

SENATE BILL No. 497

May 17, 2001, Introduced by Senators VAN REGENMORTER, KOIVISTO and NORTH and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 222 and 237 (MCL 750.222 and 750.237), section 222 as amended by 1992 PA 217.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 222. As used in this chapter:

2 (a) "Barrel length" means the internal length of a firearm
3 as measured from the face of the closed breech of the firearm
4 when it is unloaded, to the forward face of the end of the
5 barrel.

6 (B) "CONTROLLED SUBSTANCE" MEANS A CONTROLLED SUBSTANCE OR
7 CONTROLLED SUBSTANCE ANALOGUE AS THOSE TERMS ARE DEFINED IN SEC-
8 TION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

9 (C) ~~-(b)-~~ "Firearm" means a weapon from which a dangerous
10 projectile may be propelled by an explosive, or by gas or air.

1 Firearm does not include a smooth bore rifle or handgun designed
2 and manufactured exclusively for propelling by a spring, or by
3 gas or air, BB's not exceeding .177 caliber.

4 (D) ~~(c)~~ "Pistol" means a loaded or unloaded firearm that
5 is 30 inches or less in length, or a loaded or unloaded firearm
6 that by its construction and appearance conceals ~~it~~ ITSELF as a
7 firearm.

8 (E) ~~(d)~~ "Purchaser" means a person who receives a pistol
9 from another person by purchase, gift, or loan.

10 (F) ~~(e)~~ "Seller" means a person who sells, furnishes,
11 loans, or gives a pistol to another person.

12 (G) ~~(f)~~ "Shotgun" means a firearm designed or redesigned,
13 made or remade, and intended to be fired from the shoulder and
14 designed or redesigned and made or remade to use the energy of
15 the explosive in a fixed shotgun shell to fire through a smooth
16 bore either a number of ball shot or a single projectile for each
17 single function of the trigger.

18 (H) ~~(g)~~ "Short-barreled shotgun" means a shotgun having 1
19 or more barrels less than 18 inches in length or a weapon made
20 from a shotgun, whether by alteration, modification, or other-
21 wise, if the weapon as modified has an overall length of less
22 than 26 inches.

23 (I) ~~(h)~~ "Rifle" means a firearm designed or redesigned,
24 made or remade, and intended to be fired from the shoulder and
25 designed or redesigned and made or remade to use the energy of
26 the explosive in a fixed metallic cartridge to fire only a single

1 projectile through a rifled bore for each single pull of the
2 trigger.

3 (J) ~~-(i)-~~ "Short-barreled rifle" means a rifle having 1 or
4 more barrels less than 16 inches in length or a weapon made from
5 a rifle, whether by alteration, modification, or otherwise, if
6 the weapon as modified has an overall length of less than 26
7 inches.

8 Sec. 237. (1) ~~Possession or use of fire-arm by person~~
9 ~~under influence of liquor or drug--Any person under the influence~~
10 ~~of intoxicating liquor or any exhilarating or stupefying drug who~~
11 ~~shall carry, have in possession or under control, or use in any~~
12 ~~manner or discharge any fire-arm within this state, shall be~~
13 ~~guilty of a misdemeanor.~~ AN INDIVIDUAL SHALL NOT POSSESS A FIRE-
14 ARM UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

15 (A) THE INDIVIDUAL IS UNDER THE INFLUENCE OF INTOXICATING
16 LIQUOR, A CONTROLLED SUBSTANCE, OR A COMBINATION OF INTOXICATING
17 LIQUOR AND A CONTROLLED SUBSTANCE.

18 (B) THE INDIVIDUAL HAS AN ALCOHOL CONTENT OF MORE THAN 0.07
19 GRAMS PER 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR
20 PER 67 MILLILITERS OF URINE.

21 (C) BECAUSE OF THE CONSUMPTION OF INTOXICATING LIQUOR, A
22 CONTROLLED SUBSTANCE, OR A COMBINATION OF INTOXICATING LIQUOR AND
23 A CONTROLLED SUBSTANCE, THE INDIVIDUAL'S ABILITY TO USE A FIREARM
24 IS VISIBLY IMPAIRED.

25 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND (4), AN INDI-
26 VIDUAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF A MISDEMEANOR

1 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF
2 NOT MORE THAN \$100.00, OR BOTH.

3 (3) AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) AND CAUSES A
4 SERIOUS IMPAIRMENT OF A BODY FUNCTION OF ANOTHER INDIVIDUAL BY
5 THE DISCHARGE OR USE IN ANY MANNER OF THE FIREARM IS GUILTY OF A
6 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
7 FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN \$5,000.00, OR BOTH.
8 AS USED IN THIS SUBSECTION, "SERIOUS IMPAIRMENT OF A BODY
9 FUNCTION" INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE
10 FOLLOWING:

- 11 (A) LOSS OF A LIMB OR USE OF A LIMB.
- 12 (B) LOSS OF A HAND, FOOT, FINGER, OR THUMB OR USE OF A HAND,
13 FOOT, FINGER, OR THUMB.
- 14 (C) LOSS OF AN EYE OR EAR OR OF USE OF AN EYE OR EAR.
- 15 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.
- 16 (E) SERIOUS VISIBLE DISFIGUREMENT.
- 17 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.
- 18 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.
- 19 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.
- 20 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.
- 21 (J) LOSS OF AN ORGAN.
- 22 (4) AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) AND CAUSES THE
23 DEATH OF ANOTHER INDIVIDUAL BY THE DISCHARGE OR USE IN ANY MANNER
24 OF A FIREARM IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
25 NOT MORE THAN 15 YEARS OR A FINE OF NOT LESS THAN \$2,500.00 OR
26 MORE THAN \$10,000.00, OR BOTH.

1 (5) A PEACE OFFICER WHO HAS PROBABLE CAUSE TO BELIEVE AN
2 INDIVIDUAL VIOLATED SUBSECTION (1) MAY REQUIRE THE INDIVIDUAL TO
3 SUBMIT TO A CHEMICAL ANALYSIS OF HIS OR HER BREATH, BLOOD, OR
4 URINE. HOWEVER, AN INDIVIDUAL WHO IS AFFLICTED WITH HEMOPHILIA,
5 DIABETES, OR A CONDITION REQUIRING THE USE OF AN ANTICOAGULANT
6 UNDER THE DIRECTION OF A PHYSICIAN IS NOT REQUIRED TO SUBMIT TO A
7 CHEMICAL ANALYSIS OF HIS OR HER BLOOD.

8 (6) BEFORE AN INDIVIDUAL IS REQUIRED TO SUBMIT TO A CHEMICAL
9 ANALYSIS UNDER SUBSECTION (5), THE PEACE OFFICER SHALL INFORM THE
10 INDIVIDUAL OF ALL OF THE FOLLOWING:

11 (A) THE INDIVIDUAL MAY REFUSE TO SUBMIT TO THE CHEMICAL
12 ANALYSIS, BUT IF HE OR SHE REFUSES, THE OFFICER MAY OBTAIN A
13 COURT ORDER REQUIRING THE INDIVIDUAL TO SUBMIT TO A CHEMICAL
14 ANALYSIS.

15 (B) IF THE INDIVIDUAL SUBMITS TO THE CHEMICAL ANALYSIS, HE
16 OR SHE MAY OBTAIN A CHEMICAL ANALYSIS FROM A PERSON OF HIS OR HER
17 OWN CHOOSING.

18 (7) THE COLLECTION AND TESTING OF BREATH, BLOOD, OR URINE
19 SPECIMENS UNDER THIS SECTION SHALL BE CONDUCTED IN THE SAME
20 MANNER THAT BREATH, BLOOD, OR URINE SPECIMENS ARE COLLECTED AND
21 TESTED FOR ALCOHOL- AND CONTROLLED-SUBSTANCE-RELATED DRIVING VIO-
22 LATIONS UNDER THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1
23 TO 257.923.