

HB-4417, As Passed House, June 7, 2017

SUBSTITUTE FOR

HOUSE BILL NO. 4417
As Amended June 7, 2017

[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 5e, 5f, 5g, 12, and 15 (MCL 28.425e, 28.425f, 28.425g,

28.432, and 28.435), sections 5e and 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:

[Sec. 5e. (1) The department of state police shall create and maintain a computerized database of individuals who apply under this act for a license to carry a concealed pistol. The database shall contain only the following information as to each individual:

(a) The individual's name, date of birth, address, county of

residence, and state-issued driver license or personal identification card number.

(b) If the individual is licensed to carry a concealed pistol in this state, the license number and date of expiration.

(c) Except as provided in subsection (2), if the individual was denied a license to carry a concealed pistol after July 1, 2001 or issued a notice of statutory disqualification, a statement of the reasons for that denial or notice of statutory disqualification.

(d) A statement of all criminal charges pending and criminal convictions obtained against the individual during the license period.

(e) A statement of all determinations of responsibility for civil infractions of this act pending or obtained against the individual during the license period.

(f) The status of the individual's application or license.

(2) If an individual who was denied a license to carry a concealed pistol after July 1, 2001 or issued a notice of statutory disqualification is subsequently issued a license to carry a concealed pistol, the department of state police shall delete from the computerized database the previous reasons for the denial or notice of statutory disqualification.

(3) The department of state police shall enter the information described in subsection (1) (a), (b), and (f) into the law enforcement information network.

(4) Information in the database shall only be accessed and disclosed according to an access protocol that includes the following requirements:

(a) That the requestor of the firearms records uses the law enforcement information network or another system that maintains a record of the requestor's identity, time, and date that the request was made.

(b) Requires the requestor in an intentional query by name of the firearms records to attest that the firearms records were sought under 1 of the lawful purposes provided in section 1b(2).

(5) The department of state police shall by January 1 of each year file with the secretary of the senate and the clerk of the house of representatives, and post on the department of state police's internet website, an annual report setting forth all of the following information for the state for the previous fiscal year:

(a) The number of concealed pistol applications received.

(b) The number of concealed pistol licenses issued.

(c) The number of statutorily disqualified applicants.

(d) Categories for statutory disqualification under subdivision

(c).

(e) The number of concealed pistol licenses suspended or revoked.

(f) Categories for suspension or revocation under subdivision (e).

(g) The number of applications pending at the time the report is made.

(h) The mean and median amount of time and the longest and shortest amount of time used by the Federal Bureau of Investigation to supply the fingerprint comparison report required in section 5b(10). The department may use a statistically significant sample to comply with this subdivision.

(i) The total number of individuals licensed to carry a concealed pistol found responsible for a civil violation of this act, the total number of civil violations of this act categorized by offense, the total

number of individuals licensed to carry a concealed pistol convicted of a crime, and the total number of those criminal convictions categorized by offense.

(j) The number of suicides by individuals licensed to carry a concealed pistol.

(k) The total amount of revenue the department of state police has received under this act.

(l) Actual costs incurred per initial and renewal license by the department of state police under this act, itemized by each statutory section of this act.

(m) A list of expenditures made by the department of state police from money received under this act, regardless of purpose.

(n) Actual costs incurred per permit for each county clerk.

(o) The number of times the database was accessed, categorized by the purpose for which the database was accessed.

(6) THE DEPARTMENT OF STATE POLICE SHALL ANNUALLY PUBLISH A FIREARMS MANUAL ON THE USE AND POSSESSION OF FIREARMS. THE MANUAL MUST INCLUDE A SUMMARY OF APPLICABLE FIREARMS LAWS, INCLUDING, BUT NOT LIMITED TO, THE USE OF REASONABLE FORCE IN SELF-DEFENSE.]

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.