY AS PROVIDED IN SUBSECTION

1 (2).

2 (B) ESTABLISH PROCEDURES BY WHICH MEMBERS SHALL PROMPTLY
3 REPORT TO THE ASSOCIATION EACH CLAIM THAT, ON THE BASIS OF THE
4 INJURIES, MAY REASONABLY BE ANTICIPATED TO INVOLVE THE ASSOCIATION
5 IF THE MEMBER IS ULTIMATELY HELD LEGALLY LIABLE FOR THE INJURIES.
6 SOLELY FOR THE PURPOSE OF REPORTING CLAIMS, THE MEMBER SHALL IN ALL
7 INSTANCES CONSIDER ITSELF LEGALLY LIABLE FOR THE INJURIES. THE
8 MEMBER SHALL ALSO ADVISE THE ASSOCIATION OF SUBSEQUENT DEVELOPMENTS
9 LIKELY TO MATERIALLY AFFECT THE INTEREST OF THE ASSOCIATION IN THE
10 CLAIM.

11 (C) MAINTAIN RELEVANT LOSS AND EXPENSE DATA RELATIVE TO ALL
12 LIABILITIES OF THE ASSOCIATION AND REQUIRE EACH MEMBER TO FURNISH
13 STATISTICS, IN CONNECTION WITH LIABILITIES OF THE ASSOCIATION, AT
14 THE TIMES AND IN THE FORM AND DETAIL AS MAY BE REQUIRED BY THE PLAN
15 OF OPERATION.

16 (D) IN A MANNER PROVIDED FOR IN THE PLAN OF OPERATION,
17 CALCULATE AND CHARGE TO MEMBERS OF THE ASSOCIATION A TOTAL PREMIUM
18 SUFFICIENT TO COVER THE EXPECTED LOSSES AND EXPENSES OF THE
19 ASSOCIATION THAT THE ASSOCIATION WILL LIKELY INCUR DURING THE
20 PERIOD FOR WHICH THE PREMIUM IS APPLICABLE. THE PREMIUM MUST
21 INCLUDE AN AMOUNT TO COVER INCURRED BUT NOT REPORTED LOSSES FOR THE
22 PERIOD AND MAY BE ADJUSTED FOR ANY EXCESS OR DEFICIENT PREMIUMS
23 FROM PREVIOUS PERIODS. EXCESSES OR DEFICIENCIES FROM PREVIOUS
24 PERIODS MAY BE FULLY ADJUSTED IN A SINGLE PERIOD OR MAY BE ADJUSTED
25 OVER SEVERAL PERIODS IN A MANNER PROVIDED FOR IN THE PLAN OF
26 OPERATION. EACH MEMBER MUST BE CHARGED AN AMOUNT EQUAL TO THAT
27 MEMBER'S TOTAL WRITTEN FIREARM YEARS OF INSURANCE PROVIDING THE

1 SECURITY REQUIRED BY SECTION 4901, WRITTEN IN THIS STATE DURING THE
2 PERIOD TO WHICH THE PREMIUM APPLIES, MULTIPLIED BY THE AVERAGE
3 PREMIUM PER FIREARM. THE AVERAGE PREMIUM PER FIREARM IS THE TOTAL
4 PREMIUM CALCULATED DIVIDED BY THE TOTAL WRITTEN FIREARM YEARS OF
5 INSURANCE PROVIDING THE SECURITY REQUIRED BY SECTION 4901 WRITTEN
6 IN THIS STATE OF ALL MEMBERS DURING THE PERIOD TO WHICH THE PREMIUM
7 APPLIES.

8 SEC. 4907. FIREARM INSURANCE BENEFITS ARE PAYABLE FOR EXPENSES
9 CONSISTING OF ALL REASONABLE CHARGES INCURRED FOR REASONABLY
10 NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN INJURED
11 PERSON'S CARE, RECOVERY, OR REHABILITATION.

12 SEC. 4909. AN INSURER PROVIDING FIREARM INSURANCE BENEFITS MAY
13 ESTABLISH A PREMIUM DISCOUNT PLAN BASED ON ANY OF THE FOLLOWING
14 FACTORS:

- 15 (A) KEEPING THE FIREARM IN A GUN SAFE.
16 (B) HAVING A TRIGGER LOCK ON THE FIREARM.
17 (C) THE POLICY HOLDER COMPLETING A FIREARM SAFETY COURSE.

18 SEC. 4913. A PERSON IS NOT ENTITLED TO BE PAID FIREARM
19 INSURANCE BENEFITS FOR BODILY INJURY IF AT THE TIME OF THE
20 DISCHARGE OF THE FIREARM ANY OF THE FOLLOWING CIRCUMSTANCES
21 EXISTED:

- 22 (A) THE PERSON WAS USING THE FIREARM DURING THE COMMISSION OF
23 A CRIME.
24 (B) THE PERSON WAS ATTEMPTING TO COMMIT SUICIDE.

25 SEC. 4916. A SUBTRACTION FROM FIREARM INSURANCE BENEFITS SHALL
26 NOT BE MADE BECAUSE OF THE VALUE OF A CLAIM IN TORT BASED ON A
27 BODILY INJURY CAUSED BY THE DISCHARGE OF A FIREARM. FIREARM

1 INSURANCE BENEFITS ARE ALSO PAYABLE FOR THE NONECONOMIC LOSS OF THE
2 INJURED PERSON.

3 SEC. 4925. THE ILLEGAL FIREARM AUTHORITY IS CREATED WITHIN THE
4 FIREARMS CLAIMS ASSOCIATION.

5 SEC. 4927. (1) BEFORE APRIL 1 OF EACH YEAR, EACH INSURER
6 ENGAGED IN WRITING INSURANCE COVERAGES THAT PROVIDE THE SECURITY
7 REQUIRED BY SECTION 4901 WITHIN THIS STATE, AS A CONDITION OF ITS
8 AUTHORITY TO TRANSACT INSURANCE IN THIS STATE, SHALL PAY TO THE
9 ILLEGAL FIREARM AUTHORITY AN ASSESSMENT EQUAL TO 5% OF THE
10 INSURER'S FIREARM CLAIMS ASSOCIATION ASSESSMENT UNDER SECTION 4904
11 FOR THE PRECEDING CALENDAR YEAR.

12 (2) THE AUTHORITY SHALL SEGREGATE MONEY RECEIVED UNDER
13 SUBSECTION (1), AND ALL OTHER MONEY RECEIVED BY THE AUTHORITY, AND
14 PLACE THE MONEY IN A FUND TO BE KNOWN AS THE ILLEGAL FIREARM
15 PREVENTION FUND. THE AUTHORITY SHALL ADMINISTER THE ILLEGAL FIREARM
16 PREVENTION FUND.

17 (3) THE AUTHORITY SHALL EXPEND MONEY IN THE ILLEGAL FIREARM
18 PREVENTION FUND IN THE FOLLOWING ORDER OF PRIORITY:

19 (A) TO PAY THE COSTS OF ADMINISTRATION OF THE AUTHORITY.

20 (B) TO ACHIEVE THE PURPOSES AND OBJECTIVES OF THIS CHAPTER,
21 WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

22 (i) PROVIDE FINANCIAL SUPPORT TO THE DEPARTMENT OF STATE
23 POLICE AND LOCAL LAW ENFORCEMENT AGENCIES FOR ILLEGAL FIREARM
24 ENFORCEMENT TEAMS.

25 (ii) PROVIDE FINANCIAL SUPPORT TO STATE OR LOCAL LAW
26 ENFORCEMENT AGENCIES FOR PROGRAMS DESIGNED TO REDUCE ILLEGAL
27 FIREARMS.

1 (iii) PROVIDE FINANCIAL SUPPORT TO LOCAL PROSECUTORS FOR
2 PROGRAMS DESIGNED TO REDUCE ILLEGAL FIREARMS.

3 (iv) PROVIDE FINANCIAL SUPPORT TO JUDICIAL AGENCIES FOR
4 PROGRAMS DESIGNED TO REDUCE ILLEGAL FIREARMS.

5 (v) PROVIDE FINANCIAL SUPPORT FOR NEIGHBORHOOD OR COMMUNITY
6 ORGANIZATIONS OR BUSINESS ORGANIZATIONS FOR PROGRAMS DESIGNED TO
7 REDUCE ILLEGAL FIREARMS.

8 (vi) CONDUCT EDUCATIONAL PROGRAMS ABOUT FIREARMS SAFETY AND
9 FIREARM INSURANCE.

10 (4) MONEY IN THE ILLEGAL FIREARM PREVENTION FUND IS NOT STATE
11 MONEY.

12 (5) AS USED IN THIS SECTION, "ILLEGAL FIREARM" MEANS A WEAPON
13 DESCRIBED IN SECTION 224 OF THE MICHIGAN PENAL CODE, 1931 PA 328,
14 MCL 750.224.

15 Enacting section 1. This amendatory act does not take effect
16 unless Senate Bill No. ____ or House Bill No. ____ (request no.
17 02976'15) of the 98th Legislature is enacted into law.