

SENATE BILL NO. 867

February 10, 1998, Introduced by Senator BERRYMAN and referred to the Committee on Hunting, Fishing and Agriculture.

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~~ AND THE MEMBERS APPOINTED UNDER
4 SUBSECTION (2) constitute CONCEALED WEAPON LICENSING boards
5 exclusively authorized 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. The county clerk of each county shall be clerk of the
3 COUNTY'S CONCEALED WEAPON licensing board. ~~, which board shall~~
4 ~~be known as the concealed weapon licensing board.~~

5 (2) THE COUNTY BOARD OF COMMISSIONERS OF EACH COUNTY OR, IN
6 A COUNTY THAT HAS A COUNTY EXECUTIVE OR COUNTY MANAGER, THE
7 COUNTY EXECUTIVE OR COUNTY MANAGER SHALL APPOINT 4 MEMBERS TO THE
8 COUNTY'S CONCEALED WEAPON LICENSING BOARD. A MEMBER OF THE
9 COUNTY BOARD OF COMMISSIONERS OR A COUNTY EXECUTIVE OR COUNTY
10 MANAGER IS NOT ELIGIBLE TO SERVE ON A CONCEALED WEAPON LICENSING
11 BOARD OF THE COUNTY. EACH MEMBER SHALL RESIDE IN THAT COUNTY.
12 EACH MEMBER SHALL BE APPOINTED FOR A 2-YEAR TERM AND SHALL SERVE
13 UNTIL HIS OR HER SUCCESSOR IS APPOINTED. THE COUNTY BOARD OF
14 COMMISSIONERS OR, IN A COUNTY THAT HAS A COUNTY EXECUTIVE OR
15 COUNTY MANAGER, THE COUNTY EXECUTIVE OR COUNTY MANAGER MAY REMOVE
16 ANY MEMBER APPOINTED UNDER THIS SUBSECTION FOR FAILURE TO ATTEND
17 3 OR MORE CONSECUTIVE MEETINGS OF THE CONCEALED WEAPON LICENSING
18 BOARD.

19 (3) A CONCEALED WEAPON LICENSING BOARD SHALL NOT GRANT A
20 license to carry a pistol concealed on the person or to carry a
21 pistol, whether concealed or otherwise, in a vehicle operated or
22 occupied by the person applying for the license ~~, shall not be~~
23 ~~granted~~ to a person unless the person is 18 years of age or
24 older, is a citizen of the United States, and has resided in this
25 state 6 months or more. ~~A~~ THE BOARD SHALL NOT ISSUE A license
26 ~~shall not be issued~~ unless it ~~appears~~ DETERMINES that the
27 applicant has good reason to fear injury to his or her person or

1 property, or has other proper reasons, and is a suitable person
2 to be licensed. ~~A~~ THE BOARD SHALL NOT ISSUE A license ~~shall~~
3 ~~not be issued~~ under this section unless all of the following
4 circumstances exist:

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

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

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

14 (iii) Section ~~2950(9)~~ 2950 OR 2950A of the revised judica-
15 ture act of 1961, ~~Act No. 236 of the Public Acts of 1961, being~~
16 ~~section 600.2950 of the Michigan Compiled Laws 1961 PA 236, MCL~~
17 ~~600.2950 AND 600.2950A.~~

18 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
19 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

20 ~~(v) Section 14(7) of chapter 84 of the Revised Statutes of~~
21 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

22 (iv) ~~(vi)~~ Section ~~6b(5)~~ 6B of chapter V of the code of
23 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~
24 ~~being section 765.6b of the Michigan Compiled Laws 1927 PA 175,~~
25 MCL 765.6B, if the order has a condition imposed ~~pursuant to~~
26 UNDER section 6b(3) of chapter V of ~~Act No. 175 of the Public~~
27 ~~Acts of 1927~~ THAT ACT.

1 (v) ~~(vii)~~ Section ~~16b(1)~~ 16B of chapter IX of ~~Act~~
2 No. 175 of the Public Acts of 1927, being section 769.16b of the
3 Michigan Compiled Laws— THE CODE OF CRIMINAL PROCEDURE, 1927 PA
4 175, MCL 769.16B.

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

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

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

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

20 (4) ~~(2) If~~ THE CONCEALED WEAPON LICENSING BOARD SHALL NOT
21 ISSUE A LICENSE TO an applicant WHO resides in a city, village,
22 or township having an organized POLICE department ~~of police, a~~
23 ~~license shall not be issued~~ unless the application is first
24 approved in writing by the supervisor, commissioner or chief of
25 police, or marshal of that city, village, or township. If an
26 application is not approved in the manner prescribed by this
27 subsection, the applicant has 10 days to appeal — in writing

1 ~~to~~ to the concealed weapon licensing board in the county in
2 which the applicant resides. Upon ~~receipt of~~ RECEIVING a writ-
3 ten appeal, that concealed weapon licensing board shall schedule
4 a hearing to be held at its next scheduled meeting. ~~which~~ THE
5 MEETING shall BE HELD not ~~be~~ less than 15 days after ~~the~~
6 ~~receipt of~~ the fingerprint comparison report IS RECEIVED. The
7 concealed weapon licensing board shall determine at the hearing
8 whether the applicant is qualified to carry a concealed weapon
9 ~~pursuant to~~ UNDER this section. Notice of the hearing shall be
10 mailed to the applicant and the organized POLICE department ~~of~~
11 ~~police~~ not less than 10 days before the scheduled hearing. The
12 applicant shall deposit ~~the sum of~~ \$10.00 with the county clerk
13 ~~at the time~~ WHEN the appeal is made. If ~~after appeal,~~ a
14 license is not issued AFTER APPEAL, the deposit shall be credited
15 to the COUNTY'S general fund. ~~of the county.~~ If a license is
16 issued, the deposit shall be processed as the license fee
17 required under subsection ~~(6)~~ (8).

18 (5) ~~(3) if~~ THE CONCEALED WEAPON LICENSING BOARD SHALL NOT
19 ISSUE A LICENSE TO an applicant ~~does not reside~~ WHO RESIDES in
20 a city, village, or township that ~~has~~ DOES NOT HAVE an orga-
21 nized POLICE department ~~of police, a license shall not be~~
22 ~~issued~~ unless the application is first submitted for approval or
23 objection to the supervisor of the township in which the appli-
24 cant resides. The supervisor shall indicate in writing on the
25 application whether he or she objects to the license being
26 issued. If action is not taken by a supervisor within 14 days
27 after the application is submitted to the supervisor, the

1 concealed weapon licensing board shall consider the application
2 as if a statement of no objection had been included. If the
3 supervisor objects to the application in writing, the applicant
4 may appeal the objection to the concealed weapon licensing board
5 of the county in which the applicant resides within 10 days after
6 the objection. Upon ~~receipt of~~ RECEIVING a written appeal,
7 that concealed weapon licensing board shall schedule a hearing to
8 be held at its next scheduled meeting. ~~, which~~ THE HEARING
9 shall BE HELD not ~~be~~ less than 15 days after ~~the receipt of~~
10 the fingerprint comparison report IS RECEIVED. The concealed
11 weapon licensing board shall determine at the hearing whether the
12 applicant is qualified to carry a concealed weapon ~~pursuant to~~
13 UNDER this section. Notice of the hearing shall be mailed to the
14 applicant and the supervisor of the township not less than 10
15 days before the scheduled hearing. The applicant shall deposit
16 ~~the sum of~~ \$10.00 with the county clerk ~~at the time~~ WHEN the
17 appeal is made. If ~~, after appeal,~~ a license is not issued
18 AFTER APPEAL, the deposit shall be credited to the COUNTY'S gen-
19 eral fund. ~~of the county.~~ If a license is issued, the deposit
20 shall be processed as the license fee required under subsection
21 ~~(6)~~ (8).

22 (6) ~~(4)~~ An applicant shall have 2 sets of fingerprints
23 taken by the sheriff ~~, or the sheriff's authorized~~
24 ~~representative,~~ of the county in which the applicant resides ~~,~~
25 OR THE SHERIFF'S AUTHORIZED REPRESENTATIVE if the applicant ~~does~~
26 ~~not reside~~ RESIDES in a city, village, or township ~~having~~ THAT
27 DOES NOT HAVE an organized POLICE department ~~of police,~~ or by

1 the commissioner or chief of police ~~—,~~ or marshal, or an
2 authorized representative of the commissioner or chief of police
3 or marshal, if the applicant resides ~~—within—~~ IN a city, village,
4 or township having an organized POLICE department. ~~—of police.—~~
5 The first set of fingerprints shall be taken on forms furnished
6 by the department of state police ~~—,~~ and the second set on forms
7 furnished by the federal bureau of investigation. The person
8 taking the prints shall forward the first set of fingerprints to
9 the department of state police and the second set to the federal
10 bureau of investigation or other agency designated by the federal
11 bureau of investigation. The director of the bureau of identifi-
12 cation of the department of state police shall compare the fin-
13 gerprints with those already on file in the bureau. A CONCEALED
14 WEAPON LICENSING BOARD SHALL NOT ISSUE A license ~~—shall not be~~
15 ~~issued—~~ unless ~~—the report is received by—~~ the clerk of the board
16 RECEIVES REPORTS from the department of state police and the fed-
17 eral bureau of investigation that the comparisons do not show
18 ~~—that—~~ the applicant was convicted of or confined for a felony
19 during the 8-year period. The CONCEALED WEAPON LICENSING board
20 may grant a temporary permit in case of emergency pending the
21 results of the comparisons. The temporary permit shall be issued
22 for a period of not more than 30 days and shall expire automati-
23 cally at the end of the period for which it was issued. Upon
24 ~~—receipt of—~~ RECEIVING the comparison report from the federal
25 bureau of investigation, the bureau of identification of the
26 department of state police shall forward a report of both
27 comparisons to the officer taking the prints and also to the

1 county clerk of the county in which the applicant resides. —,
 2 ~~who~~ THE COUNTY CLERK as clerk of the board shall keep a record
 3 of the report and shall report to the CONCEALED WEAPON LICENSING
 4 board. The fingerprints received under this section shall be
 5 filed in the bureau of identification of the department of state
 6 police in the noncriminal section of the files.

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

19 (8) ~~(6)~~ The prosecuting attorney ~~shall be~~ IS the chair-
 20 person of the CONCEALED WEAPON LICENSING board. —, ~~which~~ THE
 21 CONCEALED WEAPON LICENSING BOARD shall convene at least once in
 22 each calendar month and at other times as the board is called to
 23 convene by the chairperson. Each license shall be issued only
 24 upon written application signed by the applicant under oath and
 25 upon a form provided by the director of the department of state
 26 police. Each license shall be issued only with the approval of a
 27 majority of the BOARD members ~~of the board~~ and shall be

1 executed in triplicate upon forms provided by the director of the
2 department of state police. Each license shall be signed in the
3 name of the concealed weapon licensing board by the county clerk
4 with the seal of the circuit court affixed to the license. The
5 county clerk shall first collect a licensing fee of \$10.00 from
6 the applicant for each license delivered to the applicant. One
7 copy of the license shall be delivered to the applicant, the
8 duplicate shall be retained by the county clerk as a permanent
9 official record for ~~a period of~~ 6 years, and the triplicate of
10 the license shall be forwarded within 48 hours to the director of
11 the department of state police, who shall file and index each
12 license received and retain it as ~~a permanent~~ AN official
13 record for ~~a period of~~ 6 years. A license is valid for a defi-
14 nite period of not more than 3 years ~~—~~ and that period shall be
15 stated in the license. A renewal of the license shall not be
16 granted except upon the filing of a new application. A license
17 shall bear the imprint of the right thumb of the licensee ~~—~~ or,
18 if a right thumb imprint is impossible to obtain, the license
19 shall bear the imprint of the left thumb or some other finger of
20 the licensee. The licensee shall carry the license upon his or
21 her person when carrying a pistol concealed upon his or her
22 person ~~—~~ or when carrying the pistol, whether or not concealed,
23 in a vehicle occupied by the licensee. The licensee shall dis-
24 play the license upon the request of a peace officer. On the
25 first day of each month, the county clerk shall remit to the
26 state treasurer \$2.00 for each license issued during the
27 preceding month. On the first day of each month the county clerk

1 shall pay into the COUNTY'S general fund ~~of the county~~ the
2 remainder of each license fee for each license issued during the
3 preceding month.

4 (9) ~~(7)~~ The county clerk may issue a copy of a license
5 issued ~~pursuant to~~ UNDER this section for a fee of \$3.00, which
6 ~~fee~~ shall be paid into the COUNTY'S general fund. ~~of the~~
7 ~~county.~~

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