

HOUSE BILL No. 4876

August 16, 2017, Introduced by Reps. Cole, Tedder, Miller, Hoitenga, Hornberger, Alexander, Noble, Howrylak, Lower, Lucido, Dianda, LaFave, Phelps, Chatfield and Chirkun 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 1, 12, and 15 (MCL 28.421, 28.432, and 28.435), section 1 as amended by 2016 PA 301, 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. 1. (1) As used in this act:

2 (a) "Corrections officer of the department of corrections"

1 means a state correctional officer as that term is defined in
2 section 2 of the correctional officers' training act of 1982, 1982
3 PA 415, MCL 791.502.

4 (b) "Felony" means, except as otherwise provided in this
5 subdivision, that term as defined in section 1 of chapter I of the
6 code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation
7 of a law of the United States or another state that is designated
8 as a felony or that is punishable by death or by imprisonment for
9 more than 1 year. Felony does not include a violation of a penal
10 law of this state that is expressly designated as a misdemeanor.

11 (c) "Firearm" means any weapon which will, is designed to, or
12 may readily be converted to expel a projectile by action of an
13 explosive.

14 (d) "Firearms records" means any form, information, or record
15 required for submission to a government agency under sections 2,
16 2a, 2b, and 5b, or any form, permit, or license issued by a
17 government agency under this act.

18 (e) "Local corrections officer" means that term as defined in
19 section 2 of the local corrections officers training act, 2003 PA
20 125, MCL 791.532.

21 (f) "Misdemeanor" means a violation of a penal law of this
22 state or violation of a local ordinance substantially corresponding
23 to a violation of a penal law of this state that is not a felony or
24 a violation of an order, rule, or regulation of a state agency that
25 is punishable by imprisonment or a fine that is not a civil fine,
26 or both.

27 (g) "Parole or probation officer of the department of

1 corrections" means any individual employed by the department of
2 corrections to supervise felony probationers or parolees or that
3 individual's immediate supervisor.

4 (h) "Peace officer" means, except as otherwise provided in
5 this act, an individual who is employed as a law enforcement
6 officer, as that term is defined under section 2 of the Michigan
7 commission on law enforcement standards act, 1965 PA 203, MCL
8 28.602, by this state or another state, a political subdivision of
9 this state or another state, or the United States, and who is
10 required to carry a firearm in the course of his or her duties as a
11 law enforcement officer.

12 (I) **"PERSON" MEANS AN INDIVIDUAL, TRUST, PARTNERSHIP,**
13 **CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY.**

14 (J) ~~(i)~~—"Pistol" means a loaded or unloaded firearm that is 26
15 inches or less in length, or a loaded or unloaded firearm that by
16 its construction and appearance conceals it as a firearm.

17 (K) ~~(j)~~—"Purchaser" means a person ~~who~~ **THAT** receives a pistol
18 from another person by purchase or gift.

19 (L) ~~(k)~~—"Reserve peace officer", "auxiliary officer", or
20 "reserve officer" means, except as otherwise provided in this act,
21 an individual authorized on a voluntary or irregular basis by a
22 duly authorized police agency of this state or a political
23 subdivision of this state to act as a law enforcement officer, who
24 is responsible for the preservation of the peace, the prevention
25 and detection of crime, and the enforcement of the general criminal
26 laws of this state, and who is otherwise eligible to possess a
27 firearm under this act.

1 **(M)** ~~(I)~~—"Retired corrections officer of the department of
2 corrections" means an individual who was a corrections officer of
3 the department of corrections and who retired in good standing from
4 his or her employment as a corrections officer of the department of
5 corrections.

6 **(N)** ~~(m)~~—"Retired federal law enforcement officer" means an
7 individual who was an officer or agent employed by a law
8 enforcement agency of the United States government whose primary
9 responsibility was enforcing laws of the United States, who was
10 required to carry a firearm in the course of his or her duties as a
11 law enforcement officer, and who retired in good standing from his
12 or her employment as a federal law enforcement officer.

13 **(O)** ~~(n)~~—"Retired parole or probation officer of the department
14 of corrections" means an individual who was a parole or probation
15 officer of the department of corrections and who retired in good
16 standing from his or her employment as a parole or probation
17 officer of the department of corrections.

18 **(P)** ~~(o)~~—"Retired police officer" or "retired law enforcement
19 officer" means an individual who was a police officer or law
20 enforcement officer who was licensed or certified as described in
21 the Michigan commission on law enforcement standards act, 1965 PA
22 203, MCL 28.601 to 28.615, and retired in good standing from his or
23 her employment as a police officer or law enforcement officer. A
24 police officer or law enforcement officer retired in good standing
25 if he or she receives a pension or other retirement benefit for his
26 or her service as a police officer or law enforcement officer or
27 actively maintained a Michigan commission on law enforcement

1 standards or equivalent state certification or license for not less
2 than 10 consecutive years.

3 (Q) ~~(p)~~—"Seller" means a person ~~who~~ **THAT** sells or gives a
4 pistol to another person.

5 (R) ~~(q)~~—"State court judge" means a judge of the district
6 court, circuit court, probate court, or court of appeals or justice
7 of the supreme court of this state who is serving either by
8 election or appointment.

9 (S) ~~(r)~~—"State court retired judge" means a judge or justice
10 described in subdivision ~~(q)~~ (R) who is retired, or a retired judge
11 of the recorders court.

12 (2) A person may lawfully own, possess, carry, or transport as
13 a pistol a firearm greater than 26 inches in length if all of the
14 following conditions apply:

15 (a) The person registered the firearm as a pistol under
16 section 2 or 2a before January 1, 2013.

17 (b) The person who registered the firearm as described in
18 subdivision (a) has maintained registration of the firearm since
19 January 1, 2013 without lapse.

20 (c) The person possesses a copy of the license or record
21 issued to him or her under section 2 or 2a.

22 (3) A person who satisfies all of the conditions listed under
23 subsection (2) nevertheless may elect to have the firearm not be
24 considered to be a pistol. A person who makes the election under
25 this subsection shall notify the department of state police of the
26 election in a manner prescribed by that department.

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

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

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

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

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

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

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

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

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

23 **(I) WHEN PRESENT IN A DOMICILE OF A PERSON LICENSED TO POSSESS**
24 **OR CARRY A PISTOL, A SPOUSE, FAMILY MEMBER, OR GUEST OF THAT**
25 **PERSON.**

26 **(J) A PERSON THAT IS OR HAS PREVIOUSLY BEEN APPROVED,**
27 **PERMITTED, OR LICENSED IN THIS STATE TO PURCHASE, CARRY, POSSESS,**

1 **OR TRANSPORT A PISTOL.**

2 (K) ~~(i)~~—An individual carrying, possessing, using, or
3 transporting a pistol belonging to another individual, if the other
4 individual's possession of the pistol is ~~authorized~~ **NOT PROHIBITED**
5 by law and the individual carrying, possessing, using, or
6 transporting the pistol has obtained a license under section 5b to
7 carry a concealed pistol or is exempt from licensure as provided in
8 section 12a.

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

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

14 (a) A commercially available trigger lock or other device
15 designed to disable the firearm and prevent the discharge of the
16 firearm.

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

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

20 (a) The sale of a firearm to a police officer or a police
21 agency.

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

24 (i) A trigger lock or other device designed to disable the
25 firearm and prevent the discharge of the firearm together with a
26 copy of the purchase receipt for the federally licensed firearms
27 dealer to keep. A separate trigger lock or device and a separate

1 purchase receipt ~~shall be~~ **IS** required for each firearm purchased.

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

7 (c) The sale of an antique firearm. As used in this
8 subdivision, "antique firearm" means that term as defined in
9 section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

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

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

16 (4) Upon the sale of a firearm, a federally licensed firearms
17 dealer shall sign a statement and require the purchaser to sign a
18 statement stating that the sale is in compliance with subsections
19 (1), (2), and (3).

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

24 (6) A federally licensed firearms dealer in this state shall
25 post in a conspicuous manner at the entrances, exits, and all
26 points of sale on the premises where firearms are sold a notice
27 that says the following: "You may be criminally and civilly liable

1 for any harm caused by a person less than 18 years of age who
2 lawfully gains unsupervised access to your firearm if unlawfully
3 stored.".

4 (7) A federally licensed firearms dealer is not liable for
5 damages arising from the use or misuse of a firearm if the sale
6 complies with this section, any other applicable law of this state,
7 and applicable federal law.

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

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

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

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

27 (b) Expressed or implied warranties arising from the purchase

1 of a firearm or ammunition by the political subdivision or the use
2 of a firearm or ammunition by an employee or agent of the political
3 subdivision.

4 (c) A product liability, personal injury, or wrongful death
5 action when an employee or agent or property of the political
6 subdivision has been injured or damaged as a result of a defect in
7 the design or manufacture of the firearm or ammunition purchased
8 and owned by the political subdivision.

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

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

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

16 (c) Failure to sell with or incorporate into the product a
17 device or mechanism to prevent a firearm or ammunition from being
18 discharged by an unauthorized person unless specifically provided
19 for by contract.

20 (12) Subsections (9) through (11) do not create a civil
21 action.

22 (13) Subsections (9) through (11) are intended only to clarify
23 the current status of the law in this state, are remedial in
24 nature, and, therefore, apply to a civil action pending on the
25 effective date of this act.

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

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

4 (b) For a second conviction, the person is guilty of a
5 misdemeanor punishable by imprisonment for not more than 1 year or
6 a fine of not more than \$1,000.00, or both.

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

10 (15) As used in this section:

11 (a) "Federally licensed firearms dealer" means a person
12 licensed under ~~section 923 of title 18 of the United States Code,~~
13 ~~18 U.S.C.—USC~~ 923.

14 (b) "Firearm or ammunition" includes a component of a firearm
15 or ammunition.

16 (c) "Person" means an individual, **TRUST**, partnership,
17 corporation, association, or other legal entity.

18 (d) "Political subdivision" means a county, city, village,
19 township, charter township, school district, community college, or
20 public university or college.

21 (e) "Produce" means to manufacture, construct, design,
22 formulate, develop standards for, prepare, process, assemble,
23 inspect, test, list, certify, give a warning or instructions
24 regarding, market, sell, advertise, package, label, distribute, or
25 transfer.