



HOUSE BILL No. 5122

November 10, 1999, Introduced by Reps. Garcia, DeVuyst, Vear, Vander Roest, Pumford, Bishop, Ehardt, Van Woerkom, Faunce, Hart, Kukuk, LaSata, Gosselin, Voorhees, Kowall, Shackleton, Gilbert, DeRossett, Julian, Patterson, Mortimer and Green and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding section 2969.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2969. (1) SUBJECT TO SUBSECTIONS (2) TO (7), A POLITI-
2 CAL SUBDIVISION SHALL NOT BRING A CIVIL ACTION AGAINST A PERSON
3 WHO MANUFACTURES, DESIGNS, DISTRIBUTES, MARKETS, SELLS, OR TRANS-
4 FERS A FIREARM OR AMMUNITION. THE AUTHORITY TO BRING SUCH A
5 CIVIL ACTION IS RESERVED EXCLUSIVELY TO THE STATE AND CAN BE
6 BROUGHT ONLY AS AUTHORIZED BY THE LEGISLATURE.

7 (2) THE COURT SHALL SUMMARILY DISMISS AND AWARD COSTS AND
8 REASONABLE ATTORNEY FEES TO EACH DEFENDANT NAMED IN A CIVIL
9 ACTION FILED IN VIOLATION OF THIS SECTION.

10 (3) IN A CIVIL ACTION AGAINST A PERSON WHO MANUFACTURES,
11 DESIGNS, DISTRIBUTES, MARKETS, SELLS, OR TRANSFERS A FIREARM OR

1 AMMUNITION, THE COURT SHALL REVIEW THE COMPLAINT WITHIN A
2 REASONABLE TIME AFTER IT IS FILED AND DETERMINE WHETHER THE
3 PLAINTIFF HAS STATED A CLAIM ON WHICH RELIEF CAN BE GRANTED UNDER
4 SUBSECTION (4). A DEFENDANT NAMED IN SUCH A CIVIL ACTION MAY
5 RESERVE THE RIGHT TO ANSWER THE COMPLAINT UNTIL THE COURT FINDS
6 AND STATES ON THE RECORD THE REASONS FOR FINDING THAT THE PLAIN-
7 TIFF HAS STATED A CLAIM ON WHICH RELIEF CAN BE GRANTED UNDER SUB-
8 SECTION (4).

9 (4) SUBJECT TO SUBSECTION (5), THIS SECTION DOES NOT APPLY
10 TO A CIVIL ACTION BASED ON 1 OR MORE OF THE FOLLOWING:

11 (A) BREACH OF CONTRACT OR ANOTHER CONTRACT ISSUE ARISING
12 FROM A PURCHASE, TRANSFER, OR USE OF A FIREARM OR AMMUNITION.

13 (B) EXPRESSED OR IMPLIED WARRANTY ARISING FROM A PURCHASE OR
14 USE OF A FIREARM OR AMMUNITION.

15 (C) FAILURE OF A FIREARM OR AMMUNITION TO OPERATE IN A
16 NORMAL, INTENDED, OR USUAL MANNER DUE TO GROSS NEGLIGENCE IN THE
17 DESIGN OR MANUFACTURE OF THE PRODUCT.

18 (D) MANUFACTURE, DESIGN, DISTRIBUTION, MARKETING, SALE, OR
19 TRANSFER OF A FIREARM OR AMMUNITION IN VIOLATION OF FEDERAL OR
20 STATE STATUTE, RULE, OR REGULATION.

21 (E) A DEFENDANT'S CRIMINAL ACT, OR A DEFENDANT'S CONSPIRACY
22 TO COMMIT, OR AIDING AND ABETTING OF, A CRIMINAL ACT, INVOLVING
23 THE USE OF A FIREARM OR AMMUNITION THAT WAS A PROXIMATE CAUSE OF
24 INJURY, DEATH, OR DAMAGE.

25 (F) A DEFENDANT'S ACTUAL KNOWLEDGE THAT A THIRD PERSON'S
26 UNLAWFUL ACT OR OMISSION INVOLVING THE USE OF A FIREARM OR

1 AMMUNITION WOULD BE A PROXIMATE CAUSE OF INJURY, DEATH, OR
2 DAMAGE.

3 (G) NUISANCE.

4 (5) THE EXCEPTIONS UNDER SUBSECTION (4) ARE NOT APPLICABLE
5 TO AN ACTION BASED ON 1 OR MORE OF THE FOLLOWING:

6 (A) A FIREARM'S OR AMMUNITION'S INHERENT POTENTIAL TO CAUSE
7 INJURY, DAMAGE, OR DEATH.

8 (B) FAILURE TO WARN THE PURCHASER, TRANSFEREE, OR USER OF
9 THE FIREARM'S OR AMMUNITION'S INHERENT POTENTIAL TO CAUSE INJURY,
10 DAMAGE, OR DEATH.

11 (C) FAILURE TO SELL WITH OR INCORPORATE INTO THE PRODUCT A
12 DEVICE TO PREVENT A FIREARM OR AMMUNITION FROM DISCHARGING, SUCH
13 AS A TRIGGER LOCKING MECHANISM, OR FROM DISCHARGE BY AN UNAUTHO-
14 RIZED OWNER.

15 (6) THE COURT SHALL BROADLY CONSTRUE THE PROHIBITION ON
16 CIVIL ACTIONS PRESCRIBED BY THIS SECTION AND SHALL NARROWLY CON-
17 STRUE THE EXCEPTIONS FROM THAT PROHIBITION. THIS SECTION IS
18 INTENDED TO CLARIFY THE OTHER PROVISIONS OF THIS ACT THAT APPLY
19 TO A CIVIL ACTION SPECIFICALLY GOVERNED BY THIS SECTION. IF,
20 HOWEVER, A COURT CONSTRUES THIS SECTION TO BE IN CONFLICT WITH
21 ANOTHER PROVISION OF THIS ACT, THIS SECTION CONTROLS. NO PROVI-
22 SION OF THIS SECTION CREATES A CIVIL ACTION.

23 (7) THIS SECTION IS INTENDED ONLY TO CLARIFY THE CURRENT
24 STATUS OF THE LAW IN THIS STATE, IS REMEDIAL IN NATURE, AND,
25 THEREFORE, APPLIES TO A CIVIL ACTION PENDING ON OR AFTER THE
26 EFFECTIVE DATE OF THIS ACT.

1 (8) AS USED IN THIS SECTION:

2 (A) "FIREARM" MEANS THAT TERM AS DEFINED IN SECTION 3T OF
3 1846 RS 1, MCL 8.3T.

4 (B) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
5 ASSOCIATION, OR OTHER LEGAL ENTITY.

6 (C) "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY, VILLAGE,
7 TOWNSHIP, CHARTER TOWNSHIP, SCHOOL DISTRICT, COMMUNITY COLLEGE,
8 OR PUBLIC UNIVERSITY OR COLLEGE.