

Act No. 338
Public Acts of 1994
Approved by the Governor
October 18, 1994
Filed with the Secretary of State
October 18, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Dingell Welborn Dillingham Kelly Cherry Arthurhultz and Cisky

ENROLLED SENATE BILL No. 972

AN ACT 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. 220 of the Public Acts of 1992 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 and to add section 2b

The People of the State of Michigan enact

Section 1 Sections 2 and 6 of Act No. 372 of the Public Acts of 1927 section 2 as amended by Act No. 220 of the Public Acts of 1992 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 are amended and section 2b is added to read as follows

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 that issues licenses to purchase carry or transport pistols 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 in discharging the duty to issue licenses shall with due speed and diligence issue licenses to purchase carry or transport pistols to qualified applicants residing within the city village township or county as applicable unless he or she has probable cause to believe that the applicant would be a threat to himself or herself or to other individuals or would commit an offense with the pistol that would violate a law of this or another state or of the United States An applicant is qualified if all of the following circumstances exist

(a) The person is not subject to an order or disposition for which he or she has received notice and an opportunity for a hearing and which was entered into the law enforcement information network pursuant to any of the following

(i) Section 464a(1) of the mental health code Act No. 258 of the Public Acts of 1974 being section 330 1464a of the Michigan Compiled Laws

(ii) Section 444a(1) of the revised probate code Act No. 642 of the Public Acts of 1978 being section 700 444a of the Michigan Compiled Laws

(iii) Section 2950(9) of the revised judicature act of 1961 Act No 236 of the Public Acts of 1961 being section 600 2950 of the Michigan Compiled Laws

(iv) Section 2950a(7) of Act No 236 of the Public Acts of 1961 being section 600 2950a of the Michigan Compiled Laws

(v) Section 14(7) of chapter 84 of the Revised Statutes of 1846 being section 552 14 of the Michigan Compiled Laws

(vi) Section 6b(5) of chapter V of the code of criminal procedure Act No 175 of the Public Acts of 1927 being section 765 6b of the Michigan Compiled Laws if the order has a condition imposed pursuant to section 6b(3) of chapter V of Act No 175 of the Public Acts of 1927

(vii) Section 16b(1) of chapter IX of Act No 175 of the Public Acts of 1927 being section 769 16b of the Michigan Compiled Laws

(b) 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

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

(d) A felony charge against the person is not pending at the time of application

(e) 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

(f) 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

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

(h) 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

(i) 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 is 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) The licensing authority shall provide a basic pistol safety brochure to each applicant for a license under this section before the applicant answers the basic pistol safety review questionnaire A basic pistol safety brochure shall contain but is not limited to providing information on all of the following subjects

(a) Rules for safe handling and use of pistols

(b) Safe storage of pistols

(c) Nomenclature and description of various types of pistols

(d) The responsibilities of owning a pistol

(9) The basic pistol safety brochure shall be supplied in addition to the safety pamphlet required by section 9b

(10) The basic pistol safety brochure required in subsection (8) shall be produced by a national nonprofit membership organization that provides voluntary pistol safety programs that include training individuals in the safe handling and use of pistols

(11) 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

(12) A licensing authority shall implement this section during all of the licensing authority's normal business hours and shall set hours for implementation that allow an applicant to use the license within the time period set forth in subsection (6)

Sec 2b (1) Upon entry of an order or disposition into the law enforcement information network under any provision of law described in section 2(3)(a) the department of state police shall immediately send written notice of that entry to the person who is the subject of the order or disposition. The notice shall be sent by first class mail to the last known address of the person. The notice shall include at least all of the following

(a) The name of the person

(b) The date the order or disposition was entered into the law enforcement information network

(c) A statement that the person cannot obtain a license to purchase a pistol or obtain a concealed weapon license until the order or disposition is removed from the law enforcement information network

(d) A statement that the person may request that the state police correct or expunge inaccurate information entered into the law enforcement information network

(2) A person who is the subject of an order entered into the law enforcement information network under any provision of law described in section 2(3)(a) may request that the department of state police do either of the following

(a) Amend an inaccuracy in the information entered into the law enforcement information network under any provision of law described in section 2(3)(a)

(b) Expunge the person's name and other information concerning the person from the law enforcement information network regarding 1 or more specific entries in the law enforcement information network under any provision of law described in section 2(3)(a) because 1 or more of the following circumstances exist

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

(ii) The person is not subject to an order or disposition determining that the person is legally incapacitated

(iii) The person is not subject to an injunctive order that prohibits the purchase or possession of a firearm by the person issued under any of the following

(A) Section 2950 of the revised judicature act of 1961 Act No 236 of the Public Acts of 1961 being section 600 2950 of the Michigan Compiled Laws

(B) Section 2950a of Act No 236 of the Public Acts of 1961 being section 600 2950a of the Michigan Compiled Laws

(C) Section 14 of chapter 84 of the Revised Statutes of 1846 being section 552 14 of the Michigan Compiled Laws

(iv) The person is not subject to an order for release subject to protective conditions that prohibits the purchase or possession of a firearm by the person issued under section 6b of chapter V of Act No 175 of the Public Acts of 1927 being section 765 6b of the Michigan Compiled Laws

(3) Before the expiration of 30 days after a request is made to amend an inaccuracy in the law enforcement information network under subsection (2)(a) or to expunge 1 or more specific entries from the law enforcement information network under subsection (2)(b)(i) to (iv) the department of state police shall conduct an investigation concerning the accuracy of the information contained in the law enforcement information network either grant or deny the request and provide the person with written notice of that grant or denial. A notice of denial shall include a statement specifying the basis of the denial and that a person may appeal the denial pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 being sections 24 201 to 24 328 of the Michigan Compiled Laws

(4) If the department of state police refuses a request by a person for amendment or expunction under subsection (2) or fails to act within 30 days after receiving the request under subsection (2) the person may request a hearing before a hearing officer appointed by the department of state police for a determination of whether information entered into the law enforcement information network should be amended or expunged because it is inaccurate or false. The department of state police shall conduct the hearing pursuant to Act No 306 of the Public Acts of 1969

(5) Information contained in an order or disposition filed with the department of state police under any provision of law described in section 2(3)(a)(i) to (vi) is exempt from public disclosure under the freedom of information act Act No 442 of the Public Acts of 1976 being sections 15 231 to 15 246 of the Michigan Compiled Laws

Sec 6 (1) The prosecuting attorney the sheriff and the director of the department of state police or their respective authorized deputies shall constitute boards exclusively authorized to issue a license to an applicant residing within their respective counties to carry a pistol concealed on the person and to carry a pistol whether concealed or otherwise in a vehicle operated or occupied by the applicant The county clerk of each county shall be clerk of the licensing board which board shall be known as the concealed weapon licensing board A license to carry a pistol concealed on the person or to carry a pistol whether concealed or otherwise in a vehicle operated or occupied by the person applying for the license shall not be granted to a person unless the person is 18 years of age or older is a citizen of the United States and has resided in this state 6 months or more A license shall not be issued unless it appears that the applicant has good reason to fear injury to his or her person or property or has other proper reasons and is a suitable person to be licensed A license shall not be issued under this section unless all of the following circumstances exist

(a) The person is not the subject of an order or disposition entered into the law enforcement information network pursuant to any of the following

(i) Section 464a(1) of the mental health code Act No 258 of the Public Acts of 1974 being section 330 1464a of the Michigan Compiled Laws

(ii) Section 444a(1) of the revised probate code Act No 642 of the Public Acts of 1978 being section 700 444a of the Michigan Compiled Laws

(iii) Section 2950(9) of the revised judicature act of 1961 Act No 236 of the Public Acts of 1961 being section 600 2950 of the Michigan Compiled Laws

(iv) Section 2950a(7) of Act No 236 of the Public Acts of 1961 being section 600 2950a of the Michigan Compiled Laws

(v) Section 14(7) of chapter 84 of the Revised Statutes of 1846 being section 552 14 of the Michigan Compiled Laws

(vi) Section 6b(5) of chapter V of the code of criminal procedure Act No 175 of the Public Acts of 1927 being section 765 6b of the Michigan Compiled Laws if the order has a condition imposed pursuant to section 6b(3) of chapter V of Act No 175 of the Public Acts of 1927

(vii) Section 16b(1) of chapter IX of Act No 175 of the Public Acts of 1927 being section 769 16b of the Michigan Compiled Laws

(b) The person has not been convicted of a felony or confined for a felony conviction in this state or elsewhere during the 8 year period immediately preceding the date of the application and a felony charge against the person is not pending at the time he or she applies for a license described in this section

(c) The person has not been adjudged insane unless the person has been adjudged restored to sanity by court order

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

(e) 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 court order

(2) If an applicant resides in a city village or township having an organized department of police a license shall not be issued unless the application is first approved in writing by the supervisor commissioner or chief of police or marshal of that city village or township If an application is not approved in the manner prescribed by this subsection the applicant has 10 days to appeal in writing to the concealed weapon licensing board in the county in which the applicant resides Upon receipt of a written appeal that concealed weapon licensing board shall schedule a hearing to be held at its next scheduled meeting which shall not be less than 15 days after the receipt of the fingerprint comparison report The concealed weapon licensing board shall determine at the hearing whether the applicant is qualified to carry a concealed weapon pursuant to this section Notice of the hearing shall be mailed to the applicant and the organized department of police not less than 10 days before the scheduled hearing The applicant shall deposit the sum of \$10 00 with the county clerk at the time the appeal is made If after appeal a license is not issued the deposit shall be credited to the general fund of the county If a license is issued the deposit shall be processed as the license fee required under subsection (6)

(3) If an applicant does not reside in a city village or township that has an organized department of police a license shall not be issued unless the application is first submitted for approval or objection to the supervisor of the township in which the applicant resides The supervisor shall indicate in writing on the application whether he or she objects to the license being issued If action is not taken by a supervisor within 14 days after the application is submitted to the supervisor the concealed weapon licensing board shall consider the application as if a statement of no objection had been included If the supervisor objects to the application in writing the applicant may appeal the objection to the

concealed weapon licensing board of the county in which the applicant resides within 10 days after the objection. Upon receipt of a written appeal, that concealed weapon licensing board shall schedule a hearing to be held at its next scheduled meeting, which shall not be less than 15 days after the receipt of the fingerprint comparison report. The concealed weapon licensing board shall determine at the hearing whether the applicant is qualified to carry a concealed weapon pursuant to this section. Notice of the hearing shall be mailed to the applicant and the supervisor of the township not less than 10 days before the scheduled hearing. The applicant shall deposit the sum of \$10.00 with the county clerk at the time the appeal is made. If, after appeal, a license is not issued, the deposit shall be credited to the general fund of the county. If a license is issued, the deposit shall be processed as the license fee required under subsection (6).

(4) An applicant shall have 2 sets of fingerprints taken by the sheriff or the sheriff's authorized representative of the county in which the applicant resides, if the applicant does not reside in a city, village, or township having an organized department of police, or by the commissioner or chief of police or marshal or an authorized representative of the commissioner or chief of police or marshal, if the applicant resides within a city, village, or township having an organized department of police. The first set of fingerprints shall be taken on forms furnished by the department of state police, and the second set on forms furnished by the federal bureau of investigation. The person taking the prints shall forward the first set of fingerprints to the department of state police and the second set to the federal bureau of investigation or other agency designated by the federal bureau of investigation. The director of the bureau of identification of the department of state police shall compare the fingerprints with those already on file in the bureau. A license shall not be issued unless the report is received by the clerk of the board from the department of state police and the federal bureau of investigation that the comparisons do not show that the applicant was convicted of or confined for a felony during the 8-year period. The board may grant a temporary permit in case of emergency pending the results of the comparisons. The temporary permit shall be issued for a period of not more than 30 days and shall expire automatically at the end of the period for which it was issued. Upon receipt of the comparison report from the federal bureau of investigation, the bureau of identification of the department of state police shall forward a report of both comparisons to the officer taking the prints and also to the county clerk of the county in which the applicant resides, who as clerk of the board shall keep a record of the report and shall report to the board. The fingerprints received under this section shall be filed in the bureau of identification of the department of state police in the noncriminal section of the files.

(5) The application for a license shall state each reason for the necessity or desirability of carrying a pistol concealed on the person or carrying a pistol, whether or not concealed, in a vehicle occupied by the person applying for the license. A license issued under this section shall limit the carrying of a pistol to the reason or reasons satisfactory to the board, and each restriction shall appear conspicuously on the face of the license. The license shall be an authorization to carry a pistol in compliance with this section only to the extent contained in the face of the license, and the license shall be revoked by the board if the pistol is carried contrary to the authorization.

(6) The prosecuting attorney shall be the chairperson of the board, which shall convene at least once in each calendar month and at other times as the board is called to convene by the chairperson. Each license shall be issued only upon written application signed by the applicant under oath and upon a form provided by the director of the department of state police. Each license shall be issued only with the approval of a majority of the members of the board and shall be executed in triplicate upon forms provided by the director of the department of state police. Each license shall be signed in the name of the concealed weapon licensing board by the county clerk with the seal of the circuit court affixed to the license. The county clerk shall first collect a licensing fee of \$10.00 from the applicant for each license delivered to the applicant. One copy of the license shall be delivered to the applicant; the duplicate shall be retained by the county clerk as a permanent official record for a period of 6 years, and the triplicate of the license shall be forwarded within 48 hours to the director of the department of state police, who shall file and index each license received and retain it as a permanent official record for a period of 6 years. A license is valid for a definite period of not more than 3 years, and that period shall be stated in the license. A renewal of the license shall not be granted except upon the filing of a new application. A license shall bear the imprint of the right thumb of the licensee, or, if a right thumb imprint is impossible to obtain, the license shall bear the imprint of the left thumb or some other finger of the licensee. The licensee shall carry the license upon his or her person when carrying a pistol concealed upon his or her person, or when carrying the pistol, whether or not concealed, in a vehicle occupied by the licensee. The licensee shall display the license upon the request of a peace officer. On the first day of each month, the county clerk shall remit to the state treasurer \$2.00 for each license issued during the preceding month. On the first day of each month, the county clerk shall pay into the general fund of the county the remainder of each license fee for each license issued during the preceding month.

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

(8) A charter county may impose by ordinance a different amount for the concealed weapon licensing fee prescribed by subsection (6). A charter county shall not impose a fee which is greater than the cost of the service for which the fee is charged.

Section 2 This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law

- (a) Senate Bill No 973
- (b) Senate Bill No 974
- (c) Senate Bill No 975
- (d) Senate Bill No 976
- (e) Senate Bill No 977

Section 3 This amendatory act shall take effect April 1 1996

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor