

# HOUSE BILL No. 5433

January 8, 1992, Introduced by Rep. Nye and referred to the Committee on Judiciary.

A bill to amend section 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,"

as amended by Act No. 320 of the Public Acts of 1990, being section 28.422 of the Michigan Compiled Laws; and to add section 4.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

24       (c) The person ~~has not been convicted of a crime punishable~~  
25 ~~by imprisonment for more than 1 year. This subdivision does not~~  
26 ~~apply to a conviction that has been expunged or set aside, or for~~  
27 ~~which the person has been pardoned or had his or her civil rights~~

~~1 restored unless the expungement, order, or pardon expressly~~  
~~2 provides that the person shall not ship, transport, possess, or~~  
~~3 receive firearms~~ IS NOT PROHIBITED UNDER SECTION 224F OF THE  
4 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,  
5 BEING SECTION 750.224F OF THE MICHIGAN COMPILED LAWS, FROM POS-  
6 SESSING A FIREARM.

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

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

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

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

1 shall allow the person to attempt to complete the questionnaire  
2 during normal business hours on the day the person applies for  
3 his or her license.

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

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

20       (6) One copy of the license shall be retained by the licens-  
21 ing authority as an official record for a period of 6 years. The  
22 other copy of the license shall be forwarded by the licensing  
23 authority within 48 hours to the director. A license shall be  
24 void unless used within 10 days after the date of its 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, ~~:(a) "Crime punishable by~~  
9 ~~imprisonment for more than 1 year" does not include a state~~  
10 ~~offense classified by the state as a misdemeanor and punishable~~  
11 ~~by imprisonment for 2 years or less. (b) "Director" "DIRECTOR"~~  
12 means the director of the department of state police.

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

15 SEC. 4. (1) A PERSON WHO IS PROHIBITED FROM POSSESSING A  
16 FIREARM UNDER SECTION 224F(2) OF THE MICHIGAN PENAL CODE, ACT  
17 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.224F OF THE  
18 MICHIGAN COMPILED LAWS, MAY APPLY TO THE DIRECTOR OF THE DEPART-  
19 MENT OF STATE POLICE FOR RELIEF FROM THAT PROHIBITION UPON THE  
20 EXPIRATION OF 5 YEARS AFTER ALL OF THE FOLLOWING CIRCUMSTANCES  
21 EXIST:

22 (A) HE OR SHE HAS PAID ALL FINES IMPOSED FOR THE VIOLATION  
23 RESULTING IN THE PROHIBITION.

24 (B) HE OR SHE HAS SERVED ANY TERM OF IMPRISONMENT IMPOSED  
25 FOR THE VIOLATION RESULTING IN THE PROHIBITION.

1 (C) HE OR SHE HAS SUCCESSFULLY COMPLETED ALL CONDITIONS OF  
2 PROBATION OR PAROLE IMPOSED FOR THE VIOLATION RESULTING IN THE  
3 PROHIBITION.

4 (2) NOT MORE THAN 1 APPLICATION MAY BE SUBMITTED UNDER  
5 SUBSECTION (1) IN ANY CALENDAR YEAR. THE DIRECTOR OF THE DEPART-  
6 MENT OF STATE POLICE SHALL CHARGE A FEE FOR EACH APPLICATION.  
7 THE FEE SHALL NOT EXCEED THE ACTUAL COSTS OF PROCESSING THE  
8 APPLICATION.

9 (3) THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE SHALL, BY  
10 ADMINISTRATIVE ORDER, REMOVE ANY PROHIBITION AGAINST THE PERSON  
11 IMPOSED UNDER SECTION 224F(2) IF THE DIRECTOR DETERMINES, BY  
12 CLEAR AND CONVINCING EVIDENCE, THAT ALL OF THE FOLLOWING CIRCUM-  
13 STANCES EXIST:

14 (A) THE PERSON PROPERLY SUBMITTED AN APPLICATION FOR REMOVAL  
15 OF THE PROHIBITION AS PROVIDED UNDER THIS SECTION.

16 (B) ALL OF THE CIRCUMSTANCES SET FORTH IN SECTION 224F(2)(A)  
17 TO (C) EXIST.

18 (C) THE PERSON'S RECORD AND REPUTATION ARE SUCH THAT THE  
19 PERSON IS NOT LIKELY TO ACT IN A MANNER DANGEROUS TO THE SAFETY  
20 OF OTHER PERSONS.

21 (4) IF THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE PURSU-  
22 ANT TO SUBSECTION (3) REFUSES TO REMOVE ANY PROHIBITIONS AGAINST  
23 THE PERSON, THE PERSON MAY PETITION TO THE CIRCUIT COURT IN WHICH  
24 THE PERSON RESIDES FOR REMOVAL OF THE PROHIBITIONS. THE COURT  
25 SHALL REVIEW THE PETITION DE NOVO.

26 (5) THE DEPARTMENT OF STATE POLICE SHALL PROMULGATE RULES  
27 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT

1 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO  
2 24.328 OF THE MICHIGAN COMPILED LAWS, TO IMPLEMENT THIS SECTION.

3 Section 2. This amendatory act shall not take effect unless  
4 Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
5 no. 05109'91 \*) of the 86th Legislature is enacted into law.