

HOUSE BILL No. 5399

December 11, 1991, Introduced by Reps. Perry Bullard, Yokich, Leland, Bennane, Pitoniak, Olshove, Berman, Dobronski, Barns and Baade and referred to the Committee on Judiciary.

A bill to amend sections 222, 223, and 239 of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

section 223 as amended by Act No. 321 of the Public Acts of 1990, being sections 750.222, 750.223, and 750.239 of the Michigan Compiled Laws; and to add section 224f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 222, 223, and 239 of Act No. 328 of the
2 Public Acts of 1931, section 223 as amended by Act No. 321 of the
3 Public Acts of 1990, being sections 750.222, 750.223, and 750.239
4 of the Michigan Compiled Laws, are amended and section 224f is
5 added to read as follows:

6 Sec. 222. As used in this chapter:

1 (A) "BARREL LENGTH" MEANS THE INTERNAL LENGTH OF A FIREARM
2 AS MEASURED FROM THE FACE OF THE CLOSED BREACH OF THE FIREARM
3 WHEN IT IS UNLOADED, TO THE FORWARD FACE OF THE END OF THE
4 BARREL.

5 (B) "CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR"
6 DOES NOT INCLUDE A VIOLATION OF A LAW OF THIS STATE, OR OF
7 ANOTHER STATE, OR OF THE UNITED STATES, THAT IS CLASSIFIED AS A
8 MISDEMEANOR AND THAT IS PUNISHABLE BY IMPRISONMENT FOR 2 YEARS OR
9 LESS.

10 (C) "FIREARM" MEANS A WEAPON FROM WHICH A DANGEROUS PROJEC-
11 TILE MAY BE PROPELLED BY AN EXPLOSIVE, OR BY GAS OR AIR. FIREARM
12 DOES NOT INCLUDE A SMOOTH BORE RIFLE OR HANDGUN DESIGNED AND MAN-
13 UFACTURED EXCLUSIVELY FOR PROPELLING BY A SPRING, OR BY GAS OR
14 AIR, BB'S NOT EXCEEDING .177 CALIBER.

15 (D) ~~(a)~~ "Pistol" means a firearm, loaded or unloaded, 30
16 inches or less in length, or any firearm, loaded or unloaded,
17 which by its construction and appearance conceals it as a
18 firearm.

19 (E) ~~(b)~~ "Purchaser" means a person who receives a pistol
20 from another by purchase, gift, or loan.

21 (F) ~~(c)~~ "Seller" means a person who sells, furnishes,
22 loans, or gives a pistol to another.

23 (G) ~~(d)~~ "Shotgun" means a firearm designed or redesigned,
24 made or remade, and intended to be fired from the shoulder and
25 designed or redesigned and made or remade to use the energy of
26 the explosive in a fixed shotgun shell to fire through a smooth

1 bore either a number of ball shot or a single projectile for each
2 single function of the trigger.

3 (H) ~~(e)~~ "Short-barreled shotgun" means a shotgun having 1
4 or more barrels less than 18 inches in length or a weapon made
5 from a shotgun, whether by alteration, modification, or other-
6 wise, if the weapon as modified has an overall length of less
7 than 26 inches.

8 (I) ~~(f)~~ "Rifle" means a firearm designed or redesigned,
9 made or remade, and intended to be fired from the shoulder and
10 designed or redesigned and made or remade to use the energy of
11 the explosive in a fixed metallic cartridge to fire only a single
12 projectile through a rifled bore for each single pull of the
13 trigger.

14 (J) ~~(g)~~ "Short-barreled rifle" means a rifle having 1 or
15 more barrels less than 16 inches in length or a weapon made from
16 a rifle, whether by alteration, modification, or otherwise, if
17 the weapon as modified has an overall length of less than 26
18 inches.

19 ~~(h) "Barrel length" of a firearm shall be measured inter-~~
20 ~~nally, from the face of the closed breach of an unloaded firearm,~~
21 ~~to the forward face of the end of the barrel.~~

22 Sec. 223. (1) A person who knowingly sells a pistol TO
23 ANOTHER PERSON without complying with section 2 of Act No. 372
24 of the Public Acts of 1927, as amended, being section 28.422 of
25 the Michigan Compiled Laws, is guilty of a misdemeanor, punish-
26 able by imprisonment for not more than 90 days, or a fine of not
27 more than \$100.00, or both.

1 (2) A person who knowingly sells a firearm more than 30
2 inches in length to a person under 18 years of age is guilty of a
3 misdemeanor, punishable by imprisonment for not more than 90
4 days, or a fine of not more than \$500.00, or both. A second or
5 subsequent violation of this subsection is a felony punishable by
6 imprisonment for not more than 4 years, or a fine of not more
7 than \$2,000.00, or both. It is an affirmative defense to a pros-
8 ecution under this subsection that the person who sold the fire-
9 arm asked to see and was shown a driver's license or identifica-
10 tion card issued by a state that identified the purchaser as
11 being 18 years of age or older.

12 (3) A licensed dealer who knowingly sells a pistol TO
13 ANOTHER PERSON without complying with section 2a of Act No. 372
14 of the Public Acts of 1927, being section 28.422a of the Michigan
15 Compiled Laws, is guilty of a misdemeanor, punishable by a fine
16 of not more than \$100.00.

17 (4) Except as provided in subsection (5), a person shall not
18 sell, GIVE, OR LEND a firearm or ammunition to a person the
19 seller, GIVER, OR LENDER knows is under indictment for ~~or has~~
20 ~~been convicted of~~ a crime punishable by imprisonment for more
21 than 1 year, OR WHO THE SELLER, GIVER, OR LENDER KNOWS IS PROHIB-
22 ITED FROM POSSESSING, USING, TRANSPORTING, SELLING, PURCHASING,
23 CARRYING, SHIPPING, RECEIVING, OR DISTRIBUTING ANY FIREARM OR
24 AMMUNITION UNDER SECTION 224F.

25 (5) Subsection (4) does not apply to a purchaser who is a
26 licensed seller during the term of the indictment until any
27 conviction pursuant to the indictment becomes final. ~~or to a~~

~~1 purchaser granted relief from the disability pursuant to
2 section 2 of Act No. 372 of the Public Acts of 1927.~~

3 (6) A person who violates subsection (4) is guilty of a
4 felony, punishable by imprisonment for not more than 10 years, or
5 by a fine of not more than \$5,000.00, or both.

6 (7) As used in this section, ~~-(a) "Licensed~~ "LICENSED
7 dealer" means a person licensed under section 923 of chapter 44
8 of title 18 of the United States Code who regularly buys and
9 sells firearms as a commercial activity with the principal objec-
10 tive of livelihood and profit.

11 ~~-(b) "Crime punishable by imprisonment for more than 1 year"~~
12 ~~means that term as defined in section 2 of Act No. 372 of the~~
13 ~~Public Acts of 1927.~~

14 SEC. 224F. (1) A PERSON WHO IS CONVICTED OF A CRIME PUNISH-
15 ABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR SHALL NOT POSSESS, USE,
16 TRANSPORT, SELL, PURCHASE, CARRY, SHIP, RECEIVE, OR DISTRIBUTE
17 ANY FIREARM OR AMMUNITION IN THIS STATE UNTIL THE EXPIRATION OF A
18 PERIOD EQUAL TO 3 TIMES THE STATUTORY MAXIMUM SENTENCE THAT MAY
19 BE IMPOSED FOR THE CRIME. IF THE PERSON IS CONVICTED OF MORE
20 THAN 1 CRIME ARISING OUT OF THE SAME TRANSACTION, THE PERIOD
21 SHALL BE EQUAL TO 3 TIMES THE STATUTORY MAXIMUM SENTENCE THAT MAY
22 BE IMPOSED FOR THE CRIME HAVING THE LONGEST STATUTORY MAXIMUM
23 SENTENCE.

24 (2) IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF A CRIME
25 PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR, THE PERIOD
26 DESCRIBED UNDER SUBSECTION (1) SHALL RUN CONSECUTIVELY TO ANY
27 PERIOD REMAINING FOR THE PRIOR CONVICTION.

1 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON WHO
2 VIOLATES SUBSECTION (1) IS GUILTY OF A FELONY, PUNISHABLE BY
3 IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR BY A FINE OF NOT MORE
4 THAN \$10,000.00, OR BOTH.

5 (4) A PERSON WHO VIOLATES SUBSECTION (1) WHO PREVIOUSLY HAS
6 BEEN CONVICTED OF VIOLATING SUBSECTION (1) IS GUILTY OF A FELONY,
7 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS, OR A FINE
8 OF NOT MORE THAN \$50,000.00, OR BOTH.

9 Sec. 239. (1) All pistols, weapons, or devices carried,
10 possessed, or used ~~contrary to~~ IN VIOLATION OF this chapter are
11 ~~hereby declared~~ forfeited to the state. ~~, and shall be turned~~
12 ~~over to the commissioner of the Michigan state police or his des-~~
13 ~~ignated representative, for such disposition as the commissioner~~
14 ~~may prescribe.~~

15 (2) ALL FIREARMS OWNED OR POSSESSED BY A PERSON CONVICTED OF
16 A CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR ARE FOR-
17 FEITED TO THE STATE.

18 (3) A FIREARM, WEAPON, OR DEVICE FORFEITED TO THE STATE
19 UNDER THIS SECTION SHALL BE TURNED OVER TO THE DIRECTOR OF THE
20 DEPARTMENT OF STATE POLICE OR HIS OR HER DESIGNATED REPRESENTA-
21 TIVE FOR SUCH DISPOSITION AS THE DIRECTOR OF THE DEPARTMENT OF
22 STATE POLICE PRESCRIBES.

23 Section 2. This amendatory act shall not take effect unless
24 Senate Bill No. ____ or House Bill No. 5400 (request
25 no. 05082'91 a *) of the 86th Legislature is enacted into law.