

# HOUSE BILL No. 6113

(As amended June 19, 2002)

May 21, 2002, Introduced by Reps. Raczkowski, Howell, Vear, Shackleton and Woronchak and referred to the Committee on Civil Law and the Judiciary.

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 or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

by amending section 5k (MCL 28.425k), as added by 2000 PA 381.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5k. (1) Acceptance of a license issued under this act  
2 to carry a concealed pistol constitutes implied consent to submit  
3 to a chemical analysis under this section. [~~This section also~~  
4 ~~applies to individuals listed in section 12a(a) to (f) 12A(F).]~~

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1            (2) An individual shall not carry a concealed pistol while  
2 he or she is under the influence of alcoholic liquor or a  
3 controlled substance or while having a bodily alcohol content  
4 prohibited under this section. [~~A person~~ AN INDIVIDUAL] who violates  
this sec-  
5 tion is responsible for a state civil infraction or guilty of a  
6 crime as follows:

7            (a) If the [~~person~~ INDIVIDUAL] was under the influence of alcoholic  
8 liquor or a controlled substance or a combination of alcoholic  
9 liquor and a controlled substance, or had a bodily alcohol con-  
10 tent of .10 or more grams per 100 milliliters of blood, per 210  
11 liters of breath, or per 67 milliliters of urine, the individual  
12 is guilty of a misdemeanor punishable by imprisonment for not  
13 more than 93 days or \$100.00, or both. The court shall order the  
14 concealed weapon licensing board that issued the individual a  
15 license to carry a concealed pistol to permanently revoke the  
16 license. The concealed weapon licensing board shall permanently  
17 revoke the license as ordered by the court.

18            (b) If the [~~person~~ INDIVIDUAL] had a bodily alcohol content of .08  
or  
19 more but less than .10 grams per 100 milliliters of blood, per  
20 210 liters of breath, or per 67 milliliters of urine, the indi-  
21 vidual is guilty of a misdemeanor punishable by imprisonment for  
22 not more than 93 days or \$100.00, or both. The court may order  
23 the concealed weapon licensing board that issued the individual a  
24 license to carry a concealed pistol to revoke the license for not  
25 more than 3 years. The concealed weapon licensing board shall  
26 revoke the license as ordered by the court.

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1 (c) If the [~~person~~ INDIVIDUAL] had a bodily alcohol content of .02  
or  
2 more but less than .08 grams per 100 milliliters of blood, per  
3 210 liters of breath, or per 67 milliliters of urine, the indi-  
4 vidual is responsible for a state civil infraction and may be  
5 fined not more than \$100.00. The court may order the concealed  
6 weapon licensing board that issued the individual the license to  
7 revoke the license for 1 year. The concealed weapon licensing  
8 board shall revoke the license as ordered by the court. The  
9 court shall notify the concealed weapon licensing board that  
10 issued the individual a license to carry a concealed pistol if an  
11 individual is found responsible for a subsequent violation of  
12 this subdivision. [THIS SUBDIVISION DOES NOT APPLY TO AN INDIVIDUAL  
LISTED IN SECTION 12A(A) TO (E) IF EITHER OF THE FOLLOWING APPLY:  
(A) THAT INDIVIDUAL IS NOT IN UNIFORM AND IS ON DUTY.  
(B) THAT INDIVIDUAL IS NOT IN UNIFORM AND IS REQUIRED AT THE TIME TO  
CARRY A PISTOL UNDER THE TERMS OF HIS OR HER EMPLOYMENT WITH AN AGENCY  
DESCRIBED IN SECTION 12A(A) TO (E).]

13 (3) This section does not prohibit an individual licensed  
14 under this act to carry a concealed pistol [OR LISTED IN SECTION 12A(A)  
TO (F)] who has any bodily  
15 alcohol content from transporting that pistol in the locked trunk  
16 of his or her motor vehicle or another motor vehicle in which he  
17 or she is a passenger or, if the vehicle does not have a trunk,  
18 from transporting that pistol unloaded in a locked compartment or  
19 container that is separated from the ammunition for that pistol  
20 or on a vessel if the pistol is transported unloaded in a locked  
21 compartment or container that is separated from the ammunition  
22 for that pistol.

23 (4) A peace officer who has probable cause to believe an  
24 individual is carrying a concealed pistol in violation of this  
25 section may require the individual to submit to a chemical analy-

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**26** sis of his or her breath, blood, or urine.  
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1 (5) Before an individual is required to submit to a chemical  
2 analysis under subsection (4), the peace officer shall inform the  
3 individual of all of the following:

4 (a) The individual may refuse to submit to the chemical  
5 analysis, but if he or she chooses to do so, all of the following  
6 apply:

7 (i) The officer may obtain a court order requiring the indi-  
8 vidual to submit to a chemical analysis.

9 (ii) The refusal may result in his or her license to carry a  
10 concealed pistol being suspended or revoked.

11 (b) If the individual submits to the chemical analysis, he  
12 or she may obtain a chemical analysis described in subsection (4)  
13 from a person of his or her own choosing.

14 (6) The collection and testing of breath, blood, and urine  
15 specimens under this section shall be conducted in the same  
16 manner that breath, blood, and urine specimens are collected and  
17 tested for alcohol- and controlled-substance-related driving vio-  
18 lations under the Michigan vehicle code, 1949 PA 300, MCL 257.1  
19 to 257.923.

20 (7) If [~~a person~~ AN INDIVIDUAL] refuses to take a chemical test  
21 authorized  
22 under this section, the peace officer shall promptly report the  
23 refusal in writing to the concealed weapon licensing board that  
24 issued the license to the individual to carry a concealed  
25 pistol [OR, FOR AN INDIVIDUAL LISTED IN SECTION 12A(A) TO (E), TO THE  
26 APPROPRIATE AGENCY THAT EMPLOYS THAT INDIVIDUAL].

27 (8) If [~~a person~~ AN INDIVIDUAL] takes a chemical test authorized  
under this  
28 section and the test results indicate that the individual had any  
29 bodily alcohol content while carrying a concealed pistol, the

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1 peace officer shall promptly report the violation in writing to  
2 the concealed weapon licensing board that issued the license to  
3 the individual to carry a concealed pistol [OR, FOR AN INDIVIDUAL LISTED  
IN SECTION 12A(A) TO (E), TO THE APPROPRIATE AGENCY THAT EMPLOYS THAT  
INDIVIDUAL.

(9) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION 2(C), THIS SECTION  
APPLIES TO AN INDIVIDUAL LISTED IN SECTION 12A(A) TO (F).]

4 [(10) ~~(9)~~] As used in this section:

5 (a) "Alcoholic liquor" means that term as defined in section  
6 105 of the Michigan liquor control code of 1998, 1998 PA 58,  
7 MCL 436.1105.

8 (b) "Controlled substance" means that term as defined in  
9 section 7104 of the public health code, 1978 PA 368,  
10 MCL 333.7401.