

HOUSE BILL No. 5355

December 3, 1991, Introduced by Rep. Jaye and referred to the Committee on Judiciary.

A bill to amend sections 2 and 6 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 and section 6 as amended by Act No. 295 of the Public Acts of 1984, being sections 28.422 and 28.426 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2 and 6 of Act No. 372 of the Public
2 Acts of 1927, section 2 as amended by Act No. 320 of the Public
3 Acts of 1990 and section 6 as amended by Act No. 295 of the

1 Public Acts of 1984, being sections 28.422 and 28.426 of the
2 Michigan Compiled Laws, are amended to read as follows:

3 Sec. 2. (1) Except as provided in subsection (2), a person
4 shall not purchase, carry, or transport a pistol in this state
5 without first having obtained a license for the pistol as pre-
6 scribed in this section.

7 (2) A person who brings a pistol into this state who is on
8 leave from active duty with the armed forces of the United States
9 or who has been discharged from active duty with the armed forces
10 of the United States shall obtain a license for the pistol within
11 30 days after his or her arrival in this state.

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

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

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

26 (c) The person has not been convicted of a crime punishable
27 by imprisonment for more than 1 year. This subdivision does not

1 apply to a conviction that has been expunged or set aside, or for
2 which the person has been pardoned or has had his or her civil
3 rights restored unless the ~~expungement~~ EXPUNCTION, order, or
4 pardon expressly provides that the person shall not ship, trans-
5 port, possess, or receive firearms.

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

9 (e) The person is not under an order of involuntary commit-
10 ment in an inpatient or outpatient setting due to mental
11 illness.

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

16 (g) The person correctly answers 70% or more of the ques-
17 tions on a basic pistol safety review questionnaire approved by
18 the basic pistol safety review board and provided to the individ-
19 ual free of charge by the licensing authority. If the person
20 fails to correctly answer 70% or more of the questions on the
21 basic pistol safety review questionnaire, the licensing authority
22 shall inform the person of the questions he or she answered
23 incorrectly and allow the person to attempt to complete another
24 basic pistol safety review questionnaire. The person shall not
25 be allowed to attempt to complete more than 2 basic pistol safety
26 review questionnaires on any single day. The licensing authority
27 shall allow the person to attempt to complete the questionnaire

1 during normal business hours on the day the person applies for
2 his or her license.

3 (4) Applications for licenses under this section shall be
4 signed by the applicant under oath upon forms provided by the
5 director. Licenses to purchase, carry, or transport pistols
6 shall be executed in triplicate upon forms provided by the direc-
7 tor and shall be signed by the licensing authority. Three copies
8 of the license shall be delivered to the applicant by the licens-
9 ing authority.

10 (5) Upon the sale of the pistol, the seller shall fill out
11 the license forms describing the pistol sold, together with the
12 date of sale, and sign his or her name in ink indicating that the
13 pistol was sold to the licensee. The licensee shall also sign
14 his or her name in ink indicating the purchase of the pistol from
15 the seller. The seller may retain a copy of the license as a
16 record of the sale of the pistol. The licensee shall return
17 2 copies of the license to the licensing authority within 10 days
18 following the purchase of the pistol.

19 (6) One copy of the license shall be retained by the licens-
20 ing authority as an official record for a period of 6 years. The
21 other copy of the license shall be forwarded by the licensing
22 authority within 48 hours to the director. A license shall be
23 void unless used within ~~10~~ 30 days after the date of its
24 issue.

25 (7) This section does not apply to the purchase of pistols
26 from wholesalers by dealers regularly engaged in the business of
27 selling pistols at retail, or to the sale, barter, or exchange of

1 pistols kept solely as relics, curios, or antiques not made for
2 modern ammunition or permanently deactivated. This section does
3 not prevent the transfer of ownership of pistols that are inher-
4 ited if the license to purchase is approved by the commissioner
5 or chief of police, sheriff, or their authorized deputies, and
6 signed by the personal representative of the estate or by the
7 next of kin having authority to dispose of the pistol.

8 (8) As used in this section:

9 (a) "Crime punishable by imprisonment for more than 1 year"
10 does not include a state offense classified by the state as a
11 misdemeanor and punishable by imprisonment for 2 years or less.

12 (b) "Director" means the director of the department of state
13 police.

14 (9) A person who forges any matter on an application for a
15 license under this section is guilty of a felony.

16 Sec. 6. (1) The prosecuting attorney, the sheriff, and the
17 director of the department of state police, or their respective
18 authorized deputies, shall constitute boards exclusively autho-
19 rized to issue a license to an applicant residing within their
20 respective counties, to carry a pistol concealed on the person
21 and to carry a pistol, whether concealed or otherwise, in a vehi-
22 cle operated or occupied by the applicant. The county clerk of
23 each county shall be clerk of the licensing board, which ~~board~~
24 shall be known as the concealed weapon licensing board. ~~A~~
25 ~~license to carry a pistol concealed on the person or to carry a~~
26 ~~pistol, whether concealed or otherwise, in a vehicle operated or~~
27 ~~occupied by the person applying for the license, shall not be~~

~~1 granted to a person unless the person is 18 years of age or
2 older, is a citizen of the United States, and has resided in this
3 state 6 months or more. A license shall not be issued unless it
4 appears that the applicant has good reason to fear injury to his
5 or her person or property, or has other proper reasons, and is a
6 suitable person to be licensed. A license shall not be issued to
7 a person who was convicted of a felony or confined for a felony
8 conviction in this state or elsewhere during the 8 year period
9 immediately preceding the date of the application or was adjudged
10 insane unless the person was restored to sanity and so declared
11 by court order.~~

~~12 (2) If an applicant resides in a city, village, or township
13 having an organized department of police, a license shall not be
14 issued unless the application is first approved in writing by the
15 supervisor, commissioner or chief of police, or marshal. If an
16 application is not approved by the supervisor, commissioner or
17 chief of police, or marshal, the applicant shall have 10 days to
18 appeal, in writing, to the concealed weapon licensing board in
19 the county in which the applicant resides. Upon receipt of a
20 written appeal, the concealed weapon licensing board at the next
21 scheduled meeting to be held not less than 15 days after the
22 receipt of the fingerprint comparison report shall hold a hearing
23 to determine if the applicant is qualified to carry a concealed
24 weapon pursuant to this section. Notice of the hearing shall be
25 mailed to the applicant and the organized department of police
26 not less than 10 days before the scheduled hearing. The
27 applicant shall deposit the sum of \$10.00 with the county clerk~~

~~1 at the time the appeal is made. If, upon appeal, a license is
2 not issued, the deposit shall be credited to the general fund of
3 the county. If a license is issued, the deposit shall be pro-
4 cesssed as the license fee required under subsection (6).~~

~~5 (3) If an applicant does not reside in a city, village, or
6 township which has an organized department of police, a license
7 shall not be issued unless the application is first submitted to
8 the supervisor of the township in which the applicant resides for
9 approval or objection. The supervisor shall indicate in writing
10 on the application whether he or she objects to the license being
11 issued. If action is not taken by a supervisor within 14 days
12 after the application is submitted to the supervisor, the con-
13 cealed weapon licensing board shall consider the application as
14 if a statement of no objection had been included. If the super-
15 visor objects to the application in writing, the applicant within
16 10 days may appeal to the concealed weapon licensing board of the
17 county in which the applicant resides. Upon receipt of a written
18 appeal, the concealed weapon licensing board at the next sched-
19 uled meeting to be held not less than 15 days after the receipt
20 of the fingerprint comparison report shall hold a hearing to
21 determine if the applicant is qualified to carry a concealed
22 weapon pursuant to this section. Notice of the hearing shall be
23 mailed to the applicant and the supervisor of the township not
24 less than 10 days before the scheduled hearing. The applicant
25 shall deposit the sum of \$10.00 with the county clerk at the time
26 the appeal is made. If, upon appeal, a license is not issued,
27 the deposit shall be credited to the general fund of the county.~~

~~1 If a license is issued, the deposit shall be processed as the~~
~~2 license fee required under subsection (6).~~

3 (2) ~~(4)~~ An applicant shall have 2 sets of fingerprints
4 taken by the sheriff, or the sheriff's authorized representative,
5 of the county in which the applicant resides, if the applicant
6 does not reside in a city, village, or township having an orga-
7 nized department of police, or by the commissioner or chief of
8 police, or marshal, or an authorized representative of the com-
9 missioner or chief of police or marshal, if the applicant resides
10 within a city, village, or township having an organized depart-
11 ment of police. The first set of fingerprints shall be taken on
12 forms furnished by the department of state police, and the second
13 set on forms furnished by the federal bureau of investigation.
14 The first set of fingerprints shall be forwarded to the depart-
15 ment of state police by the department taking the prints, and the
16 second set shall be forwarded by the department taking the fin-
17 gerprints to the federal bureau of investigation or other agency
18 designated by the federal bureau of investigation. The director
19 of the bureau of identification of the department of state police
20 shall compare the fingerprints with those already on file in the
21 bureau. A license shall not be issued ~~unless and~~ until A
22 report is received by the clerk of the board from the department
23 of state police and the federal bureau of investigation that the
24 comparisons do not show a conviction of a felony or ~~confinement~~
25 ~~for a felony conviction during the 8 year period~~ MISDEMEANOR.
26 The board may grant a temporary permit in case of emergency
27 pending the results of the comparisons. The temporary permit

1 shall be issued for a period not to exceed 30 days and shall
2 expire automatically at the end of the period for which it was
3 issued. Upon receipt of the report from the federal bureau of
4 investigation of the comparison, the bureau of identification of
5 the department of state police shall forward a report of both
6 comparisons to the officer taking the prints and also to the
7 county clerk of the county in which the applicant resides, who as
8 clerk of the board shall keep a record of the report and shall
9 report to the board. The fingerprints received under this sec-
10 tion shall be filed in the bureau of identification of the
11 department of state police in the noncriminal section of the
12 files.

13 (3) ~~-(5)-~~ The application for a license shall state the
14 reason or reasons for the necessity or desirability of carrying a
15 pistol concealed on the person or a pistol, whether concealed or
16 otherwise, in a vehicle operated or occupied by the person apply-
17 ing for the license, and the license, if issued, shall be
18 restricted to the reason or reasons satisfactory to the board,
19 which restriction or restrictions shall appear on the face of the
20 license in a conspicuous place. The license shall be an authori-
21 zation to carry a pistol in compliance with this section only to
22 the extent contained in the face of the license and the license
23 shall be revoked by the board if the pistol is carried contrary
24 to the authorization.

25 (4) ~~-(6)-~~ The prosecuting attorney shall be the chairperson
26 of the board, which shall convene at least once in each calendar
27 month and at other times as the board is called to convene by the

1 chairperson. Each license shall be issued only upon written
2 application signed by the applicant and on oath and upon a form
3 provided by the director of the department of state police. Each
4 license shall be issued only with the approval of a majority of
5 the members of the board and shall be executed in triplicate upon
6 forms provided by the director of the department of state police
7 and shall be signed in the name of the concealed weapon licensing
8 board by the county clerk with the seal of the circuit court
9 affixed to the license. The county clerk shall first collect a
10 licensing fee of \$10.00 from the applicant for each license
11 delivered to the applicant. One copy of the license shall be
12 delivered to the applicant, the duplicate shall be retained by
13 the county clerk as a permanent official record for a period of 6
14 years, and the triplicate of the license shall be forwarded
15 within 48 hours to the director of the department of state police
16 who shall file and index each license received and retain it as a
17 permanent official record for a period of 6 years. A license
18 shall be issued for a definite period of not more than 3 years,
19 to be stated in the license, and a renewal of the license shall
20 not be granted except upon the filing of a new application. A
21 license shall bear the imprint of the right thumb of the licens-
22 ee, or, if that is not possible, of the left thumb or some other
23 finger of the licensee. The licensee shall carry the license
24 upon his or her person when carrying a pistol concealed upon his
25 or her person, or, whether concealed or otherwise, in a vehicle
26 operated or occupied by the licensee, and shall display the
27 license upon the request of a peace officer. On the first day of

1 each month the county clerk shall remit to the state treasurer
2 \$2.00 for each license issued during the preceding month. On the
3 first day of each month the county clerk shall pay into the gen-
4 eral fund of the county the remainder of each license fee for
5 each license issued during the preceding month.

6 (5) THE CONCEALED WEAPON LICENSING BOARD SHALL ISSUE A
7 LICENSE TO CARRY A PISTOL CONCEALED ON THE PERSON OR TO CARRY A
8 PISTOL, WHETHER CONCEALED OR OTHERWISE, OR IN A VEHICLE OPERATED
9 OR OCCUPIED BY THE PERSON APPLYING FOR THE LICENSE, IF ALL OF THE
10 FOLLOWING CIRCUMSTANCES EXIST:

11 (A) THE APPLICANT IS 21 YEARS OF AGE OR OLDER.

12 (B) THE APPLICANT HAS RESIDED IN THIS STATE FOR 6 MONTHS OR
13 MORE.

14 (C) THE APPLICANT HAS NOT BEEN CONVICTED OF A FELONY OR MIS-
15 DEMEANOR OR, IF HE OR SHE HAS BEEN CONVICTED OF A MISDEMEANOR,
16 HAS HAD THAT CONVICTION EXPUNGED.

17 (D) HAS NOT BEEN ADJUDICATED TO BE A LEGALLY INCAPACITATED
18 PERSON UNDER THE REVISED PROBATE CODE, ACT NO. 642 OF THE PUBLIC
19 ACTS OF 1978, BEING SECTIONS 700.1 TO 700.993 OF THE MICHIGAN
20 COMPILED LAWS, OR HAS BEEN ADJUDICATED RESTORED TO CAPACITY NOT
21 EARLIER THAN THE EXPIRATION OF 5 YEARS BEFORE THE DATE OF HIS OR
22 HER APPLICATION FOR A LICENSE UNDER THIS SECTION. AS USED IN
23 THIS SUBPARAGRAPH, "LEGALLY INCAPACITATED PERSON" MEANS THAT TERM
24 AS DEFINED UNDER SECTION 8 OF ARTICLE 1 OF THE REVISED PROBATE
25 CODE, ACT NO. 642 OF THE PUBLIC ACTS OF 1978, BEING SECTION 700.8
26 OF THE MICHIGAN COMPILED LAWS.

1 (E) HAS NOT BEEN AN INPATIENT IN A MENTAL HOSPITAL,
2 PSYCHIATRIC HOSPITAL, OR PSYCHIATRIC UNIT, OR WAS DISCHARGED FROM
3 THAT MENTAL HOSPITAL, PSYCHIATRIC HOSPITAL, OR PSYCHIATRIC UNIT
4 NOT EARLIER THAN THE EXPIRATION OF 5 YEARS BEFORE THE DATE OF HIS
5 OR HER APPLICATION FOR A LICENSE UNDER THIS SECTION. AS USED IN
6 THIS SUBDIVISION, "MENTAL HOSPITAL", "PSYCHIATRIC HOSPITAL", OR
7 "PSYCHIATRIC UNIT" MEANS THAT TERM AS DEFINED IN SECTION 135 OF
8 THE MENTAL HEALTH CODE, ACT NO. 258 OF THE PUBLIC ACTS OF 1974,
9 BEING SECTION 330.1135 OF THE MICHIGAN COMPILED LAWS.

10 (F) THE APPLICANT HAS NO PHYSICAL INFIRMITY THAT WOULD PRE-
11 VENT THE APPLICANT FROM SAFELY HANDLING A PISTOL.

12 (G) THE APPLICANT INTENDS TO CARRY THE PISTOL FOR A LAWFUL
13 PURPOSE.

14 (H) THE APPLICANT CAN DOCUMENT KNOWLEDGE OR TRAINING IN THE
15 SAFE USE AND HANDLING OF A PISTOL BY 1 OF THE FOLLOWING:

16 (i) SUCCESSFUL COMPLETION OF A HUNTER SAFETY EDUCATION
17 COURSE OR CLASS PRESENTED BY THIS STATE OR BY ANOTHER STATE.

18 (ii) SUCCESSFUL COMPLETION OF A FIREARMS SAFETY OR TRAINING
19 COURSE OR CLASS PRESENTED BY THE NATIONAL RIFLE ASSOCIATION.

20 (iii) SUCCESSFUL COMPLETION OF A FIREARMS SAFETY TRAINING
21 COURSE OR CLASS AVAILABLE TO THE GENERAL PUBLIC AND PRESENTED BY
22 A LAW ENFORCEMENT AGENCY, JUNIOR COLLEGE, COLLEGE, OR PUBLIC OR
23 PRIVATE INSTITUTION OR ORGANIZATION OR FIREARMS TRAINING SCHOOL,
24 AND USING INSTRUCTORS CERTIFIED BY THE NATIONAL RIFLE ASSOCIATION
25 OR BY THIS STATE.

1 (iv) SUCCESSFUL COMPLETION OF A LAW ENFORCEMENT FIREARMS
2 SAFETY TRAINING COURSE OR CLASS OFFERED FOR SECURITY GUARDS,
3 INVESTIGATORS, SPECIAL DEPUTIES, OR LAW ENFORCEMENT OFFICERS.

4 (v) SUCCESSFUL COMPLETION OF A FIREARMS TRAINING OR SAFETY
5 COURSE OR CLASS CONDUCTED BY AN INSTRUCTOR CERTIFIED BY THIS
6 STATE, OR BY ANOTHER STATE, OR BY THE NATIONAL RIFLE
7 ASSOCIATION.

8 (vi) PROOF OF EXPERIENCE EQUIVALENT TO A COURSE OR CLASS
9 DESCRIBED IN SUBPARAGRAPHS (i) TO (v).

10 (vii) PROOF THAT HE OR SHE IS LICENSED OR HAS BEEN LICENSED
11 IN THIS STATE OR IN ANOTHER STATE TO CARRY A CONCEALED WEAPON
12 UNLESS THAT LICENSE WAS REVOKED FOR CAUSE.

13 (6) A PHOTOCOPY OF A CERTIFICATE OF COMPLETION OF A COURSE
14 OR CLASS DESCRIBED IN SUBSECTION (5)(H)(i) TO (v), OR AN AFFIDA-
15 VIT FROM THE INSTRUCTOR, SCHOOL, CLUB, OR GROUP PRESENTING A
16 CLASS OR COURSE DESCRIBED IN SUBSECTION (5)(H)(i) TO (v) STATING
17 THAT THE APPLICANT SUCCESSFULLY COMPLETED THE COURSE OR CLASS, OR
18 A COPY OF A DOCUMENT THAT SHOWS COMPLETION OF A COURSE OR CLASS
19 IN FIREARMS COMPETITION, IS EVIDENCE THAT THE APPLICANT SUCCESS-
20 FULLY COMPLETED THAT COURSE OR CLASS.

21 (7) A LICENSE SHALL BE ISSUED OR DENIED UNDER THIS SECTION
22 ON OR BEFORE THE EXPIRATION OF 90 DAYS AFTER THE APPLICATION FOR
23 THE LICENSE IS RECEIVED BY THE BOARD.

24 (8) IF THE CONCEALED WEAPON LICENSING BOARD ISSUES A LICENSE
25 TO CARRY A PISTOL, WHETHER CONCEALED OR OTHERWISE, IN A VEHICLE
26 OPERATED OR OCCUPIED BY THE APPLICANT, THE CONCEALED WEAPON
27 LICENSING BOARD SHALL PROVIDE THE APPLICANT WITH A DECAL

1 DISTRIBUTED PURSUANT TO SUBSECTION (9) THAT THE APPLICANT MAY
2 PLACE IN THE REAR WINDOW OF A MOTOR VEHICLE OPERATED OR OCCUPIED
3 BY THE APPLICANT.

4 (9) THE DEPARTMENT OF STATE SHALL DESIGN A DECAL BASED UPON
5 THE FIRST FLAG USED BY THE CONSTITUTIONAL CONGRESS, AND CONTAIN-
6 ING THE PHRASE "DON'T TREAD ON ME". THE DEPARTMENT OF STATE
7 SHALL, BY JANUARY 1, 1993, AND ON A CONTINUING BASIS, DISTRIBUTE
8 DECALS TO CONCEALED WEAPON LICENSING BOARDS FOR PURPOSES OF
9 SUBSECTION (8). THE DEPARTMENT OF STATE SHALL NOT CHARGE A FEE
10 FOR THE DECALS.

11 (10) ~~-(7)-~~ The county clerk may issue a copy of a license
12 issued pursuant to this section for a fee of \$3.00 which fee
13 shall be paid into the general fund of the county.

14 (11) ~~-(8)-~~ A charter county may impose by ordinance a dif-
15 ferent amount for the concealed weapon licensing fee prescribed
16 by subsection (6). A charter county shall not impose a fee
17 ~~which~~ THAT is greater than the cost of the service for which
18 the fee is charged.