



HOUSE BILL No. 5454

March 24 1994 Introduced by Reps Jaye Kukuk Kaza Walberg Vorva Jamian Griffin Gustafson Whyman Shugars and Cropsey 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 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

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 220 of the Public

1 Acts of 1992 and section 6 as amended by Act No 295 of the
2 Public Acts of 1984, being sections 28 422 and 28 426 of the
3 Michigan Compiled Laws, are amended to read as follows

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

8 (2) A person who brings a pistol into this state who is on
9 leave from active duty with the armed forces of the United States
10 or who has been discharged from active duty with the armed forces
11 of the United States shall obtain a license for the pistol within
12 30 days after his or her arrival in this state

13 (3) The commissioner or chief of police of a city, township,
14 or village police department that issues licenses to purchase,
15 carry, or transport pistols, or his or her duly authorized
16 deputy, or the sheriff or his or her duly authorized deputy, in
17 the parts of a county not included within a city, township, or
18 village having an organized police department, in discharging the
19 duty to issue licenses shall with due speed and diligence issue
20 licenses to purchase, carry, or transport pistols to qualified
21 applicants residing within the city, village, township, or
22 county, as applicable unless he or she has probable cause to
23 believe that the applicant would be a threat to himself or her-
24 self or to other individuals, or would commit an offense with the
25 pistol that would violate a law of this or another state or of
26 the United States An applicant is qualified if all of the
27 following circumstances exist

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

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

6 (c) The person is not prohibited from possessing, using,
7 transporting, selling, purchasing, carrying, shipping, receiving,
8 or distributing a firearm under section 224f of the Michigan
9 penal code, Act No 328 of the Public Acts of 1931, being section
10 750 224f of the Michigan Compiled Laws

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

14 (e) The person is not under an order of involuntary commit-
15 ment in an inpatient or outpatient setting due to mental
16 illness

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

21 (g) The person correctly answers 70% or more of the ques-
22 tions on a basic pistol safety review questionnaire approved by
23 the basic pistol safety review board and provided to the individ-
24 ual free of charge by the licensing authority If the person
25 fails to correctly answer 70% or more of the questions on the
26 basic pistol safety review questionnaire, the licensing authority
27 shall inform the person of the questions he or she answered

1 incorrectly and allow the person to attempt to complete another
2 basic pistol safety review questionnaire The person shall not
3 be allowed to attempt to complete more than 2 basic pistol safety
4 review questionnaires on any single day The licensing authority
5 shall allow the person to attempt to complete the questionnaire
6 during normal business hours on the day the person applies for
7 his or her license

8 (4) Applications for licenses under this section shall be
9 signed by the applicant under oath upon forms provided by the
10 director of the department of state police Licenses to pur-
11 chase, carry, or transport pistols shall be executed in tripli-
12 cate upon forms provided by the director of the department of
13 state police and shall be signed by the licensing authority
14 Three copies of the license shall be delivered to the applicant
15 by the licensing authority

16 (5) Upon the sale of the pistol, the seller shall fill out
17 the license forms describing the pistol sold, together with the
18 date of sale, and sign his or her name in ink indicating that the
19 pistol was sold to the licensee The licensee shall also sign
20 his or her name in ink indicating the purchase of the pistol from
21 the seller The seller may retain a copy of the license as a
22 record of the sale of the pistol The licensee shall return
23 2 copies of the license to the licensing authority within 10 days
24 following the purchase of the pistol

25 (6) One copy of the license shall be retained by the licens-
26 ing authority as an official record for a period of 6 years The
27 other copy of the license shall be forwarded by the licensing

1 authority within 48 hours to the director of the department of
2 state police A license is void unless used within ~~10~~ 30 days
3 after the date of its issue

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

14 (8) The licensing authority shall provide a basic pistol
15 safety brochure to each applicant for a license under this sec-
16 tion before the applicant answers the basic pistol safety review
17 questionnaire A basic pistol safety brochure shall contain, but
18 is not limited to providing, information on all of the following
19 subjects

20 (a) Rules for safe handling and use of pistols

21 (b) Safe storage of pistols

22 (c) Nomenclature and description of various types of
23 pistols

24 (d) The responsibilities of owning a pistol

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

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

6 (11) A person who forges any matter on an application for a
7 license under this section is guilty of a felony, punishable by
8 imprisonment for not more than 4 years or a fine of not more than
9 \$2,000 00, or both

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

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

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

~~10 (2) If an applicant resides in a city, village, or township
11 having an organized department of police, a license shall not be
12 issued unless the application is first approved in writing by the
13 supervisor, commissioner or chief of police, or marshal If an
14 application is not approved by the supervisor, commissioner or
15 chief of police, or marshal, the applicant shall have 10 days to
16 appeal, in writing, to the concealed weapon licensing board in
17 the county in which the applicant resides Upon receipt of a
18 written appeal, the concealed weapon licensing board at the next
19 scheduled meeting to be held not less than 15 days after the
20 receipt of the fingerprint comparison report shall hold a hearing
21 to 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 organized department of police
24 not less than 10 days before the scheduled hearing The appli-
25 cant shall deposit the sum of \$10.00 with the county clerk at the
26 time the appeal is made If, upon appeal, a license is not
27 issued, the deposit shall be credited to the general fund of the~~

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

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

1 (2) ~~(4)~~ An applicant shall have 2 sets of fingerprints
2 taken by the sheriff, or the sheriff's authorized representative,
3 of the county in which the applicant resides, if the applicant
4 does not reside in a city, village, or township having an orga-
5 nized department of police, or by the commissioner or chief of
6 police, or marshal, or an authorized representative of the com-
7 missioner or chief of police or marshal, if the applicant resides
8 within a city, village, or township having an organized depart-
9 ment of police The first set of fingerprints shall be taken on
10 forms furnished by the department of state police, and the second
11 set on forms furnished by the federal bureau of investigation
12 The first set of fingerprints shall be forwarded to the depart-
13 ment of state police by the department taking the prints, and the
14 second set shall be forwarded by the department taking the fin-
15 gerprints to the federal bureau of investigation or other agency
16 designated by the federal bureau of investigation The director
17 of the bureau of identification of the department of state police
18 shall compare the fingerprints with those already on file in the
19 bureau A license shall not be issued ~~unless and~~ until A
20 report is received by the clerk of the board from the department
21 of state police and the federal bureau of investigation that the
22 comparisons do not show a conviction of a felony or ~~confinement~~
23 ~~for a felony conviction during the 8 year period~~ MISDEMEANOR
24 The board may grant a temporary permit in case of emergency pend-
25 ing the results of the comparisons The temporary permit shall
26 be issued for a period not to exceed 30 days and shall expire
27 automatically at the end of the period for which it was issued

1 Upon receipt of the report from the federal bureau of
2 investigation of the comparison, the bureau of identification of
3 the department of state police shall forward a report of both
4 comparisons to the officer taking the prints and also to the
5 county clerk of the county in which the applicant resides, who as
6 clerk of the board shall keep a record of the report and shall
7 report to the board The fingerprints received under this sec-
8 tion shall be filed in the bureau of identification of the
9 department of state police in the noncriminal section of the
10 files

11 (3) ~~-(5)-~~ The application for a license shall state the
12 reason or reasons for the necessity or desirability of carrying a
13 pistol concealed on the person or a pistol, whether concealed or
14 otherwise, in a vehicle operated or occupied by the person apply-
15 ing for the license, and the license, if issued, shall be
16 restricted to the reason or reasons satisfactory to the board,
17 which restriction or restrictions shall appear on the face of the
18 license in a conspicuous place The license shall be an authori-
19 zation to carry a pistol in compliance with this section only to
20 the extent contained in the face of the license and the license
21 shall be revoked by the board if the pistol is carried contrary
22 to the authorization

23 (4) ~~-(6)-~~ The prosecuting attorney shall be the chairperson
24 of the board, which shall convene at least once in each calendar
25 month and at other times as the board is called to convene by the
26 chairperson Each license shall be issued only upon written
27 application signed by the applicant and on oath and upon a form

1 provided by the director of the department of state police Each
2 license shall be issued only with the approval of a majority of
3 the members of the board and shall be executed in triplicate upon
4 forms provided by the director of the department of state police
5 and shall be signed in the name of the concealed weapon licensing
6 board by the county clerk with the seal of the circuit court
7 affixed to the license The county clerk shall first collect a
8 licensing fee of \$10 00 from the applicant for each license
9 delivered to the applicant One copy of the license shall be
10 delivered to the applicant, the duplicate shall be retained by
11 the county clerk as a permanent official record for a period of 6
12 years, and the triplicate of the license shall be forwarded
13 within 48 hours to the director of the department of state police
14 who shall file and index each license received and retain it as a
15 permanent official record for a period of 6 years A license
16 shall be issued for a definite period of not more than 3 years,
17 to be stated in the license, and a renewal of the license shall
18 not be granted except upon the filing of a new application A
19 license shall bear the imprint of the right thumb of the licens-
20 ee, or, if that is not possible, of the left thumb or some other
21 finger of the licensee The licensee shall carry the license
22 upon his or her person when carrying a pistol concealed upon his
23 or her person, or, whether concealed or otherwise, in a vehicle
24 operated or occupied by the licensee, and shall display the
25 license upon the request of a peace officer On the first day of
26 each month the county clerk shall remit to the state treasurer
27 \$2 00 for each license issued during the preceding month On the

1 first day of each month the county clerk shall pay into the
2 general fund of the county the remainder of each license fee for
3 each license issued during the preceding month

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

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

10 (B) THE APPLICANT HAS RESIDED IN THIS STATE FOR 6 MONTHS OR
11 LONGER

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

15 (D) THE APPLICANT HAS NOT BEEN ADJUDICATED TO BE A LEGALLY
16 INCAPACITATED PERSON UNDER THE REVISED PROBATE CODE, ACT NO 642
17 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 700 1 TO 700 993 OF
18 THE MICHIGAN COMPILED LAWS, OR HAS BEEN ADJUDICATED RESTORED TO
19 CAPACITY NOT EARLIER THAN THE EXPIRATION OF 5 YEARS BEFORE THE
20 DATE OF HIS OR HER APPLICATION FOR A LICENSE UNDER THIS SECTION
21 AS USED IN THIS SUBPARAGRAPH, "LEGALLY INCAPACITATED PERSON"
22 MEANS THAT TERM AS DEFINED UNDER SECTION 8 OF ARTICLE 1 OF THE
23 REVISED PROBATE CODE, ACT NO 642 OF THE PUBLIC ACTS OF 1978,
24 BEING SECTION 700 8 OF THE MICHIGAN COMPILED LAWS

25 (E) THE APPLICANT HAS NOT BEEN AN INPATIENT IN A MENTAL HOS-
26 PITAL, PSYCHIATRIC HOSPITAL, OR PSYCHIATRIC UNIT, OR WAS
27 DISCHARGED FROM THAT MENTAL HOSPITAL, PSYCHIATRIC HOSPITAL, OR

1 PSYCHIATRIC UNIT NOT EARLIER THAN THE EXPIRATION OF 5 YEARS
2 BEFORE THE DATE OF HIS OR HER APPLICATION FOR A LICENSE UNDER
3 THIS SECTION AS USED IN THIS SUBDIVISION, "MENTAL HOSPITAL",
4 "PSYCHIATRIC HOSPITAL", OR "PSYCHIATRIC UNIT" MEANS THAT TERM AS
5 DEFINED IN SECTION 135 OF THE MENTAL HEALTH CODE, ACT NO 258 OF
6 THE PUBLIC ACTS OF 1974, BEING SECTION 330 1135 OF THE MICHIGAN
7 COMPILED LAWS

8 (F) THE APPLICANT HAS NO PHYSICAL INFIRMITY THAT WOULD PRE-
9 VENT THE APPLICANT FROM SAFELY HANDLING A PISTOL

10 (G) THE APPLICANT INTENDS TO CARRY THE PISTOL FOR A LAWFUL
11 PURPOSE

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

14 (1) SUCCESSFUL COMPLETION OF A HUNTER SAFETY EDUCATION
15 COURSE OR CLASS PRESENTED BY THIS STATE OR BY ANOTHER STATE

16 (11) SUCCESSFUL COMPLETION OF A FIREARMS SAFETY OR TRAINING
17 COURSE OR CLASS PRESENTED BY THE NATIONAL RIFLE ASSOCIATION

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

24 (1111) SUCCESSFUL COMPLETION OF A LAW ENFORCEMENT FIREARMS
25 SAFETY TRAINING COURSE OR CLASS OFFERED FOR SECURITY GUARDS,
26 INVESTIGATORS, SPECIAL DEPUTIES, OR LAW ENFORCEMENT OFFICERS

1 (v) SUCCESSFUL COMPLETION OF A FIREARMS TRAINING OR SAFETY
2 COURSE OR CLASS CONDUCTED BY AN INSTRUCTOR CERTIFIED BY THIS
3 STATE, OR BY ANOTHER STATE, OR BY THE NATIONAL RIFLE
4 ASSOCIATION

5 (v1) PROOF OF EXPERIENCE EQUIVALENT TO A COURSE OR CLASS
6 DESCRIBED IN SUBPARAGRAPHS (1) TO (v)

7 (v11) PROOF THAT HE OR SHE IS LICENSED OR HAS BEEN LICENSED
8 IN THIS STATE OR IN ANOTHER STATE TO CARRY A CONCEALED WEAPON
9 UNLESS THAT LICENSE WAS REVOKED FOR CAUSE

10 (6) A PHOTOCOPY OF A CERTIFICATE OF COMPLETION OF A COURSE
11 OR CLASS DESCRIBED IN SUBSECTION (5)(H)(1) TO (v), OR AN AFFIDA-
12 VIT FROM THE INSTRUCTOR, SCHOOL, CLUB, OR GROUP PRESENTING A
13 CLASS OR COURSE DESCRIBED IN SUBSECTION (5)(H)(1) TO (v) STATING
14 THAT THE APPLICANT SUCCESSFULLY COMPLETED THE COURSE OR CLASS, OR
15 A COPY OF A DOCUMENT THAT SHOWS COMPLETION OF A COURSE OR CLASS
16 IN FIREARMS COMPETITION, IS EVIDENCE THAT THE APPLICANT SUCCESS-
17 FULLY COMPLETED THAT COURSE OR CLASS

18 (7) A LICENSE SHALL BE ISSUED OR DENIED UNDER THIS SECTION
19 ON OR BEFORE THE EXPIRATION OF 90 DAYS AFTER THE APPLICATION FOR
20 THE LICENSE IS RECEIVED BY THE BOARD

21 (8) IF THE CONCEALED WEAPON LICENSING BOARD ISSUES A LICENSE
22 TO CARRY A PISTOL, WHETHER CONCEALED OR OTHERWISE, IN A VEHICLE
23 OPERATED OR OCCUPIED BY THE APPLICANT, THE CONCEALED WEAPON
24 LICENSING BOARD SHALL PROVIDE THE APPLICANT WITH A DECAL DISTRIB-
25 UTED PURSUANT TO SUBSECTION (9) THAT THE APPLICANT MAY PLACE IN
26 THE REAR WINDOW OF A MOTOR VEHICLE OPERATED OR OCCUPIED BY THE
27 APPLICANT

1 (9) THE DEPARTMENT OF STATE SHALL DESIGN A DECAL BASED UPON
2 THE FIRST FLAG USED BY THE CONSTITUTIONAL CONGRESS, AND CONTAIN-
3 ING THE PHRASE "DON T TREAD ON ME' THE DEPARTMENT OF STATE
4 SHALL, BY JANUARY 1, 1994, AND ON A CONTINUING BASIS, DISTRIBUTE
5 DECALS TO CONCEALED WEAPON LICENSING BOARDS FOR PURPOSES OF
6 SUBSECTION (8) THE DEPARTMENT OF STATE SHALL NOT CHARGE A FEE
7 FOR THE DECALS

8 (10) ~~(7)~~ The county clerk may issue a copy of a license
9 issued pursuant to this section for a fee of \$3 00 ~~which~~ THE
10 fee shall be paid into the general fund of the county

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