

HOUSE BILL No. 6314

December 2, 1998, Introduced by Rep. Whyman and referred to the Committee on House Oversight and Ethics.

A bill to amend 1927 PA 372, entitled

"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,"

by amending section 6 (MCL 28.426), as amended by 1994 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) The prosecuting attorney, the sheriff, and the
2 director of the department of state police, or their respective
3 authorized deputies, ~~shall~~ constitute CONCEALED WEAPON
4 LICENSING boards WITHIN EACH COUNTY exclusively authorized AS
5 PROVIDED IN THIS SECTION to issue a license to an applicant
6 ~~residing within their respective counties,~~ to carry a pistol
7 concealed on the person and to carry a pistol, whether concealed

1 or otherwise, in a vehicle operated or occupied by the
2 applicant.

3 (2) The county clerk of each county shall be clerk of the
4 COUNTY'S CONCEALED WEAPON licensing board. ~~—, which board shall~~
5 ~~be known as the concealed weapon licensing board.~~

6 (3) A CONCEALED WEAPON LICENSING BOARD SHALL NOT GRANT A
7 license to carry a pistol concealed on the person or to carry a
8 pistol, whether concealed or otherwise, in a vehicle operated or
9 occupied by the person applying for the license ~~—, shall not be~~
10 ~~granted~~ to a person unless the person is 18 years of age or
11 older, is a citizen of the United States, and has resided in this
12 state 6 months or more. ~~—A~~ THE BOARD SHALL NOT ISSUE A license
13 ~~shall not be issued~~ unless it ~~appears~~ DETERMINES that the
14 applicant has good reason to fear injury to his or her person or
15 property, or has other proper reasons, and is a suitable person
16 to be licensed. ~~—A~~ THE BOARD SHALL NOT ISSUE A license ~~shall~~
17 ~~not be issued~~ under this section unless all of the following
18 circumstances exist:

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

22 (i) Section ~~464a(1)~~ 464A of the mental health code, ~~Act~~
23 ~~No. 258 of the Public Acts of 1974, being section 330.1464a of~~
24 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1464A.

25 (ii) Section ~~444a(1)~~ 444A of the revised probate code,
26 ~~Act No. 642 of the Public Acts of 1978, being section 700.444a~~
27 ~~of the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A.

1 (iii) Section ~~2950(9)~~ 2950 OR 2950A of the revised
2 judiciary act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~
3 ~~being section 600.2950 of the Michigan Compiled Laws~~ 1961 PA
4 236, MCL 600.2950 AND 600.2950A.

5 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
6 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

7 ~~(v) Section 14(7) of chapter 84 of the Revised Statutes of~~
8 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

9 (iv) ~~(vi)~~ Section ~~6b(5)~~ 6B of chapter V of the code of
10 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~
11 ~~being section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175,
12 MCL 765.6B, if the order has a condition imposed ~~pursuant to~~
13 UNDER section 6b(3) of chapter V of ~~Act No. 175 of the Public~~
14 ~~Acts of 1927~~ THAT ACT.

15 (v) ~~(vii)~~ Section ~~16b(1)~~ 16B of chapter IX of ~~Act~~
16 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~
17 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA
18 175, MCL 769.16B.

19 (b) The person has not been convicted of a felony or con-
20 fined for a felony conviction in this state or elsewhere during
21 the 8-year period immediately preceding the date of the applica-
22 tion ~~—~~ and a felony charge against the person is not pending
23 ~~at the time~~ WHEN he or she applies for a license described in
24 this section.

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

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

4 (e) The person has not been adjudged legally incapacitated
5 in this state or elsewhere. This subdivision does not apply to a
6 person who has had his or her legal capacity restored by court
7 order.

8 (4) EXCEPT AS PROVIDED IN SUBSECTION (9), AN APPLICANT SHALL
9 APPLY TO THE CONCEALED WEAPON LICENSING BOARD OF HIS OR HER
10 COUNTY OF RESIDENCE.

11 (5) ~~-(2)-If~~ EXCEPT AS PROVIDED IN SUBSECTION (9), THE CON-
12 CEALED WEAPON LICENSING BOARD SHALL NOT ISSUE A LICENSE TO an
13 applicant WHO resides in a city, village, or township having an
14 organized POLICE department ~~of police, a license shall not be~~
15 ~~issued~~ unless the application is first approved in writing by
16 the supervisor, commissioner or chief of police, or marshal of
17 that city, village, or township. If an application is not
18 approved in the manner prescribed by this subsection, the appli-
19 cant has 10 days to appeal ~~—~~ in writing ~~—~~ to the concealed
20 weapon licensing board in the county in which the applicant
21 resides. Upon ~~receipt of~~ RECEIVING a written appeal, that con-
22 cealed weapon licensing board shall schedule a hearing to be held
23 at its next scheduled meeting. ~~—, which—~~ THE MEETING shall BE
24 HELD not ~~be~~ less than 15 days after ~~the receipt of~~ the fin-
25 gerprint comparison report IS RECEIVED. The concealed weapon
26 licensing board shall determine at the hearing whether the
27 applicant is qualified to carry a concealed weapon ~~pursuant to~~

1 UNDER this section. Notice of the hearing shall be mailed to the
2 applicant and the organized POLICE department ~~of police~~ not
3 less than 10 days before the scheduled hearing. The applicant
4 shall deposit ~~the sum of~~ \$10.00 with the county clerk ~~at the~~
5 ~~time~~ WHEN the appeal is made. If ~~, after appeal,~~ a license is
6 not issued AFTER APPEAL, the deposit shall be credited to the
7 COUNTY'S general fund. ~~of the county.~~ If a license is issued,
8 the deposit shall be processed as the license fee required under
9 subsection ~~-(6)-~~ (10).

10 (6) ~~-(3)- If~~ EXCEPT AS PROVIDED IN SUBSECTION (9), THE CON-
11 CEALD WEAPON LICENSING BOARD SHALL NOT ISSUE A LICENSE TO an
12 applicant ~~does not reside~~ WHO RESIDES in a city, village, or
13 township that ~~has~~ DOES NOT HAVE an organized POLICE department
14 ~~of police, a license shall not be issued~~ unless the application
15 is first submitted for approval or objection to the supervisor of
16 the township in which the applicant resides. The supervisor
17 shall indicate in writing on the application whether he or she
18 objects to the license being issued. If action is not taken by a
19 supervisor within 14 days after the application is submitted to
20 the supervisor, the concealed weapon licensing board shall con-
21 sider the application as if a statement of no objection had been
22 included. If the supervisor objects to the application in writ-
23 ing, the applicant may appeal the objection to the concealed
24 weapon licensing board of the county in which the applicant
25 resides within 10 days after the objection. Upon ~~receipt of~~
26 RECEIVING a written appeal, that concealed weapon licensing board
27 shall schedule a hearing to be held at its next scheduled

1 meeting. ~~which~~ THE HEARING shall BE HELD not ~~be~~ less than
2 15 days after ~~the receipt of~~ the fingerprint comparison report
3 IS RECEIVED. The concealed weapon licensing board shall deter-
4 mine at the hearing whether the applicant is qualified to carry a
5 concealed weapon ~~pursuant to~~ UNDER this section. Notice of the
6 hearing shall be mailed to the applicant and the supervisor of
7 the township not less than 10 days before the scheduled hearing.
8 The applicant shall deposit ~~the sum of~~ \$10.00 with the county
9 clerk ~~at the time~~ WHEN the appeal is made. If ~~after~~
10 appeal, a license is not issued AFTER APPEAL, the deposit shall
11 be credited to the COUNTY'S general fund. ~~of the county.~~ If a
12 license is issued, the deposit shall be processed as the license
13 fee required under subsection ~~(6)~~ (10).

14 (7) ~~(4)~~ An applicant shall have 2 sets of fingerprints
15 taken by the sheriff ~~, or the sheriff's authorized~~
16 representative, of the county in which the applicant resides ~~,~~
17 OR THE SHERIFF'S AUTHORIZED REPRESENTATIVE if the applicant ~~does~~
18 ~~not reside~~ RESIDES in a city, village, or township ~~having~~ THAT
19 DOES NOT HAVE an organized POLICE department ~~of police,~~ or by
20 the commissioner or chief of police ~~,~~ or marshal, or an autho-
21 rized representative of the commissioner or chief of police or
22 marshal, if the applicant resides ~~within~~ IN a city, village, or
23 township having an organized POLICE department. ~~of police.~~ The
24 first set of fingerprints shall be taken on forms furnished by
25 the department of state police ~~,~~ and the second set on forms
26 furnished by the federal bureau of investigation. The person
27 taking the prints shall forward the first set of fingerprints to

1 the department of state police and the second set to the federal
2 bureau of investigation or other agency designated by the federal
3 bureau of investigation. The director of the bureau of identifi-
4 cation of the department of state police shall compare the fin-
5 gerprints with those already on file in the bureau. A CONCEALED
6 WEAPON LICENSING BOARD SHALL NOT ISSUE A license ~~shall not be~~
7 ~~issued~~ unless ~~the report is received by~~ the clerk of the board
8 RECEIVES REPORTS from the department of state police and the fed-
9 eral bureau of investigation OR, SUBJECT TO SUBSECTION (9), FROM
10 THE CONCEALED WEAPON LICENSING BOARD OF ANOTHER COUNTY, that the
11 comparisons do not show ~~that~~ the applicant was convicted of or
12 confined for a felony during the 8-year period. The CONCEALED
13 WEAPON LICENSING board may grant a temporary permit in case of
14 emergency pending the results of the comparisons. The temporary
15 permit shall be issued for a period of not more than 30 days and
16 shall expire automatically at the end of the period for which it
17 was issued. Upon ~~receipt of~~ RECEIVING the comparison report
18 from the federal bureau of investigation, the bureau of identifi-
19 cation of the department of state police shall forward a report
20 of both comparisons to the officer taking the prints and also to
21 the county clerk of the county in which the applicant resides. ~~—~~
22 ~~who~~ THE COUNTY CLERK as clerk of the board shall keep a record
23 of the report and shall report to the CONCEALED WEAPON LICENSING
24 board. The fingerprints received under this section shall be
25 filed in the bureau of identification of the department of state
26 police in the noncriminal section of the files.

1 (8) ~~—(5)—~~ The application for a license shall state each
2 reason for the necessity or desirability of carrying a pistol
3 concealed on the person or carrying a pistol, whether or not con-
4 cealed, in a vehicle occupied by the person applying for the
5 license. A license issued under this section shall limit the
6 carrying of a pistol to the reason or reasons satisfactory to the
7 board ~~—,~~ and each restriction shall ~~—appear—~~ BE PLACED conspicu-
8 ously on the face of the license. The license shall be an autho-
9 rization to carry a pistol in compliance with this section only
10 to the extent contained in the face of the license and the
11 license shall be revoked by the CONCEALED WEAPON LICENSING board
12 if the pistol is carried contrary to the authorization.

13 (9) IF THE CONCEALED WEAPON LICENSING BOARD OF THE
14 APPLICANT'S COUNTY OF RESIDENCE DENIES THE APPLICATION OF A
15 PERSON WHO IS QUALIFIED BY AGE, CITIZENSHIP, AND STATE RESIDENCE
16 AND IS NOT DISQUALIFIED UNDER SUBSECTION (3) (A), (B), (C), (D),
17 OR (E), THE PERSON MAY APPLY FOR A LICENSE IN ANY OTHER COUNTY
18 AND SUBSECTIONS (5) AND (6) DO NOT APPLY. THE CLERK OF THE CON-
19 CEALED WEAPON LICENSING BOARD THAT DENIED THE LICENSE SHALL FOR-
20 WARD THE FINGERPRINT COMPARISON REPORTS TO THE CLERK OF THE BOARD
21 IMMEDIATELY UPON RECEIVING NOTICE OF THE NEW APPLICATION. IN ALL
22 OTHER RESPECTS, THE REQUIREMENTS FOR A LICENSE UNDER THIS SECTION
23 APPLY TO AN APPLICATION UNDER THIS SUBSECTION.

24 (10) ~~—(6)—~~ The prosecuting attorney ~~—shall be—~~ IS the chair-
25 person of the CONCEALED WEAPON LICENSING board. ~~—, which—~~ THE
26 CONCEALED WEAPON LICENSING BOARD shall convene at least once in
27 each calendar month and at other times as the board is called to

1 convene by the chairperson. Each license shall be issued only
2 upon written application signed by the applicant under oath and
3 upon a form provided by the director of the department of state
4 police. Each license shall be issued only with the approval of a
5 majority of the BOARD members ~~of the board~~ and shall be exe-
6 cuted in triplicate upon forms provided by the director of the
7 department of state police. Each license shall be signed in the
8 name of the concealed weapon licensing board by the county clerk
9 with the seal of the circuit court affixed to the license. The
10 county clerk shall first collect a licensing fee of \$10.00 from
11 the applicant for each license delivered to the applicant. One
12 copy of the license shall be delivered to the applicant, the
13 duplicate shall be retained by the county clerk as a permanent
14 official record for ~~a period of~~ 6 years, and the triplicate of
15 the license shall be forwarded within 48 hours to the director of
16 the department of state police, who shall file and index each
17 license received and retain it as ~~a permanent~~ AN official
18 record for ~~a period of~~ 6 years. A license is valid for a defi-
19 nite period of not more than 3 years —, and that period shall be
20 stated in the license. A renewal of the license shall not be
21 granted except upon the filing of a new application. A license
22 shall bear the imprint of the right thumb of the licensee —, or,
23 if a right thumb imprint is impossible to obtain, the license
24 shall bear the imprint of the left thumb or some other finger of
25 the licensee. The licensee shall carry the license upon his or
26 her person when carrying a pistol concealed upon his or her
27 person —, or when carrying the pistol, whether or not concealed,

1 in a vehicle occupied by the licensee. The licensee shall
2 display the license upon the request of a peace officer. On the
3 first day of each month, the county clerk shall remit to the
4 state treasurer \$2.00 for each license issued during the preced-
5 ing month. On the first day of each month the county clerk shall
6 pay into the COUNTY'S general fund ~~of the county~~ the remainder
7 of each license fee for each license issued during the preceding
8 month.

9 (11) ~~-(7)-~~ The county clerk may issue a copy of a license
10 issued ~~pursuant to~~ UNDER this section for a fee of \$3.00, which
11 ~~fee~~ shall be paid into the COUNTY'S general fund. ~~of the~~
12 ~~county.~~

13 (12) ~~-(8)-~~ A charter county may impose by ordinance a dif-
14 ferent amount for the concealed weapon licensing fee prescribed
15 by subsection ~~-(6)-~~ (10). A charter county shall not impose a
16 fee ~~which~~ THAT is greater than the cost of the service for
17 which the fee is charged.