

**SUBSTITUTE FOR  
HOUSE BILL NO. 4611**

A bill to authorize a process for retired law enforcement officers to carry concealed firearms in this state; to prescribe certain powers and duties of the commission on law enforcement standards and law enforcement agencies; to impose certain civil and criminal penalties; to impose certain requirements on persons issued certificates to carry concealed firearms; to provide for certain civil immunity; to allow for the collection of certain fees; to create certain funds; to provide for the forfeiture of firearms under certain circumstances; and to provide for the promulgation of rules.

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

**1**       Sec. 1. This act shall be known and may be cited as the

1 "Michigan law enforcement officer's firearm carry act".

2 Sec. 2. As used in this act:

3 (a) "Active duty firearms standard" means the in-service  
4 standard for the training and qualification of active duty law  
5 enforcement officers as mandated by the commission under the  
6 commission on law enforcement standards act, 1965 PA 203, MCL  
7 28.601 to 28.616.

8 (b) "Agency-issued identification" means a photographic  
9 identification issued by the agency from which the qualified  
10 retired law enforcement officer retired from service as a law  
11 enforcement officer, as described in 18 USC 926C(d).

12 (c) "Alcoholic liquor" means that term as defined in section  
13 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL  
14 436.1105.

15 (d) "Certificate" means a commission-issued document that  
16 identifies a qualified retired law enforcement officer who is  
17 certified under 18 USC 926C and this act.

18 (e) "Certificate holder" means a qualified retired law  
19 enforcement officer who is issued a certificate by the commission.

20 (f) "Certification" or "certified" means official recognition  
21 by the commission that a retired law enforcement officer has met  
22 the active duty firearms standard in this state and is eligible to  
23 carry a concealed firearm under 18 USC 926C.

24 (g) "Commission" means the Michigan commission on law  
25 enforcement standards established under section 3 of the commission  
26 on law enforcement standards act, 1965 PA 203, MCL 28.603.

27 (h) "Controlled substance" means that term as defined in

1 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

2 (i) "Firearm" means that term as defined in section 1 of 1927  
3 PA 372, MCL 28.421.

4 (j) "Qualified retired law enforcement officer" means that  
5 term as defined in 18 USC 926C(c).

6 Sec. 3. The commission shall establish requirements and  
7 procedures through which a qualified retired law enforcement  
8 officer may be certified to carry a concealed firearm under 18 USC  
9 926C and this act. The commission shall establish requirements and  
10 procedures through which certification under 18 USC 926C and this  
11 act may be denied or revoked. The commission may promulgate rules  
12 to implement this act in accordance with the administrative  
13 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

14 Sec. 4. (1) In order to be eligible to carry a concealed  
15 firearm under 18 USC 926C and this act, a qualified retired law  
16 enforcement officer must meet the requirements of 18 USC 926C,  
17 including the requirement that he or she possess and carry agency-  
18 issued identification, and be a legal resident of this state.

19 (2) If a law enforcement agency in this state does not provide  
20 agency-issued identification that would satisfy the requirement of  
21 18 USC 926C(d), the law enforcement agency shall inform each law  
22 enforcement officer of that fact at the time that the law  
23 enforcement officer retires from the law enforcement agency.

24 (3) A retired law enforcement officer is not eligible for  
25 certification by the commission under 18 USC 926C and this act if  
26 he or she is prohibited under federal law from being certified  
27 under 18 USC 926C.

1       Sec. 5. (1) The commission shall establish application  
2 requirements and procedures in order to verify the identity of an  
3 applicant, to conduct a complete criminal history, and to conduct a  
4 background investigation into an applicant's fitness to carry a  
5 concealed firearm under 18 USC 926C and this act.

6       (2) An applicant for certification shall be required to submit  
7 to fingerprint-based identification and criminal history searches.  
8 The commission or its agents may conduct criminal history inquiries  
9 on applicants for certification through the law enforcement  
10 information network and the national crime information center,  
11 operated through the department of state police, and the national  
12 crime information center, operated by the federal bureau of  
13 investigation.

14       Sec. 6. (1) The commission shall create an application form  
15 for certification under this act. The applicant shall sign the  
16 application acknowledging that all information contained in the  
17 application is true and accurate.

18       (2) An applicant who knowingly provides false or misleading  
19 information on the application, in whole or in part, is guilty of a  
20 felony, punishable by imprisonment for not more than 4 years or a  
21 fine of not more than \$2,000.00, or both.

22       Sec. 7. (1) The commission or its agent shall issue a  
23 certificate to a qualified retired law enforcement officer who has  
24 complied with the active duty firearms standard and is eligible to  
25 carry a concealed firearm under 18 USC 926C and this act. A  
26 certificate is valid for 12 months and expires on a date determined  
27 by the commission. A certificate that is not revoked may be renewed

1 annually.

2 (2) A certificate holder shall carry the certificate, a valid  
3 Michigan driver license or Michigan personal identification card,  
4 and his or her agency-issued identification on his or her person at  
5 all times while in possession of a concealed firearm and shall  
6 produce those documents upon demand by a peace officer.

7 (3) A certificate holder who is carrying a concealed firearm  
8 and who is stopped by a peace officer shall immediately disclose to  
9 the peace officer that he or she is carrying a concealed firearm on  
10 his or her person or is transporting a firearm in his or her  
11 vehicle.

12 (4) Upon notice of revocation, a certificate holder is  
13 required to forfeit his or her certificate to the commission by  
14 returning the certificate in person to the commission or returning  
15 the certificate by certified mail.

16 (5) A violation of this section subjects the certificate  
17 holder to the penalties provided in section 5f of 1927 PA 372, MCL  
18 28.425f, including forfeiture of the firearm.

19 Sec. 8. (1) A certificate holder shall immediately report to  
20 the commission in writing the circumstances of any of the  
21 following:

22 (a) An arrest or a conviction for a violation of any state or  
23 federal criminal law.

24 (b) Becoming the subject of an order or disposition in any  
25 jurisdiction that does 1 or more of the following:

26 (i) Restrains the certificate holder from harassing, stalking,  
27 or threatening an intimate partner of the person or a child of the

1 intimate partner or person, or engaging in other conduct that would  
2 place an intimate partner in reasonable fear of bodily injury to  
3 the partner or child.

4 (ii) Prohibits or limits the transport, possession, carrying,  
5 or use of firearms or ammunition.

6 (iii) Involves an adjudication of mental illness, a finding of  
7 insanity, a finding of legal incapacity, or an order for  
8 involuntary commitment in an inpatient or outpatient setting.

9 (c) A laboratory result reflecting the unauthorized presence  
10 of controlled substances following a drug test administered to the  
11 certificate holder.

12 (2) A certificate holder who fails to file a written report as  
13 required under subsection (1) is guilty of a misdemeanor punishable  
14 by imprisonment for not more than 1 year or a fine of not more than  
15 \$5,000.00, or both.

16 Sec. 9. (1) Acceptance of a certificate issued under this act  
17 constitutes implied consent to submit to a chemical analysis under  
18 this section.

19 (2) A certificate holder shall not carry a concealed firearm  
20 while he or she is under the influence of alcoholic liquor or a  
21 controlled substance or while having a bodily alcohol content  
22 prohibited under this section. A person who violates this section  
23 is responsible for a state civil infraction or is guilty of a crime  
24 as follows:

25 (a) If the person was under the influence of alcoholic liquor  
26 or a controlled substance or a combination of alcoholic liquor and  
27 a controlled substance, or had a bodily alcohol content of .10 or

1 more grams per 100 milliliters of blood, per 210 liters of breath,  
2 or per 67 milliliters of urine, the individual is guilty of a  
3 misdemeanor punishable by imprisonment for not more than 93 days or  
4 a fine of not more than \$100.00, or both. The court shall order the  
5 commission to permanently revoke the certificate. The commission  
6 shall permanently revoke the certificate as ordered by the court.

7 (b) If the person had a bodily alcohol content of .08 or more  
8 but less than .10 grams per 100 milliliters of blood, per 210  
9 liters of breath, or per 67 milliliters of urine, the individual is  
10 guilty of a misdemeanor punishable by imprisonment for not more  
11 than 93 days or a fine of not more than \$100.00, or both. The court  
12 may order the commission to revoke the certificate for not more  
13 than 3 years. The commission shall revoke the certificate as  
14 ordered by the court.

15 (c) If the person had a bodily alcohol content of .02 or more,  
16 but less than .08 grams per 100 milliliters of blood, per 210  
17 liters of breath, or per 67 milliliters of urine, the individual is  
18 responsible for a state civil infraction and may be fined not more  
19 than \$100.00. The court may order the commission to revoke the  
20 certificate for 1 year. The commission shall revoke certification  
21 if an individual is found responsible for a subsequent violation of  
22 this subdivision.

23 (3) This section does not prohibit an individual certified  
24 under this act to carry a concealed firearm who has any bodily  
25 alcohol content from transporting that firearm in the locked trunk  
26 of his or her motor vehicle or another motor vehicle in which he or  
27 she is a passenger or, if the vehicle does not have a trunk, from

1 transporting that firearm unloaded in a locked compartment or  
2 container that is separated from the ammunition for that firearm or  
3 on a vessel if the firearm is transported unloaded in a locked  
4 compartment or container that is separated from the ammunition for  
5 that firearm.

6 (4) A peace officer who has probable cause to believe a  
7 certificate holder is carrying a concealed firearm in violation of  
8 this section may require the certificate holder to submit to a  
9 chemical analysis of his or her breath, blood, or urine.

10 (5) Before a certificate holder is required to submit to a  
11 chemical analysis under subsection (4), the peace officer shall  
12 inform the certificate holder of all of the following:

13 (a) The certificate holder may refuse to submit to the  
14 chemical analysis, but if he or she chooses to do so, all of the  
15 following apply:

16 (i) The officer may obtain a court order requiring the  
17 certificate holder to submit to a chemical analysis.

18 (ii) The refusal may result in his or her certificate being  
19 revoked.

20 (b) If the certificate holder submits to the chemical  
21 analysis, he or she may obtain a chemical analysis described in  
22 subsection (4) from a person of his or her own choosing.

23 (6) The collection and testing of breath, blood, and urine  
24 specimens under this section shall be conducted in the same manner  
25 that breath, blood, and urine specimens are collected and tested  
26 for alcohol-related and controlled-substance-related motor vehicle  
27 operation violations under the Michigan vehicle code, 1949 PA 300,



1 MCL 257.1 to 257.923.

2 (7) If a certificate holder refuses to take a chemical test  
3 authorized under this section, the peace officer shall promptly  
4 report the refusal in writing to the commission.

5 (8) If a certificate holder takes a chemical test authorized  
6 under this section and the test results indicate that the  
7 individual had any bodily alcohol content while carrying a  
8 concealed firearm, the peace officer shall promptly report the  
9 violation in writing to the commission.

10 Sec. 10. (1) The department of state police shall create and  
11 maintain a computerized database of individuals who apply for a  
12 certificate under this act. The database shall contain only the  
13 following information as to each individual:

14 (a) The individual's name, date of birth, address, and county  
15 of residence.

16 (b) If the individual is issued a certificate, the certificate  
17 number and date of expiration.

18 (c) Except as provided in subsection (2), if the individual  
19 was denied a certificate, a statement of the reasons for that  
20 denial.

21 (d) A statement of all criminal charges pending and criminal  
22 convictions obtained against the individual during the certificate  
23 period.

24 (e) A statement of all determinations of responsibility for  
25 civil infractions of this act pending or obtained against the  
26 individual during the certificate period.

27 (2) If an individual who was denied a certificate is

1 subsequently issued a certificate, the department of state police  
2 shall delete from the computerized database the previous reasons  
3 for the denial.

4 (3) The department of state police shall enter the information  
5 described in subsection (1)(a) and (b) into the law enforcement  
6 information network.

7 (4) Information in the database, compiled under subsections  
8 (1) through (3), is confidential, is not subject to disclosure  
9 under the freedom of information act, 1976 PA 442, MCL 15.231 to  
10 15.246, and shall not be disclosed to any person except for  
11 purposes of this act or for law enforcement purposes. The  
12 information compiled under subsection (5) is subject to disclosure  
13 under the freedom of information act, 1976 PA 442, MCL 15.231 to  
14 15.246.

15 Sec. 11. The commission shall identify public entities  
16 eligible to administer the active duty firearm standard to  
17 qualified retired law enforcement officers for purposes of carrying  
18 out 18 USC 926C and this act.

19 Sec. 12. A firearm that is carried in violation of this act is  
20 subject to seizure and forfeiture in the same manner that property  
21 is subject to seizure and forfeiture under sections 4701 to 4709 of  
22 the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to  
23 600.4709. This section does not apply if the violation is a state  
24 civil infraction under section 5f(7) of 1927 PA 372, MCL 28.425f,  
25 unless the individual fails to present his or her certificate  
26 within the 45-day period described in that section.

27 Sec. 13. (1) The retired law enforcement officer safety fund

1 is created in the state treasury.

2 (2) The state treasurer shall credit to the fund deposits from  
3 the collection of application fees as provided in section 14. The  
4 state treasurer shall direct the investment of the fund. The state  
5 treasurer shall credit to the fund interest and earnings from fund  
6 investments.

7 (3) The unencumbered balance remaining in the fund at the end  
8 of a fiscal year shall remain in the fund and shall not revert to  
9 the general fund.

10 (4) The department of state police is the administrator of the  
11 fund for auditing purposes.

12 (5) The commission shall expend money from the fund, upon  
13 appropriation, only for the purposes of this act.

14 Sec. 14. The commission may set and collect a fee for actual  
15 costs associated with administration under 18 USC 926C and this act  
16 by any method of payment accepted by the commission. The fees shall  
17 be deposited in the retired law enforcement officer safety fund.

18 Sec. 15. The commission or any law enforcement agency,  
19 governmental entity, agent, employee, volunteer, designee, or  
20 individual who is acting in good faith in discharging his or her  
21 responsibilities under this act is immune from civil liability for  
22 any damages resulting from the ownership, possession, carrying,  
23 use, or discharge of a firearm by any qualified retired law  
24 enforcement officer who has been certified under this act or whose  
25 certification has been denied. The immunity provided under this  
26 section is in addition to any immunity otherwise provided by law.

27 Sec. 16. This act does not preempt any existing state or

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1 federal statute, regulation, or other authority governing the use,  
2 possession, carrying, or receiving of firearms or ammunition in  
3 this state, including application by a qualified retired law  
4 enforcement officer to carry a concealed firearm under 18 USC 926C.

5 Sec. 17. The commission's authority to issue certificates  
6 under this act expires immediately upon the repeal of 18 USC 926C.

7 Enacting section 1. This act takes effect January 1, [2009].