



# HOUSE BILL No. 4591

March 14, 1995, Introduced by Reps. Hanley, Yokich, Martinez, Price, DeHart, LaForge and Gire and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 223 and 237a of Act No. 328 of the Public Acts of 1931, entitled as amended "The Michigan penal code," section 223 as amended by Act No. 221 of the Public Acts of 1992 and section 237a as added by Act No. 158 of the Public Acts of 1994, being sections 750.223 and 750.237a of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 223 and 237a of Act No. 328 of the  
2 Public Acts of 1931, section 223 as amended by Act No. 221 of the  
3 Public Acts of 1992 and section 237a as added by Act No. 158 of  
4 the Public Acts of 1994, being sections 750.223 and 750.237a of  
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 223. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A  
7 person who knowingly sells a pistol without complying with

1 section 2 of Act No. 372 of the Public Acts of 1927, ~~as~~  
2 ~~amended,~~ being section 28.422 of the Michigan Compiled Laws, is  
3 guilty of a misdemeanor ~~—~~ punishable by imprisonment for not  
4 more than 90 days ~~—~~ or a fine of not more than \$100.00, or  
5 both.

6 (2) A PERSON WHO KNOWINGLY SELLS A PISTOL TO A PERSON WHO IS  
7 INELIGIBLE TO PURCHASE A PISTOL UNDER SECTION 2(3)(A) OF ACT  
8 NO. 372 OF THE PUBLIC ACTS OF 1927 IS GUILTY OF A FELONY PUNISH-  
9 ABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT  
10 MORE THAN \$2,000.00, OR BOTH.

11 (3) ~~(2)~~ A person who knowingly sells a firearm more than  
12 30 inches in length to a person under 18 years of age is guilty  
13 of a misdemeanor ~~—~~ punishable by imprisonment for not more than  
14 90 days ~~—~~ or a fine of not more than \$500.00, or both. A  
15 second or subsequent violation of this subsection is a felony  
16 punishable by imprisonment for not more than 4 years ~~—~~ or a  
17 fine of not more than \$2,000.00, or both. It is an affirmative  
18 defense to a prosecution under this subsection that the person  
19 who sold the firearm asked to see and was shown a driver's  
20 license or identification card issued by a state that identified  
21 the purchaser as being 18 years of age or older.

22 (4) ~~(3)~~ A seller shall not sell a firearm or ammunition to  
23 a person if the seller knows that either of the following circum-  
24 stances exists:

25 (a) The person is under indictment for a felony. As used in  
26 this subdivision, "felony" means a violation of a law of this

1 state, or of another state, or of the United States that is  
2 punishable by imprisonment for 4 years or more.

3 (b) The person is prohibited under section 224f from pos-  
4 sessed, using, transporting, selling, purchasing, carrying,  
5 shipping, receiving, or distributing a firearm.

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

10 ~~(5) As used in this section, "licensed dealer" means a~~  
11 ~~person licensed under section 923 of chapter 44 of title 18 of~~  
12 ~~the United States Code who regularly buys and sells firearms as a~~  
13 ~~commercial activity with the principal objective of livelihood~~  
14 ~~and profit.~~

15 Sec. 237a. (1) An individual who engages in conduct pro-  
16 scribed under section 223(2), 224, 224a, 224b, 224c, 224e, 226,  
17 227, 227a, 227f, 234a, 234b, or 234c, or who engages in conduct  
18 proscribed under section ~~223(2)~~ 223(3) for a second or subse-  
19 quent time, in a weapon free school zone is guilty of a felony  
20 punishable by 1 or more of the following:

21 (a) Imprisonment for not more than the maximum term of  
22 imprisonment authorized for the section violated.

23 (b) Community service for not more than 150 hours.

24 (c) A fine of not more than 3 times the maximum fine autho-  
25 rized for the section violated.

26 (2) An individual who engages in conduct proscribed under  
27 section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4),

1 233, 234, 234e, 234f, 235, 236, or 237, or who engages in conduct  
2 proscribed under section ~~223(2)~~ 223(3) for the first time, in a  
3 weapon free school zone is guilty of a misdemeanor punishable by  
4 1 or more of the following:

5 (a) Imprisonment for not more than the maximum term of  
6 imprisonment authorized for the section violated or 93 days,  
7 whichever is greater.

8 (b) Community service for not more than 100 hours.

9 (c) A fine of not more than \$2,000.00 or the maximum fine  
10 authorized for the section violated, whichever is greater.

11 (3) Subsections (1) and (2) do not apply to conduct pro-  
12 scribed under a section enumerated in those subsections to the  
13 extent that the proscribed conduct is otherwise exempted or  
14 authorized under this chapter.

15 (4) Except as provided in subsection (5), an individual who  
16 possesses a weapon in a weapon free school zone is guilty of a  
17 misdemeanor punishable by 1 or more of the following:

18 (a) Imprisonment for not more than 93 days.

19 (b) Community service for not more than 100 hours.

20 (c) A fine of not more than \$2,000.00.

21 (5) Subsection (4) does not apply to any of the following:

22 (a) An individual employed by or contracted by a school if  
23 the possession of that weapon is to provide security services for  
24 the school.

25 (b) A peace officer.

26 (c) An individual licensed by this state or another state to  
27 carry a concealed weapon.

1 (d) An individual who possesses a weapon provided by a  
2 school or a school's instructor on school property for purposes  
3 of providing or receiving instruction in the use of that weapon.

4 (e) An individual who possesses a firearm on school property  
5 if that possession is with the permission of the school's princi-  
6 pal or an agent of the school designated by the school's princi-  
7 pal or the school board.

8 (f) An individual who is 18 years of age or older who is not  
9 a student at the school and who possesses a firearm on school  
10 property while transporting a student to or from the school if  
11 any of the following apply:

12 (i) The individual is carrying an antique firearm, com-  
13 pletely unloaded, in a wrapper or container in the trunk of a  
14 vehicle while en route to or from a hunting or target shooting  
15 area or function involving the exhibition, demonstration or sale  
16 of antique firearms.

17 (ii) The individual is carrying a firearm unloaded in a  
18 wrapper or container in the trunk of the person's vehicle, while  
19 in possession of a valid Michigan hunting license or proof of  
20 valid membership in an organization having shooting range facili-  
21 ties, and while en route to or from a hunting or target shooting  
22 area.

23 (iii) The person is carrying a firearm unloaded in a wrapper  
24 or container in the trunk of the person's vehicle from the place  
25 of purchase to his or her home or place of business or to a place  
26 of repair or back to his or her home or place of business, or in

1 moving goods from one place of abode or business to another place  
2 of abode or business.

3 (iv) The person is carrying an unloaded firearm in the pas-  
4 senger compartment of a vehicle that does not have a trunk, if  
5 the person is otherwise complying with the requirements of  
6 subparagraph (ii) or (iii) and the wrapper or container is not  
7 readily accessible to the occupants of the vehicle.

8 (6) As used in this section:

9 (a) "Antique firearm" means either of the following:

10 (i) A firearm not designed or redesigned for using rimfire  
11 or conventional center fire ignition with fixed ammunition and  
12 manufactured in or before 1898, including a matchlock, flintlock,  
13 percussion cap, or similar type of ignition system or a replica  
14 of such a firearm, whether actually manufactured before or after  
15 the year 1898.

16 (ii) A firearm using fixed ammunition manufactured in or  
17 before 1898, for which ammunition is no longer manufactured in  
18 the United States and is not readily available in the ordinary  
19 channels of commercial trade.

20 (b) "School" means a public, private, denominational, or  
21 parochial school offering developmental kindergarten, kindergar-  
22 ten, or any grade from 1 through 12.

23 (c) "School property" means a building, playing field, or  
24 property used for school purposes to impart instruction to chil-  
25 dren or used for functions and events sponsored by a school,  
26 except a building used primarily for adult education or college  
27 extension courses.

1 (d) "Weapon free school zone" means school property and a  
2 vehicle used by a school to transport students to or from school  
3 property.