

HOUSE BILL No. 4272

February 11, 1997, Introduced by Reps. Hanley, Kelly, Schauer, Wojno, DeHart, Schermesser, Hammerstrom, Gilmer, Hale, Dobb, Callahan, Gire, Dalman, Scott, Parks, Byl, Price, Murphy, LaForge, Schroer, Baird, Brater and Kilpatrick and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 223 and 237a (MCL 750.223 and 750.237a), section 223 as amended by 1992 PA 221 and section 237a as added by 1994 PA 158.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 223. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A
2 person who knowingly sells a pistol without complying with sec-
3 tion 2 of ~~Act No. 372 of the Public Acts of 1927, as amended,~~
4 ~~being section 28.422 of the Michigan Compiled Laws~~ 1927 PA 372,
5 MCL 28.422, is guilty of a misdemeanor ~~—~~ punishable by impris-
6 onment for not more than 90 days ~~—~~ or a fine of not more than
7 \$100.00, or both.

8 (2) A PERSON WHO KNOWINGLY SELLS OR OTHERWISE TRANSFERS A
9 PISTOL TO A PERSON WHO IS INELIGIBLE TO PURCHASE A PISTOL UNDER

1 SECTION 2(3)(B) OF 1927 PA 372, MCL 28.422, IS GUILTY OF A FELONY
2 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF
3 NOT MORE THAN \$2,000.00, OR BOTH.

4 (3) ~~(2)~~ A person who knowingly sells a firearm more than
5 30 inches in length to a person under 18 years of age is guilty
6 of a misdemeanor ~~,~~ punishable by imprisonment for not more than
7 90 days ~~,~~ or a fine of not more than \$500.00, or both. A
8 second or subsequent violation of this subsection is a felony
9 punishable by imprisonment for not more than 4 years ~~,~~ or a
10 fine of not more than \$2,000.00, or both. It is an affirmative
11 defense to a prosecution under this subsection that the person
12 who sold the firearm asked to see and was shown a driver's
13 license or identification card issued by a state that identified
14 the purchaser as being 18 years of age or older.

15 (4) ~~(3)~~ A seller shall not sell a firearm or ammunition to
16 a person if the seller knows that either of the following circum-
17 stances exists:

18 (a) The person is under indictment for a felony. As used in
19 this subdivision, "felony" means a violation of a law of this
20 state, or of another state, or of the United States that is pun-
21 ishable by imprisonment for 4 years or more.

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

25 (5) ~~(4)~~ A person who violates subsection ~~(3)~~ (4) is
26 guilty of a felony ~~,~~ punishable by imprisonment for not more

1 than 10 years ~~—~~ or by a fine of not more than \$5,000.00, or
2 both.

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

8 Sec. 237a. (1) An individual who engages in conduct pro-
9 scribed under section 223(2), 224, 224a, 224b, 224c, 224e, 226,
10 227, 227a, 227f, 234a, 234b, or 234c, or who engages in conduct
11 proscribed under section ~~223(2)~~ 223(3) for a second or subse-
12 quent time, in a weapon free school zone is guilty of a felony
13 punishable by 1 or more of the following:

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

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

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

19 (2) An individual who engages in conduct proscribed under
20 section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4),
21 233, 234, 234e, 234f, 235, 236, or 237, or who engages in conduct
22 proscribed under section ~~223(2)~~ 223(3) for the first time, in a
23 weapon free school zone is guilty of a misdemeanor punishable by
24 1 or more of the following:

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

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

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

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

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

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

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

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

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

15 (a) An individual employed by or contracted by a school if
16 the possession of that weapon is to provide security services for
17 the school.

18 (b) A peace officer.

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

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

24 (e) An individual who possesses a firearm on school property
25 if that possession is with the permission of the school's princi-
26 pal or an agent of the school designated by the school's
27 principal or the school board.

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

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

10 (ii) The individual is carrying a firearm unloaded in a
11 wrapper or container in the trunk of the person's vehicle, while
12 in possession of a valid Michigan hunting license or proof of
13 valid membership in an organization having shooting range facili-
14 ties, and while en route to or from a hunting or target shooting
15 area.

16 (iii) The person is carrying a firearm unloaded in a wrapper
17 or container in the trunk of the person's vehicle from the place
18 of purchase to his or her home or place of business or to a place
19 of repair or back to his or her home or place of business, or in
20 moving goods from one place of abode or business to another place
21 of abode or business.

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

1 (6) As used in this section:

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

3 (i) A firearm not designed or redesigned for using rimfire
4 or conventional center fire ignition with fixed ammunition and
5 manufactured in or before 1898, including a matchlock, flintlock,
6 percussion cap, or similar type of ignition system or a replica
7 of such a firearm, whether actually manufactured before or after
8 the year 1898.

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

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

16 (c) "School property" means a building, playing field, or
17 property used for school purposes to impart instruction to chil-
18 dren or used for functions and events sponsored by a school,
19 except a building used primarily for adult education or college
20 extension courses.

21 (d) "Weapon free school zone" means school property and a
22 vehicle used by a school to transport students to or from school
23 property.