



HOUSE BILL No. 4969

June 16, 1995, Introduced by Rep. Gubow and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 4 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 added by Act No. 219 of the Public Acts of 1992, being section 28.424 of the Michigan Compiled Laws; and to add sections 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, and 5h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4 of Act No. 372 of the Public Acts of
2 1927, as added by Act No. 219 of the Public Acts of 1992, being
3 section 28.424 of the Michigan Compiled Laws, is amended and

1 sections 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, and 5h are added to read
2 as follows:

3 Sec. 4. (1) A person who is prohibited from possessing,
4 using, transporting, selling, purchasing, carrying, shipping,
5 receiving, or distributing a firearm under section 224f(2) of the
6 Michigan penal code, Act No. 328 of the Public Acts of 1931,
7 being section 750.224f of the Michigan Compiled Laws, may apply
8 to the concealed weapons licensing board in the county in which
9 he or she resides for restoration of those rights.

10 (2) Not more than 1 application may be submitted under
11 subsection (1) in any calendar year. The concealed weapons
12 licensing board may charge a fee of not more than \$10.00 for the
13 actual and necessary expenses of each application.

14 (3) The concealed weapons licensing board shall, by written
15 order of the board, restore the rights of a person to possess,
16 use, transport, sell, purchase, carry, ship, receive, or distrib-
17 ute a firearm if the board determines, by clear and convincing
18 evidence, that all of the following circumstances exist:

19 (a) The person properly submitted an application for resto-
20 ration of those rights as provided under this section.

21 (b) The expiration of 5 years after all of the following
22 circumstances:

23 (i) The person has paid all fines imposed for the violation
24 resulting in the prohibition.

25 (ii) The person has served all terms of imprisonment imposed
26 for the violation resulting in the prohibition.

1 (iii) The person has successfully completed all conditions
2 of probation or parole imposed for the violation resulting in the
3 prohibition.

4 (c) The person's record and reputation are such that the
5 person is not likely to act in a manner dangerous to the safety
6 of other persons.

7 (4) If the concealed weapons licensing board pursuant to
8 subsection (3) refuses to restore a right under this section, the
9 person may petition the circuit court for review of that
10 decision.

11 (5) THIS SECTION DOES NOT APPLY TO A PERSON SEEKING TO
12 ENGAGE IN THE BUSINESS OF SELLING FIREARMS OR AMMUNITION IN THIS
13 STATE.

14 SEC. 5. (1) A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF
15 SELLING FIREARMS OR AMMUNITION IN THIS STATE UNLESS THE PERSON IS
16 LICENSED UNDER THIS ACT TO ENGAGE IN THAT BUSINESS.

17 (2) A PERSON IS ENGAGED IN THE BUSINESS OF SELLING FIREARMS
18 OR AMMUNITION IN THIS STATE IF ANY OF THE FOLLOWING CIRCUMSTANCES
19 EXIST:

20 (A) THE PERSON SELLS OR TRADES FIREARMS OR AMMUNITION FOR
21 OCCUPATION OR LIVELIHOOD.

22 (B) THE PERSON HOLDS HIMSELF OR HERSELF OUT AS SELLING OR
23 TRADING FIREARMS OR AMMUNITION FOR OCCUPATION OR LIVELIHOOD.

24 (C) THE PERSON PURCHASES FIREARMS OR AMMUNITION FROM MANU-
25 FACTURERS OR WHOLESALERS FOR DISTRIBUTION TO OTHER PERSONS.

26 (D) THE PERSON HOLDS A FEDERAL FIREARMS LICENSE.

1 (3) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
2 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF
3 NOT MORE THAN \$50,000.00, OR BOTH.

4 SEC. 5A. (1) A PERSON MAY OBTAIN A LICENSE TO ENGAGE IN THE
5 BUSINESS OF SELLING FIREARMS OR AMMUNITION IN THIS STATE BY PROP-
6 ERLY SUBMITTING AN APPLICATION WITH 1 OF THE FOLLOWING:

7 (A) IF THE PERSON RESIDES IN A LOCAL UNIT OF GOVERNMENT THAT
8 HAS A POLICE DEPARTMENT, WITH THE POLICE DEPARTMENT OF THAT LOCAL
9 UNIT OF GOVERNMENT.

10 (B) IF THE PERSON RESIDES IN A LOCAL UNIT OF GOVERNMENT THAT
11 DOES NOT HAVE A POLICE DEPARTMENT, WITH THE SHERIFF OF THE COUNTY
12 IN WHICH HE OR SHE RESIDES.

13 (2) THE APPLICATION SHALL BE ON A FORM PROVIDED BY THE
14 DIRECTOR OF THE DEPARTMENT OF STATE POLICE.

15 (3) BEFORE SUBMITTING AN APPLICATION UNDER THIS SECTION, THE
16 PERSON SHALL HAVE 2 SETS OF FINGERPRINTS TAKEN BY THE POLICE
17 DEPARTMENT OR COUNTY SHERIFF DESCRIBED IN SUBSECTION (1).

18 (4) THE POLICE DEPARTMENT OR COUNTY SHERIFF SHALL TAKE 1 SET
19 OF FINGERPRINTS ON A FORM PROVIDED BY THE DEPARTMENT OF STATE
20 POLICE AND 1 SET OF FINGERPRINTS ON A FORM PROVIDED BY THE FED-
21 ERAL BUREAU OF INVESTIGATION. THE POLICE DEPARTMENT OR COUNTY
22 SHERIFF SHALL FORWARD BOTH SETS OF FINGERPRINTS TO THE DIRECTOR
23 OF THE BUREAU OF IDENTIFICATION OF THE DEPARTMENT OF STATE
24 POLICE.

25 (5) THE DIRECTOR OF THE BUREAU OF IDENTIFICATION OF THE
26 DEPARTMENT OF STATE POLICE SHALL COMPARE THE FINGERPRINTS
27 SUBMITTED TO THE BUREAU OF IDENTIFICATION UNDER THIS SECTION WITH

1 FINGERPRINTS ALREADY ON FILE WITH THE BUREAU OF IDENTIFICATION.
2 THE DIRECTOR OF THE BUREAU OF IDENTIFICATION SHALL REPORT HIS OR
3 HER FINDINGS AND THE FINDINGS MADE BY THE FEDERAL BUREAU OF
4 INVESTIGATION TO THE POLICE DEPARTMENT OR COUNTY SHERIFF. THE
5 DIRECTOR OF THE BUREAU OF IDENTIFICATION SHALL MAINTAIN A RECORD
6 OF FINGERPRINTS SUBMITTED UNDER THIS SECTION IN THE NONCRIMINAL
7 SECTION OF THE BUREAU OF IDENTIFICATION'S FILES.

8 (6) THE POLICE DEPARTMENT OR COUNTY SHERIFF SHALL CHARGE A
9 FEE NOT TO EXCEED THE ACTUAL COST OF PROCESSING AN ORIGINAL
10 APPLICATION OR A RENEWAL APPLICATION UNDER THIS SECTION. FEES
11 COLLECTED UNDER THIS SUBSECTION SHALL BE USED BY THE POLICE
12 DEPARTMENT OR COUNTY SHERIFF ONLY TO PROCESS APPLICATIONS UNDER
13 THIS SECTION.

14 (7) A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT ON AN
15 APPLICATION UNDER THIS SECTION IS GUILTY OF A FELONY PUNISHABLE
16 BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE
17 THAN \$2,500.00, OR BOTH.

18 SEC. 5B. POLICE DEPARTMENTS OF LOCAL UNITS OF GOVERNMENT
19 AND COUNTY SHERIFFS MAY ISSUE LICENSES TO ENGAGE IN THE BUSINESS
20 OF SELLING FIREARMS OR AMMUNITION TO PERSONS WHO APPLY FOR THOSE
21 LICENSES AS PROVIDED IN THIS ACT. THE LICENSE SHALL CONTAIN 3
22 COPIES ON A FORM PROVIDED BY THE DIRECTOR OF THE DEPARTMENT OF
23 STATE POLICE. IF A POLICE DEPARTMENT OR COUNTY SHERIFF ISSUES A
24 LICENSE TO A PERSON TO ENGAGE IN THE BUSINESS OF SELLING FIREARMS
25 OR AMMUNITION IN THIS STATE, THE POLICE DEPARTMENT OR COUNTY
26 SHERIFF SHALL DO ALL OF THE FOLLOWING:

1 (A) RETAIN THE FIRST COPY OF THE LICENSE AS AN OFFICIAL
2 RECORD FOR NOT LESS THAN 5 YEARS.

3 (B) IMMEDIATELY PROVIDE THE SECOND COPY OF THE LICENSE TO
4 THE PERSON.

5 (C) IMMEDIATELY FORWARD THE THIRD COPY OF THE LICENSE TO THE
6 DEPARTMENT OF STATE POLICE AS DIRECTED BY THE DEPARTMENT OF STATE
7 POLICE. THE DEPARTMENT OF STATE POLICE SHALL MAINTAIN A RECORD
8 OF THE LICENSE FOR NOT LESS THAN 5 YEARS.

9 SEC. 5C. (1) A POLICE DEPARTMENT OF A LOCAL UNIT OF GOVERN-
10 MENT OR A COUNTY SHERIFF SHALL ISSUE A LICENSE TO A PERSON TO
11 ENGAGE IN THE BUSINESS OF SELLING FIREARMS OR AMMUNITION IN THIS
12 STATE ONLY IF ALL OF THE FOLLOWING CIRCUMSTANCES EXIST:

13 (A) THE PERSON PROPERLY SUBMITS AN APPLICATION TO ENGAGE IN
14 THAT BUSINESS AS PROVIDED IN THIS ACT.

15 (B) THE PERSON IS 21 YEARS OF AGE OR OLDER.

16 (C) THE PERSON IS A CITIZEN OF THE UNITED STATES AND IS A
17 LEGAL RESIDENT OF THIS STATE.

18 (D) THE PERSON IS NOT SUBJECT TO AN ORDER OR DISPOSITION FOR
19 WHICH HE OR SHE HAS RECEIVED NOTICE AND AN OPPORTUNITY FOR A
20 HEARING, AND WHICH WAS ENTERED INTO THE LAW ENFORCEMENT INFORMA-
21 TION NETWORK PURSUANT TO ANY OF THE FOLLOWING:

22 (i) SECTION 464A(1) OF THE MENTAL HEALTH CODE, ACT NO. 258
23 OF THE PUBLIC ACTS OF 1974, BEING SECTION 330.1464A OF THE
24 MICHIGAN COMPILED LAWS.

25 (ii) SECTION 444A(1) OF THE REVISED PROBATE CODE, ACT
26 NO. 642 OF THE PUBLIC ACTS OF 1978, BEING SECTION 700.444A OF THE
27 MICHIGAN COMPILED LAWS.

1 (iii) SECTION 2950(9) OF THE REVISED JUDICATURE ACT OF 1961,
2 ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTION 600.2950 OF
3 THE MICHIGAN COMPILED LAWS.

4 (iv) SECTION 2950A(7) OF ACT NO. 236 OF THE PUBLIC ACTS OF
5 1961, BEING SECTION 600.2950A OF THE MICHIGAN COMPILED LAWS.

6 (v) SECTION 14(7) OF CHAPTER 84 OF THE REVISED STATUTES OF
7 1846, BEING SECTION 552.14 OF THE MICHIGAN COMPILED LAWS.

8 (vi) SECTION 6B(5) OF CHAPTER V OF THE CODE OF CRIMINAL PRO-
9 CEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTION
10 765.6B OF THE MICHIGAN COMPILED LAWS, IF THE ORDER HAS A CONDI-
11 TION IMPOSED PURSUANT TO SECTION 6B(3) OF CHAPTER V OF ACT
12 NO. 175 OF THE PUBLIC ACTS OF 1927.

13 (vii) SECTION 16B(1) OF CHAPTER IX OF ACT NO. 175 OF THE
14 PUBLIC ACTS OF 1927, BEING SECTION 769.16B OF THE MICHIGAN
15 COMPILED LAWS.

16 (E) THE PERSON HAS NOT BEEN ADJUDGED INSANE IN THIS STATE OR
17 ELSEWHERE UNLESS HE OR SHE HAS BEEN ADJUDGED RESTORED TO SANITY
18 BY COURT ORDER.

19 (F) THE PERSON IS NOT UNDER AN ORDER OF INVOLUNTARY COMMIT-
20 MENT IN AN INPATIENT OR OUTPATIENT SETTING DUE TO MENTAL
21 ILLNESS.

22 (G) THE PERSON HAS NOT BEEN ADJUDGED LEGALLY INCAPACITATED
23 IN THIS STATE OR ELSEWHERE. THIS SUBDIVISION DOES NOT APPLY TO A
24 PERSON WHO HAS HAD HIS OR HER LEGAL CAPACITY RESTORED BY ORDER OF
25 THE COURT.

26 (H) THE PERSON IS NOT CHARGED WITH HAVING COMMITTED A FELONY
27 AND HAS NOT BEEN CONVICTED OF HAVING COMMITTED A FELONY.

1 (1) THE PERSON HOLDS A FEDERAL FIREARMS LICENSE.

2 (2) UNTIL APRIL 1, 1996, THE POLICE DEPARTMENT OR COUNTY
3 SHERIFF SHALL VERIFY THE REQUIREMENTS OF SUBSECTION (1)(H)
4 THROUGH THE LAW ENFORCEMENT INFORMATION NETWORK BEFORE ISSUING OR
5 RENEWING A LICENSE TO A PERSON TO ENGAGE IN THE BUSINESS OF SELL-
6 ING FIREARMS OR AMMUNITION IN THIS STATE. BEGINNING APRIL 1,
7 1996, THE POLICE DEPARTMENT OR COUNTY SHERIFF SHALL VERIFY THE
8 REQUIREMENTS OF SUBSECTION (1)(D) TO (H) THROUGH THE LAW ENFORCE-
9 MENT INFORMATION NETWORK BEFORE ISSUING OR RENEWING A LICENSE TO
10 A PERSON TO ENGAGE IN THE BUSINESS OF SELLING FIREARMS OR AMMUNI-
11 TION IN THIS STATE.

12 (3) A POLICE DEPARTMENT OR COUNTY SHERIFF SHALL NOT ISSUE A
13 LICENSE TO A PERSON TO ENGAGE IN THE BUSINESS OF SELLING FIREARMS
14 IN THIS STATE UNTIL THE POLICE DEPARTMENT OR COUNTY SHERIFF HAS
15 RECEIVED THE FINGERPRINT REPORTS REQUIRED UNDER SECTION 5A AND
16 THE POLICE DEPARTMENT OR COUNTY SHERIFF DETERMINES FROM THE
17 REPORTS THAT THE PERSON IS NOT INELIGIBLE TO RECEIVE A LICENSE.

18 SEC. 5D. (1) A PERSON WHO IS LICENSED TO ENGAGE IN THE
19 BUSINESS OF SELLING FIREARMS OR AMMUNITION IN THIS STATE SHALL
20 NOT DO ANY OF THE FOLLOWING:

21 (A) ENGAGE IN THAT BUSINESS IN AN AREA OTHER THAN AN AREA
22 THAT IS ZONED COMMERCIAL BY A LOCAL UNIT OF GOVERNMENT.

23 (B) ENGAGE IN THAT BUSINESS BY DISTRIBUTING A FIREARM OR
24 AMMUNITION FROM A MOTOR VEHICLE. THIS SUBDIVISION DOES NOT PRO-
25 HIBIT THE DISTRIBUTION OF A FIREARM OR AMMUNITION FROM A MOTOR
26 VEHICLE BY A FIREARMS OR AMMUNITION MANUFACTURER OR AN AGENT OR
27 EMPLOYEE OF A FIREARMS OR AMMUNITION MANUFACTURER ACTING IN THE

1 ORDINARY COURSE OF BUSINESS OF THAT FIREARMS OR AMMUNITION
2 MANUFACTURER TO A PERSON LICENSED IN THIS STATE TO ENGAGE IN THE
3 BUSINESS OF SELLING FIREARMS OR AMMUNITION. AS USED IN THIS SEC-
4 TION, "MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION 33 OF
5 THE MOTOR VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949,
6 BEING SECTION 257.33 OF THE MICHIGAN COMPILED LAWS.

7 (C) ENGAGE IN THAT BUSINESS WITHOUT HAVING A FUNCTIONING
8 ALARM SYSTEM TO PREVENT UNLAWFUL ENTRY ONTO THE BUSINESS PREMISES
9 DURING HOURS WHEN THE PREMISES ARE NOT OPEN FOR BUSINESS.

10 (D) ENGAGE IN THAT BUSINESS WITHOUT DISPLAYING ON THE
11 BUSINESS'S PREMISES IN A CONSPICUOUS LOCATION AND MANNER THE
12 LICENSE CERTIFYING THE PERSON'S AUTHORITY TO ENGAGE IN THAT
13 BUSINESS.

14 (E) ENGAGE IN THAT BUSINESS WITHOUT COMPLYING WITH THE STAN-
15 DARDS FOR BUSINESS OPERATIONS PROMULGATED PURSUANT TO SECTION
16 5G.

17 (2) A PERSON WHO VIOLATES SUBSECTION (1)(A) TO (C) IS GUILTY
18 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS
19 OR A FINE OF NOT MORE THAN \$2,500.00, OR BOTH.

20 (3) A PERSON WHO VIOLATES SUBSECTION (1)(D) IS GUILTY OF A
21 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS
22 OR A FINE OF NOT MORE THAN \$100.00, OR BOTH.

23 SEC. 5E. (1) A PERSON WHO ENGAGES IN THE BUSINESS OF SELL-
24 ING FIREARMS OR AMMUNITION IN THIS STATE SHALL PERMIT INSPECTION
25 OF THE BOOKS, RECORDS, AND PREMISES OF THAT BUSINESS DURING
26 NORMAL BUSINESS HOURS UPON WRITTEN OR ORAL DEMAND OF A PEACE
27 OFFICER.

1 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
2 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF
3 NOT MORE THAN \$2,500.00, OR BOTH.

4 SEC. 5F. (1) A POLICE DEPARTMENT OR COUNTY SHERIFF WHO
5 ISSUES A LICENSE TO A PERSON TO ENGAGE IN THE BUSINESS OF SELLING
6 FIREARMS OR AMMUNITION IN THIS STATE SHALL REVOKE THE LICENSE FOR
7 ANY OF THE FOLLOWING REASONS:

8 (A) THE PERSON IMPROPERLY SUBMITS THE APPLICATION FOR THE
9 LICENSE.

10 (B) THE PERSON ENGAGES IN CONDUCT THAT WOULD PROHIBIT THE
11 PERSON FROM BEING ELIGIBLE TO RECEIVE A LICENSE.

12 (C) THE PERSON FAILS TO COMPLY WITH SECTION 5E.

13 (2) A POLICE DEPARTMENT OR COUNTY SHERIFF WHO ISSUES A
14 LICENSE TO A PERSON TO ENGAGE IN THE BUSINESS OF SELLING FIREARMS
15 IN THIS STATE MAY REVOKE THE LICENSE IF THE PERSON VIOLATES
16 SECTION 5D.

17 (3) BEFORE REVOKING A LICENSE UNDER THIS SECTION, THE POLICE
18 DEPARTMENT OR COUNTY SHERIFF SHALL PROVIDE THE PERSON WITH 14
19 DAYS' WRITTEN NOTICE OF THE INTENT TO REVOKE. THE NOTICE SHALL
20 BE GIVEN BY PERSONAL SERVICE ON THE PERSON OR BY FIRST-CLASS MAIL
21 SENT TO THE PERSON'S BUSINESS ADDRESS. THE PERSON MAY REQUEST A
22 HEARING ON THE REVOCATION WITHIN THE EXPIRATION OF 7 DAYS AFTER
23 THE PERSON RECEIVES THE REVOCATION NOTICE. IF THE PERSON
24 REQUESTS A HEARING WITHIN THE 7-DAY PERIOD, THE POLICE DEPARTMENT
25 OR COUNTY SHERIFF SHALL PROVIDE THE PERSON WITH AN OPPORTUNITY TO
26 BE HEARD. IF THE POLICE DEPARTMENT OR COUNTY SHERIFF REVOKES A
27 PERSON'S LICENSE TO ENGAGE IN THE BUSINESS OF SELLING FIREARMS OR

1 AMMUNITION IN THIS STATE, THE PERSON MAY APPEAL THE DECISION TO
2 THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PERSON RESIDES.

3 SEC. 5G. THE DEPARTMENT OF STATE POLICE, PURSUANT TO THE
4 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
5 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
6 COMPILED LAWS, SHALL PROMULGATE RULES WITHIN THE EXPIRATION OF 2
7 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION REGARDING THE SAFE
8 STORAGE AND HANDLING OF FIREARMS AND AMMUNITION BY PERSONS WHO
9 ENGAGE IN THE BUSINESS OF SELLING FIREARMS OR AMMUNITION IN THIS
10 STATE. THE DEPARTMENT'S FAILURE TO PROMULGATE RULES PURSUANT TO
11 THIS SECTION DOES NOT AFFECT THE REQUIREMENT THAT A PERSON COMPLY
12 WITH THIS ACT WHILE ENGAGING IN THE BUSINESS OF SELLING FIREARMS
13 OR AMMUNITION IN THIS STATE.

14 SEC. 5H. THE DEPARTMENT OF STATE POLICE, BEFORE OCTOBER 1,
15 1996, SHALL PRINT AND DISTRIBUTE LICENSE CERTIFICATES FREE OF
16 CHARGE TO LOCAL POLICE DEPARTMENTS AND COUNTY SHERIFFS FOR ISSU-
17 ANCE PURSUANT TO SECTION 5B. EACH CERTIFICATE SHALL BEAR AN
18 IDENTIFICATION NUMBER UNIQUE TO THAT CERTIFICATE.

19 Section 2. Sections 5 to 5g of Act No. 372 of the Public
20 Acts of 1927, as added by this amendatory act, shall take effect
21 October 1, 1996.

22 Section 3. Section 5h of Act No. 372 of the Public Acts of
23 1927, as added by this amendatory act, shall take effect May 1,
24 1996.