

HOUSE BILL No. 4653

April 21, 2005, Introduced by Reps. Lemmons, III, Vagnozzi, Lemmons, Jr., Alma Smith, Hunter, Tobocman, Waters, Donigan, McConico and Cheeks and referred to the Committee on 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 2 (MCL 28.422), as amended by 2004 PA 101.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as provided in subsection (2), a person
2 shall not purchase, carry, or transport a pistol in this state
3 without first having obtained a license for the pistol as
4 prescribed in this section.

1 (2) A person who brings a pistol into this state who is on
2 leave from active duty with the armed forces of the United States
3 or who has been discharged from active duty with the armed forces
4 of the United States shall obtain a license for the pistol within
5 30 days after his or her arrival in this state.

6 (3) The commissioner or chief of police of a city, township,
7 or village police department that issues licenses ~~to purchase,~~
8 ~~carry, or transport pistols~~ **UNDER THIS SECTION**, or his or her duly
9 authorized deputy, or the sheriff or his or her duly authorized
10 deputy, in the parts of a county not included within a city,
11 township, or village having an organized police department, in
12 discharging the duty to issue licenses shall with due speed and
13 diligence issue licenses ~~to purchase, carry, or transport pistols~~
14 **UNDER THIS SECTION** to qualified applicants residing within the
15 city, village, township, or county, as applicable unless he or she
16 has probable cause to believe that the applicant would be a threat
17 to himself or herself or to other individuals, or would commit an
18 offense with the pistol that would violate a law of this or another
19 state or of the United States. An applicant is qualified if all of
20 the following circumstances exist:

21 (a) The person is not subject to an order or disposition for
22 which he or she has received notice and an opportunity for a
23 hearing, and which was entered into the law enforcement information
24 network ~~pursuant to~~ **UNDER** any of the following:

25 (i) Section 464a(1) of the mental health code, 1974 PA 258, MCL
26 330.1464a.

27 (ii) Section 5107 of the estates and protected individuals

1 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA
2 642.

3 (iii) Section 2950(9) of the revised judicature act of 1961,
4 1961 PA 236, MCL 600.2950.

5 (iv) Section 2950a(7) of **THE REVISED JUDICATURE ACT OF 1961**,
6 1961 PA 236, MCL 600.2950a.

7 (v) Section 14 of 1846 RS 84, MCL 552.14.

8 (vi) Section 6b(5) of chapter V of the code of criminal
9 procedure, 1927 PA 175, MCL 765.6b, if the order has a condition
10 imposed ~~pursuant to~~ **UNDER** section 6b(3) of chapter V of **THE CODE**
11 **OF CRIMINAL PROCEDURE**, 1927 PA 175, MCL 765.6b.

12 (vii) Section 16b(1) of chapter IX of **THE CODE OF CRIMINAL**
13 **PROCEDURE**, 1927 PA 175, MCL 769.16b.

14 (b) The person is 18 years of age or older or, if the seller
15 is licensed ~~pursuant to section 923 of title 18 of the United~~
16 ~~States Code,~~ **UNDER** 18 USC 923, is 21 years of age or older.

17 (c) The person is a citizen of the United States and is a
18 legal resident of this state.

19 (d) A felony charge against the person is not pending at the
20 time of application.

21 (e) The person is not prohibited from possessing, using,
22 transporting, selling, purchasing, carrying, shipping, receiving,
23 or distributing a firearm under section 224f of the Michigan penal
24 code, 1931 PA 328, MCL 750.224f.

25 (f) The person has not been adjudged insane in this state or
26 elsewhere unless he or she has been adjudged restored to sanity by
27 court order.

1 (g) The person is not under an order of involuntary commitment
2 in an inpatient or outpatient setting due to mental illness.

3 (h) The person has not been adjudged legally incapacitated in
4 this state or elsewhere. This subdivision does not apply to a
5 person who has had his or her legal capacity restored by order of
6 the court.

7 (i) The person correctly answers 70% or more of the questions
8 on a basic pistol safety review questionnaire approved by the basic
9 pistol safety review board and provided to the individual free of
10 charge by the licensing authority. If the person fails to correctly
11 answer 70% or more of the questions on the basic pistol safety
12 review questionnaire, the licensing authority shall inform the
13 person of the questions he or she answered incorrectly and allow
14 the person to attempt to complete another basic pistol safety
15 review questionnaire. The person shall not be allowed to attempt to
16 complete more than 2 basic pistol safety review questionnaires on
17 any single day. The licensing authority shall allow the person to
18 attempt to complete the questionnaire during normal business hours
19 on the day the person applies for his or her license.

20 (4) Applications for licenses under this section shall be
21 signed by the applicant under oath upon forms provided by the
22 director of the department of state police. Licenses to purchase,
23 carry, or transport pistols shall be executed in triplicate upon
24 forms provided by the director of the department of state police
25 and shall be signed by the licensing authority. Three copies of the
26 license shall be delivered to the applicant by the licensing
27 authority.

1 (5) Upon the sale of the pistol, the seller shall fill out the
2 license forms describing the pistol sold, together with the date of
3 sale, and sign his or her name in ink indicating that the pistol
4 was sold to the licensee. The licensee shall also sign his or her
5 name in ink indicating the purchase of the pistol from the seller.
6 The seller ~~may~~ **SHALL** retain ~~a copy~~ **2 COPIES** of the license as a
7 record of the sale of the pistol. The ~~licensee~~ **SELLER** shall
8 return ~~2 copies~~ **1 COPY** of the license to the licensing authority
9 within 10 days following the ~~purchase~~ **SALE** of the pistol. **THE**
10 **SELLER SHALL SEND THE COPY BY FIRST-CLASS MAIL TO THE DEPARTMENT**
11 **WITHIN 10 DAYS AFTER THE SALE OF THE PISTOL.**

12 (6) ~~One~~ **THE** copy of the license **RETURNED BY THE SELLER UNDER**
13 **SUBSECTION (5)** shall be retained by the licensing authority as an
14 official record for a period of 6 years. ~~The other copy of the~~
15 ~~license shall be forwarded by the licensing authority within 48~~
16 ~~hours to the director of the department of state police.~~ A license
17 is void unless used within 10 days after the date ~~of its issue~~ **IT**
18 **IS ISSUED.**

19 (7) This section does not apply to the purchase of pistols
20 from wholesalers by dealers regularly engaged in the business of
21 selling pistols at retail, or to the sale, barter, or exchange of
22 pistols kept as relics or curios not made for modern ammunition or
23 permanently deactivated. This section does not prevent the transfer
24 of ownership of pistols that are inherited if the license to
25 purchase is approved by the commissioner or chief of police,
26 sheriff, or their authorized deputies, and signed by the personal
27 representative of the estate or by the next of kin having authority

1 to dispose of the pistol.

2 (8) The licensing authority shall provide a basic pistol
3 safety brochure to each applicant for a license under this section
4 before the applicant answers the basic pistol safety review
5 questionnaire. A basic pistol safety brochure shall contain, but is
6 not limited to providing, information on all of the following
7 subjects:

8 (a) Rules for safe handling and use of pistols.

9 (b) Safe storage of pistols.

10 (c) Nomenclature and description of various types of pistols.

11 (d) The responsibilities of owning a pistol.

12 (9) The basic pistol safety brochure shall be supplied in
13 addition to the safety pamphlet required by section 9b.

14 (10) The basic pistol safety brochure required in subsection
15 (8) shall be produced by a national nonprofit membership
16 organization that provides voluntary pistol safety programs that
17 include training individuals in the safe handling and use of
18 pistols.

19 (11) A person who forges any matter on an application for a
20 license under this section is guilty of a felony, punishable by
21 imprisonment for not more than 4 years or a fine of not more than
22 \$2,000.00, or both.

23 (12) A licensing authority shall implement this section during
24 all of the licensing authority's normal business hours and shall
25 set hours for implementation that allow an applicant to use the
26 license within the time period set forth in subsection (6).