

SENATE BILL No. 1045

June 6, 2018, Introduced by Senator JONES and referred to the Committee on Government Operations.

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 section 15 (MCL 28.435), as added by 2000 PA 265.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (a) A commercially available trigger lock or other device

1 designed to disable the firearm and prevent the discharge of the
2 firearm.

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

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

6 (a) The sale of a firearm to a police officer or a police
7 agency.

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

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

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

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

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

25 (3) A federally licensed firearms dealer shall not sell a
26 firearm in this state unless the firearm is accompanied with, free
27 of charge, a brochure or pamphlet that includes safety information

1 on the use and storage of the firearm in a home environment.

2 (4) Upon the sale of a firearm, a federally licensed firearms
3 dealer shall sign a statement and require the purchaser to sign a
4 statement stating that the sale is in compliance with subsections
5 (1), (2), and (3).

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

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

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

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

25 (9) Subject to subsections (10) to (12), a political
26 subdivision shall not bring a civil action against any person who
27 produces a firearm or ammunition. The authority to bring a civil

1 action under this section is reserved exclusively to the state and
2 can be brought only by the attorney general. The court shall award
3 costs and reasonable attorney fees to each defendant named in a
4 civil action filed in violation of this subsection.

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

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

13 (b) Expressed or implied warranties arising from the purchase
14 of a firearm or ammunition by the political subdivision or the use
15 of a firearm or ammunition by an employee or agent of the political
16 subdivision.

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

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

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

26 (b) Failure to warn the purchaser, transferee, or user of the
27 firearm's or ammunition's inherent potential to cause injury,

1 damage, or death.

2 (c) Failure to sell with or incorporate into the product a
3 device or mechanism to prevent a firearm or ammunition from being
4 discharged by an unauthorized person unless specifically provided
5 for by contract.

6 (12) Subsections (9) ~~through~~ **TO** (11) do not create a civil
7 action.

8 (13) Subsections (9) ~~through~~ **TO** (11) are intended only to
9 clarify the current status of the law in this state, are remedial
10 in nature, and, therefore, apply to a civil action pending on the
11 effective date of this act.

12 **(14) IF A FEDERALLY LICENSED FIREARMS DEALER DENIES AN**
13 **INDIVIDUAL FROM PURCHASING A FIREARM BECAUSE THE FEDERALLY LICENSED**
14 **FIREARMS DEALER DETERMINES THROUGH THE NATIONAL INSTANT CRIMINAL**
15 **BACKGROUND CHECK SYSTEM THAT THE APPLICANT IS PROHIBITED UNDER**
16 **FEDERAL LAW FROM POSSESSING OR TRANSPORTING A FIREARM, THE**
17 **FEDERALLY LICENSED FIREARMS DEALER SHALL NOTIFY THE DEPARTMENT OF**
18 **STATE POLICE WITHIN 1 HOUR AFTER THAT DENIAL. THE NOTICE MUST**
19 **INCLUDE ALL OF THE FOLLOWING:**

20 (A) THE IDENTITY OF THE INDIVIDUAL WHO WAS DENIED.

21 (B) THE DATE AND TIME OF THE DENIAL.

22 (C) THE LOCATION WHERE THE INDIVIDUAL ATTEMPTED TO PURCHASE
23 THE FIREARM.

24 (15) ~~(14)~~ Beginning September 1, 2000, a person who violates
25 this section is guilty of a crime as follows:

26 (a) Except as provided in subdivision (b) or (c), the person
27 is guilty of a misdemeanor punishable by imprisonment for not more

1 than 93 days or a fine of not more than \$500.00, or both.

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

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

8 (16) ~~(15)~~ As used in this section:

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

12 (b) "Firearm or ammunition" includes a component of a firearm
13 or ammunition.

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

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

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