

**SUBSTITUTE FOR  
HOUSE BILL NO. 4417**

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 5f, 5g, 12, and 15 (MCL 28.425f, 28.425g, 28.432, and 28.435), section 5f as amended by 2015 PA 3, section 5g as amended by 2012 PA 123, section 12 as amended by 2010 PA 209, and section 15 as added by 2000 PA 265.

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

**1**           Sec. 5f. (1) An individual who is licensed to carry a

1 concealed pistol shall have his or her license to carry that pistol  
2 and his or her state-issued driver license or personal  
3 identification card in his or her possession at all times he or she  
4 is carrying a concealed pistol or a portable device that uses  
5 electro-muscular disruption technology.

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

10 (a) His or her license to carry a concealed pistol.

11 (b) His or her state-issued driver license or personal  
12 identification card.

13 (3) An individual ~~licensed under this act to carry a concealed~~  
14 ~~pistol and~~ who is carrying a concealed ~~pistol~~ **FIREARM** or a portable  
15 device that uses electro-muscular disruption technology and who is  
16 stopped by a peace officer shall, ~~immediately~~ **UPON REQUEST BY THE**  
17 **PEACE OFFICER**, disclose to the peace officer that he or she is  
18 carrying a ~~pistol~~ **FIREARM** or a portable device that uses electro-  
19 muscular disruption technology concealed upon his or her person or  
20 in his or her vehicle.

21 (4) An individual who violates ~~subsection (1) or (2)~~ **THIS**  
22 **SECTION** is responsible for a state civil infraction and shall be  
23 fined \$100.00.

24 ~~— (5) An individual who violates subsection (3) is responsible~~  
25 ~~for a state civil infraction and shall be fined as follows:~~

26 ~~— (a) For a first offense, by a fine of \$500.00 and by the~~  
27 ~~individual's license to carry a concealed pistol being suspended~~

1 ~~for 6 months.~~

2 ~~—— (b) For a subsequent offense within 3 years of a prior~~  
3 ~~offense, by a fine of \$1,000.00 and by the individual's license to~~  
4 ~~carry a concealed pistol being revoked.~~

5 ~~—— (6) If an individual is found responsible for a state civil~~  
6 ~~infraction under subsection (5), the peace officer shall notify the~~  
7 ~~department of state police of that civil infraction. The department~~  
8 ~~of state police shall notify the county clerk who issued the~~  
9 ~~license, who shall suspend or revoke that license. The county clerk~~  
10 ~~shall send notice by first-class mail of that suspension or~~  
11 ~~revocation to the individual's last known address as indicated in~~  
12 ~~the records of the county clerk. The department of state police~~  
13 ~~shall immediately enter that suspension or revocation into the law~~  
14 ~~enforcement information network.~~

15 ~~—— (7) A pistol or portable device that uses electro-muscular~~  
16 ~~disruption technology carried in violation of this section is~~  
17 ~~subject to immediate seizure by a peace officer. If a peace officer~~  
18 ~~seizes a pistol or portable device that uses electro-muscular~~  
19 ~~disruption technology under this subsection, the individual has 45~~  
20 ~~days in which to display his or her license or documentation to an~~  
21 ~~authorized employee of the law enforcement entity that employs the~~  
22 ~~peace officer. If the individual displays his or her license or~~  
23 ~~documentation to an authorized employee of the law enforcement~~  
24 ~~entity that employs the peace officer within the 45-day period, the~~  
25 ~~authorized employee of that law enforcement entity shall return the~~  
26 ~~pistol or portable device that uses electro-muscular disruption~~  
27 ~~technology to the individual unless the individual is prohibited by~~

1 ~~law from possessing a firearm or portable device that uses electro-~~  
2 ~~muscular disruption technology. If the individual does not display~~  
3 ~~his or her license or documentation within the 45-day period, the~~  
4 ~~pistol or portable device that uses electro-muscular disruption~~  
5 ~~technology is subject to forfeiture as provided in section 5g. A~~  
6 ~~pistol or portable device that uses electro-muscular disruption~~  
7 ~~technology is not subject to immediate seizure under this~~  
8 ~~subsection if both of the following circumstances exist:~~

9 ~~—— (a) The individual has his or her state-issued driver license~~  
10 ~~or personal identification card in his or her possession when the~~  
11 ~~violation occurs.~~

12 ~~—— (b) The peace officer verifies through the law enforcement~~  
13 ~~information network that the individual is licensed to carry a~~  
14 ~~concealed pistol.~~

15 **(5)** ~~(8)~~—As used in this section, "peace officer" includes a  
16 motor carrier officer appointed under section 6d of 1935 PA 59, MCL  
17 28.6d, and security personnel employed by the state under section  
18 6c of 1935 PA 59, MCL 28.6c.

19 Sec. 5g. A pistol or portable device that uses electro-  
20 muscular disruption technology carried in violation of this act is  
21 subject to seizure and forfeiture in the same manner that property  
22 is subject to seizure and forfeiture under sections 4701 to 4709 of  
23 the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to  
24 600.4709. This section does not apply if the violation is a state  
25 civil infraction under section 5f. ~~unless the individual fails to~~  
26 ~~present his or her license within the 45-day period described in~~  
27 ~~that section.~~

1           Sec. 12. (1) Section 2 does not apply to any of the following:

2           (a) A police or correctional agency of the United States or of  
3 this state or any subdivision of this state.

4           (b) The United States ~~army, air force, navy,~~ **ARMY, AIR FORCE,**  
5 **NAVY,** or ~~marine corps.~~ **MARINE CORPS.**

6           (c) An organization authorized by law to purchase or receive  
7 weapons from the United States or from this state.

8           (d) The ~~national guard, armed forces reserves,~~ **NATIONAL GUARD,**  
9 **UNITED STATES ARMED FORCES RESERVES,** or other duly authorized  
10 military organization.

11           (e) A member of an entity or organization described in  
12 subdivisions (a) through (d) for a pistol while engaged in the  
13 course of his or her duties with that entity or while going to or  
14 returning from those duties.

15           (f) A United States citizen holding a license to carry a  
16 pistol concealed upon his or her person issued by another state.

17           (g) The regular and ordinary possession and transportation of  
18 a pistol as merchandise by an authorized agent of a person licensed  
19 to manufacture firearms or a licensed dealer.

20           (h) Purchasing, owning, carrying, possessing, using, or  
21 transporting an antique firearm. As used in this subdivision,  
22 "antique firearm" means that term as defined in section ~~231a-237A~~  
23 of the Michigan penal code, 1931 PA 328, MCL ~~750.231a-750.237A.~~

24           (i) An individual carrying, possessing, using, or transporting  
25 a pistol belonging to another individual, if the other individual's  
26 possession of the pistol is authorized by law and the individual  
27 carrying, possessing, using, or transporting the pistol has

1 obtained a license under section 5b to carry a concealed pistol or  
2 is exempt from licensure as provided in section 12a.

3 (2) The amendatory act that added subsection (1)(h) shall be  
4 known and may be cited as the "Janet Kukuk act".

5 Sec. 15. (1) Except as provided in subsection (2), a federally  
6 licensed firearms dealer shall not sell a firearm in this state  
7 unless the sale includes 1 of the following:

8 (a) A commercially available trigger lock or other device  
9 designed to disable the firearm and prevent the discharge of the  
10 firearm.

11 (b) A commercially available gun case or storage container  
12 that can be secured to prevent unauthorized access to the firearm.

13 (2) This section does not apply to any of the following:

14 (a) The sale of a firearm to a police officer or a police  
15 agency.

16 (b) The sale of a firearm to a person who presents to the  
17 federally licensed firearms dealer 1 of the following:

18 (i) A trigger lock or other device designed to disable the  
19 firearm and prevent the discharge of the firearm together with a  
20 copy of the purchase receipt for the federally licensed firearms  
21 dealer to keep. A separate trigger lock or device and a separate  
22 purchase receipt ~~shall be~~ **IS** required for each firearm purchased.

23 (ii) A gun case or storage container that can be secured to  
24 prevent unauthorized access to the firearm together with a copy of  
25 the purchase receipt for the federally licensed firearms dealer to  
26 keep. A separate gun case or storage container and a separate  
27 purchase receipt ~~shall be~~ **IS** required for each firearm purchased.

1 (c) The sale of an antique firearm. As used in this  
2 subdivision, "antique firearm" means that term as defined in  
3 section ~~231a-237A~~ of the Michigan penal code, 1931 PA 328, MCL  
4 ~~750.231a-750.237A~~.

5 (d) The sale or transfer of a firearm if the seller is not a  
6 federally licensed firearms dealer.

7 (3) A federally licensed firearms dealer shall not sell a  
8 firearm in this state unless the firearm is accompanied with, free  
9 of charge, a brochure or pamphlet that includes safety information  
10 on the use and storage of the firearm in a home environment.

11 (4) Upon the sale of a firearm, a federally licensed firearms  
12 dealer shall sign a statement and require the purchaser to sign a  
13 statement stating that the sale is in compliance with subsections  
14 (1), (2), and (3).

15 (5) A federally licensed firearms dealer shall retain a copy  
16 of the signed statements prescribed in subsection (4) and, if  
17 applicable, a copy of the receipt prescribed in subsection (2)(b),  
18 for at least 6 years.

19 (6) A federally licensed firearms dealer in this state shall  
20 post in a conspicuous manner at the entrances, exits, and all  
21 points of sale on the premises where firearms are sold a notice  
22 that says the following: "You may be criminally and civilly liable  
23 for any harm caused by a person less than 18 years of age who  
24 lawfully gains unsupervised access to your firearm if unlawfully  
25 stored."

26 (7) A federally licensed firearms dealer is not liable for  
27 damages arising from the use or misuse of a firearm if the sale

1 complies with this section, any other applicable law of this state,  
2 and applicable federal law.

3 (8) This section does not create a civil action or liability  
4 for damages arising from the use or misuse of a firearm or  
5 ammunition for a person, other than a federally licensed firearms  
6 dealer, who produces a firearm or ammunition.

7 (9) Subject to subsections (10) to (12), a political  
8 subdivision shall not bring a civil action against any person who  
9 produces a firearm or ammunition. The authority to bring a civil  
10 action under this section is reserved exclusively to the state and  
11 can be brought only by the attorney general. The court shall award  
12 costs and reasonable attorney fees to each defendant named in a  
13 civil action filed in violation of this subsection.

14 (10) Subject to subsection (11), subsection (9) does not  
15 prohibit a civil action by a political subdivision based on 1 or  
16 more of the following, which the court shall narrowly construe:

17 (a) A breach of contract, other contract issue, or an action  
18 based on a provision of the uniform commercial code, 1962 PA 174,  
19 MCL 440.1101 to ~~440.11102~~, **440.9994**, in which the political  
20 subdivision is the purchaser and owner of the firearm or  
21 ammunition.

22 (b) Expressed or implied warranties arising from the purchase  
23 of a firearm or ammunition by the political subdivision or the use  
24 of a firearm or ammunition by an employee or agent of the political  
25 subdivision.

26 (c) A product liability, personal injury, or wrongful death  
27 action when an employee or agent or property of the political



1 subdivision has been injured or damaged as a result of a defect in  
2 the design or manufacture of the firearm or ammunition purchased  
3 and owned by the political subdivision.

4 (11) Subsection (10) does not allow an action based on any of  
5 the following:

6 (a) A firearm's or ammunition's inherent potential to cause  
7 injury, damage, or death.

8 (b) Failure to warn the purchaser, transferee, or user of the  
9 firearm's or ammunition's inherent potential to cause injury,  
10 damage, or death.

11 (c) Failure to sell with or incorporate into the product a  
12 device or mechanism to prevent a firearm or ammunition from being  
13 discharged by an unauthorized person unless specifically provided  
14 for by contract.

15 (12) Subsections (9) through (11) do not create a civil  
16 action.

17 (13) Subsections (9) through (11) are intended only to clarify  
18 the current status of the law in this state, are remedial in  
19 nature, and, therefore, apply to a civil action pending on ~~the~~  
20 ~~effective date of this act.~~ **JUNE 29, 2000.**

21 (14) Beginning September 1, 2000, a person who violates this  
22 section is guilty of a crime as follows:

23 (a) Except as provided in subdivision (b) or (c), the person  
24 is guilty of a misdemeanor punishable by imprisonment for not more  
25 than 93 days or a fine of not more than \$500.00, or both.

26 (b) For a second conviction, the person is guilty of a  
27 misdemeanor punishable by imprisonment for not more than 1 year or

1 a fine of not more than \$1,000.00, or both.

2 (c) For a third or subsequent conviction, the person is guilty  
3 of a felony punishable by imprisonment for not more than 2 years or  
4 a fine of not more than \$5,000.00, or both.

5 (15) As used in this section:

6 (a) "Federally licensed firearms dealer" means a person  
7 licensed under ~~section 923 of title 18 of the United States Code,~~  
8 ~~18 U.S.C.—USC~~ 923.

9 (b) "Firearm or ammunition" includes a component of a firearm  
10 or ammunition.

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

13 (d) "Political subdivision" means a county, city, village,  
14 township, charter township, school district, community college, or  
15 public university or college.

16 (e) "Produce" means to manufacture, construct, design,  
17 formulate, develop standards for, prepare, process, assemble,  
18 inspect, test, list, certify, give a warning or instructions  
19 regarding, market, sell, advertise, package, label, distribute, or  
20 transfer.

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

23 Enacting section 2. This amendatory act does not take effect  
24 unless House Bill No. 4416 of the 99th Legislature is enacted into  
25 law.