

Act No. 219
Public Acts of 1992
Approved by the Governor
October 13, 1992
Filed with the Secretary of State
October 13 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Perry Bullard, Yokich, Leland, Bennane, Pitoniak, Olshove, Berman, Dobronski,
Barns and Baade

ENROLLED HOUSE BILL No. 5400

AN ACT to amend sections 1 and 2 of Act No. 372 of the Public Acts of 1927, entitled as amended "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license; to provide for the forfeiture of firearms possessed in violation of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act," section 2 as amended by Act No. 320 of the Public Acts of 1990, being sections 28.421 and 28.422 of the Michigan Compiled Laws; and to add section 4.

The People of the State of Michigan enact:

Section 1. Sections 1 and 2 of Act No. 372 of the Public Acts of 1927, section 2 as amended by Act No. 320 of the Public Acts of 1990, being sections 28.421 and 28.422 of the Michigan Compiled Laws, are amended and section 4 is added to read as follows:

Sec. 1. As used in this act:

(a) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(b) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(c) "Purchaser" means a person who receives a pistol from another person by purchase, gift, or loan.

(d) "Seller" means a person who sells, furnishes, loans, or gives a pistol to another person.

Sec. 2. (1) Except as provided in subsection (2), a person shall not purchase, carry, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.

(2) A person who brings a pistol into this state who is on leave from active duty with the armed forces of the United States or who has been discharged from active duty with the armed forces of the United States shall obtain a license for the pistol within 30 days after his or her arrival in this state.

(3) The commissioner or chief of police of a city, township, or village police department, or his or her duly authorized deputy, or the sheriff or his or her duly authorized deputy, in the parts of a county not included within a city, township, or village having an organized police department, may issue licenses to purchase, carry, or transport pistols to applicants residing within the city, village, township, or county, as applicable. A license shall not be granted under this section to any person unless all of the following circumstances exist:

(a) The person is 18 years of age or older or, if the seller is licensed pursuant to section 923 of title 18 of the United States Code, 18 U.S.C. 923, is 21 years of age or older.

(b) The person is a citizen of the United States and is a legal resident of this state.

(c) The person is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224f of the Michigan Compiled Laws.

(d) The person has not been adjudged insane in this state or elsewhere unless he or she has been adjudged restored to sanity by court order.

(e) The person is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(f) The person has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to a person who has had his or her legal capacity restored by order of the court.

(g) The person correctly answers 70% or more of the questions on a basic pistol safety review questionnaire approved by the basic pistol safety review board and provided to the individual free of charge by the licensing authority. If the person fails to correctly answer 70% or more of the questions on the basic pistol safety review questionnaire, the licensing authority shall inform the person of the questions he or she answered incorrectly and allow the person to attempt to complete another basic pistol safety review questionnaire. The person shall not be allowed to attempt to complete more than 2 basic pistol safety review questionnaires on any single day. The licensing authority shall allow the person to attempt to complete the questionnaire during normal business hours on the day the person applies for his or her license.

(4) Applications for licenses under this section shall be signed by the applicant under oath upon forms provided by the director of the department of state police. Licenses to purchase, carry, or transport pistols shall be executed in triplicate upon forms provided by the director of the department of state police and shall be signed by the licensing authority. Three copies of the license shall be delivered to the applicant by the licensing authority.

(5) Upon the sale of the pistol, the seller shall fill out the license forms describing the pistol sold, together with the date of sale, and sign his or her name in ink indicating that the pistol was sold to the licensee. The licensee shall also sign his or her name in ink indicating the purchase of the pistol from the seller. The seller may retain a copy of the license as a record of the sale of the pistol. The licensee shall return 2 copies of the license to the licensing authority within 10 days following the purchase of the pistol.

(6) One copy of the license shall be retained by the licensing authority as an official record for a period of 6 years. The other copy of the license shall be forwarded by the licensing authority within 48 hours to the director of the department of state police. A license shall be void unless used within 10 days after the date of its issue.

(7) This section does not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, or to the sale, barter, or exchange of pistols kept solely as relics, curios, or antiques not made for modern ammunition or permanently deactivated. This section does not prevent the transfer of ownership of pistols that are inherited if the license to purchase is approved by the commissioner or chief of police, sheriff, or their authorized deputies, and signed by the personal representative of the estate or by the next of kin having authority to dispose of the pistol.

(8) A person who forges any matter on an application for a license under this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

Sec. 4. (1) A person who is prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f(2) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224f of the Michigan Compiled Laws, may apply to the concealed weapons licensing board in the county in which he or she resides for restoration of those rights.

(2) Not more than 1 application may be submitted under subsection (1) in any calendar year. The concealed weapons licensing board may charge a fee of not more than \$10.00 for the actual and necessary expenses of each application.

(3) The concealed weapons licensing board shall, by written order of the board, restore the rights of a person to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm if the board determines, by clear and convincing evidence, that all of the following circumstances exist:

(a) The person properly submitted an application for restoration of those rights as provided under this section.

(b) The expiration of 5 years after all of the following circumstances:

(i) The person has paid all fines imposed for the violation resulting in the prohibition.

(ii) The person has served all terms of imprisonment imposed for the violation resulting in the prohibition.

(iii) The person has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition.

(c) The person's record and reputation are such that the person is not likely to act in a manner dangerous to the safety of other persons.

(4) If the concealed weapons licensing board pursuant to subsection (3) refuses to restore a right under this section, the person may petition the circuit court for review of that decision.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

- (a) Senate Bill No. 528.
- (b) Senate Bill No. 529.
- (c) House Bill No. 4822.
- (d) House Bill No. 5432.

Section 3. This amendatory act shall take effect September 1, 1992.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved.....

Governor.