

SENATE BILL NO. 109

January 27, 1999, Introduced by Senators V. SMITH and HART 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, 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 boards exclusively autho-
4 rized to issue a license to an applicant residing within their
5 respective counties, to carry a pistol concealed on the person
6 and to carry a pistol, whether concealed or otherwise, in a
7 vehicle operated or occupied by the applicant. The county clerk

1 of each county shall be clerk of the licensing board. ~~, which~~
2 THE board shall be known as the concealed weapon licensing
3 board. A license to carry a pistol concealed on the person or to
4 carry a pistol, whether concealed or otherwise, in a vehicle
5 operated or occupied by the person applying for the license,
6 shall not be granted to a person unless the person is 18 years of
7 age or older, is a citizen of the United States, and has resided
8 in this state 6 months or more. A license shall not be issued
9 unless ~~it appears that~~ THE BOARD DETERMINES the applicant has
10 good reason to fear injury to his or her person or property, or
11 has other proper reasons, and is a suitable person to be
12 licensed. A license shall not be issued under this section
13 unless all of the following circumstances exist:

14 (a) The person is not the subject of an order or disposition
15 entered into the law enforcement information network pursuant to
16 any of the following:

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

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

23 (iii) Section ~~2950(9)~~ 2950(16) OR 2950A(13) of the revised
24 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~
25 ~~being section 600.2950 of the Michigan Compiled Laws~~ 1961 PA
26 236, MCL 600.2950 AND 600.2950A.

1 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
2 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

3 ~~(v) Section 14(7) of chapter 84 of the Revised Statutes of~~
4 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

5 (iv) ~~(vi)~~ Section 6b(5) of chapter V of the code of crimi-
6 nal procedure, ~~Act No. 175 of the Public Acts of 1927, being~~
7 ~~section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175, MCL
8 765.6B, if the order has a condition imposed pursuant to section
9 6b(3) of chapter V of ~~Act No. 175 of the Public Acts of 1927~~
10 THAT ACT.

11 (v) ~~(vii)~~ Section ~~16b(1)~~ 16B of chapter IX of ~~Act~~
12 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~
13 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA
14 175, MCL 769.16B.

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

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

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

26 (e) The person has not been adjudged legally incapacitated
27 in this state or elsewhere. This subdivision does not apply to a

1 person who has had his or her legal capacity restored by court
2 order.

3 (F) THE PERSON IS NOT PROHIBITED FROM POSSESSING, USING,
4 TRANSPORTING, SELLING, PURCHASING, CARRYING, SHIPPING, RECEIVING,
5 OR DISTRIBUTING A FIREARM UNDER SECTION 224F OF THE MICHIGAN
6 PENAL CODE, 1931 PA 328, MCL 750.224F.

7 (2) If an applicant resides in a city, village, or township
8 having an organized POLICE department, ~~of police,~~ a license
9 shall not be issued unless the application is first approved in
10 writing by the supervisor, commissioner or chief of police, or
11 marshal of that city, village, or township. If an application is
12 not approved in the manner prescribed by this subsection, the
13 applicant has 10 days to appeal, in writing, to the concealed
14 weapon licensing board in the county in which the applicant
15 resides. Upon receipt of a written appeal, that concealed weapon
16 licensing board shall schedule a hearing to be held at its next
17 scheduled meeting, which shall not be less than 15 days after the
18 receipt of the fingerprint comparison report. The concealed
19 weapon licensing board shall determine at the hearing whether the
20 applicant is qualified to carry a concealed weapon pursuant to
21 this section. Notice of the hearing shall be mailed to the
22 applicant and the organized POLICE department ~~of police~~ not
23 less than 10 days before the scheduled hearing. The applicant
24 shall deposit ~~the sum of~~ \$10.00 with the county clerk at the
25 time the appeal is made. If, after appeal, a license is not
26 issued, the deposit shall be credited to the general fund of the

1 county. If a license is issued, the deposit shall be processed
2 as the license fee required under subsection (6).

3 (3) If an applicant does not reside in a city, village, or
4 township that has an organized POLICE department, ~~of police,~~ a
5 license shall not be issued unless the application is first sub-
6 mitted for approval or objection to the supervisor of the town-
7 ship in which the applicant resides. The supervisor shall indi-
8 cate in writing on the application whether he or she objects to
9 the license being issued. If action is not taken by a supervisor
10 within 14 days after the application is submitted to the supervi-
11 sor, the concealed weapon licensing board shall consider the
12 application as if a statement of no objection had been included.
13 If the supervisor objects to the application in writing, the
14 applicant may appeal the objection to the concealed weapon
15 licensing board of the county in which the applicant resides
16 within 10 days after the objection. Upon receipt of a written
17 appeal, that concealed weapon licensing board shall schedule a
18 hearing to be held at its next scheduled meeting, which shall not
19 be less than 15 days after the receipt of the fingerprint compar-
20 ison report. The concealed weapon licensing board shall deter-
21 mine at the hearing whether the applicant is qualified to carry a
22 concealed weapon pursuant to this section. Notice of the hearing
23 shall be mailed to the applicant and the supervisor of the town-
24 ship not less than 10 days before the scheduled hearing. The
25 applicant shall deposit ~~the sum of~~ \$10.00 with the county clerk
26 at the time the appeal is made. If, after appeal, a license is
27 not issued, the deposit shall be credited to the general fund of

1 the county. If a license is issued, the deposit shall be
2 processed as the license fee required under subsection (6).

3 (4) An applicant shall have 2 sets of fingerprints taken by
4 the sheriff, or the sheriff's authorized representative, of the
5 county in which the applicant resides, if the applicant does not
6 reside in a city, village, or township having an organized POLICE
7 department, ~~of police,~~ or by the commissioner or chief of
8 police, or marshal, or an authorized representative of the com-
9 missioner or chief of police or marshal, if the applicant resides
10 within a city, village, or township having an organized POLICE
11 department. ~~of police.~~ The first set of fingerprints shall be
12 taken on forms furnished by the department of state police, and
13 the second set on forms furnished by the federal bureau of
14 investigation. The person taking the prints shall forward the
15 first set of fingerprints to the department of state police and
16 the second set to the federal bureau of investigation or other
17 agency designated by the federal bureau of investigation. The
18 director of the bureau of identification of the department of
19 state police shall compare the fingerprints with those already on
20 file in the bureau. A license shall not be issued unless the
21 report is received by the clerk of the board from the department
22 of state police and the federal bureau of investigation that the
23 comparisons do not show that the applicant was convicted of or
24 confined for a felony during the 8-year period. The board may
25 grant a temporary permit in case of emergency pending the results
26 of the comparisons. The temporary permit shall be issued for a
27 period of not more than 30 days and shall expire automatically at

1 the end of the period for which it was issued. Upon receipt of
2 the comparison report from the federal bureau of investigation,
3 the bureau of identification of the department of state police
4 shall forward a report of both comparisons to the officer taking
5 the prints and also to the county clerk of the county in which
6 the applicant resides. ~~, who~~ THE COUNTY CLERK as clerk of the
7 CONCEALED WEAPON LICENSING board shall keep a record of the
8 report and shall report to the board. The fingerprints received
9 under this section shall be filed in the bureau of identification
10 of the department of state police in the noncriminal section of
11 the files.

12 (5) The application for a license shall state each reason
13 for the necessity or desirability of carrying a pistol concealed
14 on the person or carrying a pistol, whether or not concealed, in
15 a vehicle occupied by the person applying for the license. A
16 license issued under this section shall limit the carrying of a
17 pistol to the reason or reasons satisfactory to the board, and
18 each restriction shall appear conspicuously on the face of the
19 license. The license shall be an authorization to carry a pistol
20 in compliance with this section only to the extent contained in
21 the face of the license. ~~and the~~ THE license shall be revoked
22 by the board if the pistol is carried contrary to the
23 authorization.

24 (6) The prosecuting attorney shall be the chairperson of the
25 board. ~~, which~~ THE BOARD shall convene at least once in each
26 calendar month and at other times as the board is called to
27 convene by the chairperson. Each license shall be issued only

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

1 license upon the request of a peace officer. On the first day of
2 each month the county clerk shall remit to the state treasurer
3 \$2.00 for each license issued during the preceding month. On the
4 first day of each month the county clerk shall pay into the gen-
5 eral fund of the county the remainder of each license fee for
6 each license issued during the preceding month.

7 (7) The county clerk may issue a copy of a license issued
8 pursuant to this section for a fee of \$3.00. ~~which~~ THE fee
9 shall be paid into the general fund of the county.

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