

FIREARM PROHIBITIONS

House Bills 4645 and 4646

Sponsor: Rep. LaMar Lemmons III

Committee: Criminal Justice

Complete to 7-10-01

A SUMMARY OF HOUSE BILLS 4645 AND 4646 AS INTRODUCED 4-24-01

Section 223 of the Michigan Penal Code prohibits a seller of firearms from selling a firearm or ammunition to a person under indictment for a felony or to a person who is prohibited by the code from possessing, using, selling, purchasing, carrying, shipping, or distributing a firearm. It also prohibits a person from knowingly selling a pistol without complying with Section 2 of Public Act 372 of 1927 (which requires sellers to fill out the license form and keep a copy), and prohibits a person from knowingly selling a firearm more than 30 inches in length to a person under 18 years of age. In addition, the provision specifies penalties for violations.

House Bill 4645 would amend the Michigan Penal Code (750.223) to delete the current provisions of Section 223 and replace them with updated language that would also include prohibitions on buying a pistol or firearm with the intent to sell or furnish the gun to an unlicensed person or person under 18 years of age. Current penalties for violations would be retained, and penalties for the new prohibitions would be added. House Bill 4646 would place sentencing guidelines for the new provisions within the Code of Criminal Procedure (MCL 777.16m). Specifically, the bills would do the following:

House Bill 4645 would delete the current provisions of Section 223 of the Michigan Penal Code. Instead, the bill would specify that a person could not do the following:

- Sell or furnish a pistol, or purchase or attempt to purchase a pistol with the intent to sell or furnish it, to a person he or she knows is not licensed under Section 2 of Public Act 372 (MCL 28.422) to buy a pistol. A violation would result in a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100, or both.

- Sell or furnish a firearm other than a pistol, or purchase or attempt to purchase a firearm other than a pistol with the intent to sell or furnish it, to a person he or she knows is less than 18 years of age or is otherwise not legally qualified to purchase that firearm. It would be an affirmative defense to a prosecution if the person who sold or furnished the firearm to a minor had asked to see and had been shown a driver license or identification card issued by another state that identified the minor as being 18 years of age or older. A violation of these provisions would be a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both. A second or subsequent violation would result in a felony punishable by imprisonment for not more than four years or a fine of not more than \$2,000, or both.

- Sell or furnish a firearm or ammunition, or purchase or attempt to purchase a firearm or ammunition with the intent to sell or furnish it, to a person if he or she knows either of the following circumstances to exist: (a) the person has been charged with committing a felony; or

House Bills 4645 and 4646 (7-10-01)

(b) the person is prohibited under Section 224f of the Penal Code from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm. A violation would result in a felony punishable by imprisonment for not more than ten years or a fine of not more than \$5,000, or both.

House Bill 4646 would amend the Code of Criminal Procedure (MCL 777.16m) to specify that a violation of Section 223 (3)(c) of the Michigan Penal Code (purchasing with intent to distribute or distributing a firearm to minor or unqualified person – subsequent offense) would be a Class F felony against the public safety with a maximum sentence of four years. A violation of Section 223 (3)(d) (purchasing with intent to distribute or distributing a firearm or ammunition to a person prohibited by law from possessing a firearm or ammunition) would be a Class D felony against the public safety with a maximum sentence of ten years.

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.