

SENATE BILL NO. 1052

April 15, 1998, Introduced by Senator JAYE and referred to the
Committee on Hunting, Fishing and Forestry.

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possess-
ing, 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 circum-
stances; to prescribe the powers and duties of certain state and
local agencies; and to repeal all acts and parts of acts incon-
sistent with the provisions of this act,"

(MCL 28.421 to 28.434) by adding section 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 15. (1) IF A POLICE AGENCY SEIZES A FIREARM FOR FOR-
2 FEITURE UNDER THIS ACT, THE POLICE AGENCY SHALL PROMPTLY REVIEW
3 THE RECORDS OF THE POLICE AGENCY AND THE LAW ENFORCEMENT INFORMA-
4 TION NETWORK TO DETERMINE WHO OWNS THE FIREARM AND WHETHER THE
5 FIREARM WAS REPORTED STOLEN. AFTER CONDUCTING THE REVIEW, THE
6 POLICE AGENCY SHALL DO BOTH OF THE FOLLOWING:

1 (A) IMMEDIATELY INFORM EACH OWNER OF THE FIREARM IN WRITING
2 THAT THE FIREARM HAS BEEN RECOVERED BY THE POLICE AGENCY.

3 (B) ALLOW ANY OWNER OF THE FIREARM TO CLAIM THE FIREARM
4 WITHIN 30 DAYS AFTER THE OWNER WAS NOTIFIED THAT THE FIREARM WAS
5 RECOVERED BY THE POLICE AGENCY OR, IF THE FIREARM IS BEING HELD
6 AS EVIDENCE OF A CRIME, WITHIN 30 DAYS AFTER THE OWNER IS NOTI-
7 FIED THAT THE FIREARM IS NO LONGER REQUIRED TO BE HELD AS EVI-
8 DENCE OF THAT CRIME, WHICHEVER IS LATER. AN INDIVIDUAL CLAIMING
9 AN OWNERSHIP INTEREST IN A FIREARM UNDER THIS SECTION HAS THE
10 BURDEN OF PROVING THAT OWNERSHIP INTEREST BY PRESENTING DOCUMEN-
11 TARY EVIDENCE OF THAT OWNERSHIP INTEREST. IF THE INDIVIDUAL IS
12 CLAIMING AN OWNERSHIP INTEREST IN A FIREARM BECAUSE HE OR SHE WAS
13 IN THE PROCESS OF PURCHASING THAT FIREARM FROM AN OWNER OF THAT
14 FIREARM, THE INDIVIDUAL IS ENTITLED TO PERFECT HIS OR HER OWNER-
15 SHIP INTEREST BY PAYING TO THE POLICE AGENCY THE BALANCE DUE ON
16 THE PURCHASE AGREEMENT. THIS SUBDIVISION DOES NOT REQUIRE THE
17 POLICE AGENCY TO RETURN A FIREARM TO AN INDIVIDUAL WHO IS PROHIB-
18 ITED BY LAW FROM POSSESSING THAT FIREARM.

19 (2) AFTER THE EXPIRATION OF THE 30-DAY PERIOD, THE POLICE
20 AGENCY SHALL PROMPTLY TURN THE FIREARM OVER TO THE DEPARTMENT OF
21 STATE POLICE UNDER SECTION 14 FOR DISPOSITION BY THAT DEPARTMENT
22 OR, IF THE FIREARM IS IN THE POSSESSION OF THE DEPARTMENT OF
23 STATE POLICE, THE DEPARTMENT SHALL DISPOSE OF THE FIREARM UNDER
24 THAT SECTION.

25 (3) AN INDIVIDUAL CLAIMING OWNERSHIP OF A FIREARM MAY PETI-
26 TION THE CIRCUIT COURT FOR RETURN OF THAT FIREARM UNDER THIS
27 SECTION IF RETURN OF THAT FIREARM IS DENIED BY THE POLICE AGENCY

1 OR IF THE FIREARM IS NOT RETURNED TO THE OWNER WITHIN THE TIME
2 PERIOD DESCRIBED IN SUBSECTION (1). IF A PETITION IS FILED UNDER
3 THIS SUBSECTION, THE POLICE AGENCY SHALL NOT TURN THE FIREARM
4 OVER TO THE DEPARTMENT OF STATE POLICE UNTIL ORDERED TO DO SO BY
5 THE COURT OR, IF THE FIREARM IS IN THE POSSESSION OF THE DEPART-
6 MENT OF STATE POLICE, THE DEPARTMENT OF STATE POLICE SHALL NOT
7 DISPOSE OF THE FIREARM UNTIL ORDERED TO DO SO BY THE COURT.

8 (4) A POLICE AGENCY THAT SEIZES A FIREARM FOR FORFEITURE
9 UNDER THIS ACT SHALL EXERCISE REASONABLE CARE TO PROTECT THE
10 FIREARM FROM LOSS OR DAMAGE WHILE THE FIREARM IS IN ITS CUSTODY,
11 AND SHALL NOT DEFACE OR OTHERWISE PLACE A PERMANENT MARK ON THE
12 FIREARM.

13 (5) AS USED IN THIS SECTION, "POLICE AGENCY" MEANS 1 OR MORE
14 OF THE FOLLOWING:

15 (A) THE DEPARTMENT OF STATE POLICE.

16 (B) A COUNTY SHERIFF'S DEPARTMENT.

17 (C) A POLICE DEPARTMENT OR PUBLIC SAFETY DEPARTMENT OF A
18 LOCAL UNIT OF GOVERNMENT.

19 (D) A POLICE DEPARTMENT OR PUBLIC SAFETY DEPARTMENT OF A
20 COLLEGE OR UNIVERSITY.