

SENATE 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 department of state police, the commission on law enforcement standards, and certain other state officers and agencies; to impose certain civil and criminal penalties; to impose certain requirements on certain 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 retired 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) "Alcoholic liquor" means that term as defined in section
9 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
10 436.1105.

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

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) "Controlled substance" means that term as defined in
19 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

20 (f) "Certificate holder" means a qualified retired law
21 enforcement officer who is issued a certificate by the commission.

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

25 (h) "Firearm" means that term as defined in section 1 of 1927
26 PA 372, MCL 28.421.

27 (i) "Peace officer" means an officer of a law enforcement

1 agency of the state, the federal government, or a county, township,
2 city, or village who is responsible for the prevention and
3 detection of crime and enforcement of the criminal laws of this
4 state, and includes a motor carrier officer appointed under section
5 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the
6 department of state police under section 6c of 1935 PA 59, MCL
7 28.6c. Peace officer does not include a qualified retired law
8 enforcement officer.

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

11 Sec. 3. The commission shall establish requirements and
12 procedures through which a qualified retired law enforcement
13 officer may be certified to carry a concealed firearm under 18 USC
14 926C and this act. The commission shall establish requirements and
15 procedures through which certification under 18 USC 926C and this
16 act may be denied or revoked. The commission may promulgate rules
17 to implement this act in accordance with the administrative
18 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

19 Sec. 4. (1) In order to be eligible to carry a concealed
20 firearm under 18 USC 926C and this act, a qualified retired law
21 enforcement officer must meet the requirements of 18 USC 926C and
22 be a legal resident of this state.

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

27 Sec. 5. (1) The commission shall establish application

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

5 (2) The commission shall request the department of state
6 police to conduct a criminal records check through the state of
7 Michigan and the federal bureau of investigation. The commission
8 shall require the individual to submit his or her fingerprints to
9 the department of state police in a manner prescribed by the
10 department of state police for that purpose. The department of
11 state police may charge a fee for conducting the criminal records
12 check. If a criminal arrest fingerprint card is subsequently
13 submitted to the department of state police and matches against a
14 fingerprint that was submitted under this section and stored in the
15 AFIS database, the department of state police shall notify the
16 commission. Once the department of state police has a set of
17 fingerprints on file as a result of being fingerprinted for
18 purposes of this act, the individual is not required to have
19 fingerprints taken for subsequent renewal applications.

20 Sec. 6. (1) The commission shall create an application form
21 for certification under this act. The applicant shall sign the
22 application acknowledging that all information contained in the
23 application is true and accurate.

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

1 Sec. 7. (1) The commission or its agent shall issue a
2 certificate to a qualified retired law enforcement officer who has
3 complied with the active duty firearms standard and is eligible to
4 carry a concealed firearm under 18 USC 926C and this act.

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

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

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

19 (5) A violation of this section subjects the certificate
20 holder to the penalties provided in section 5f of 1927 PA 372, MCL
21 28.425f, including forfeiture of the firearm.

22 Sec. 8. (1) A certificate holder shall immediately report to
23 the commission in writing the circumstances of any of the
24 following:

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

27 (b) Becoming the subject of an order or disposition in any

1 jurisdiction that does 1 or more of the following:

2 (i) Restrains the certificate holder from harassing, stalking,
3 or threatening an intimate partner of the person or a child of the
4 intimate partner or person, or engaging in other conduct that would
5 place an intimate partner in reasonable fear of bodily injury to
6 the partner or child.

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

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

12 (c) A laboratory result reflecting the unauthorized presence
13 of controlled substances following a drug test administered to the
14 certificate holder.

15 (2) A certificate holder who fails to file a written report as
16 required under subsection (1) is guilty of a misdemeanor punishable
17 by imprisonment for not more than 1 year or a fine of not more than
18 \$5,000.00, or both.

19 Sec. 9. (1) Acceptance of a certificate issued under this act
20 constitutes implied consent to submit to a chemical analysis under
21 this section.

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

1 (a) If the person was under the influence of alcoholic liquor
2 or a controlled substance or a combination of alcoholic liquor and
3 a controlled substance, or had a bodily alcohol content of .10 or
4 more grams per 100 milliliters of blood, per 210 liters of breath,
5 or per 67 milliliters of urine, the individual is guilty of a
6 misdemeanor punishable by imprisonment for not more than 93 days or
7 a fine of not more than \$100.00, or both. The court shall order the
8 commission to permanently revoke the certificate. The commission
9 shall permanently revoke the certificate as ordered by the court.

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

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

26 (3) This section does not prohibit an individual certified
27 under this act to carry a concealed firearm who has any bodily

1 alcohol content from transporting that firearm in the locked trunk
2 of his or her motor vehicle or another motor vehicle in which he or
3 she is a passenger or, if the vehicle does not have a trunk, from
4 transporting that firearm unloaded in a locked compartment or
5 container that is separated from the ammunition for that firearm or
6 on a vessel if the firearm is transported unloaded in a locked
7 compartment or container that is separated from the ammunition for
8 that firearm.

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

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

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

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

21 (ii) The refusal may result in his or her certificate being
22 revoked.

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

26 (6) The collection and testing of breath, blood, and urine
27 specimens under this section shall be conducted in the same manner

1 that breath, blood, and urine specimens are collected and tested
2 for alcohol-related and controlled-substance-related motor vehicle
3 operation violations under the Michigan vehicle code, 1949 PA 300,
4 MCL 257.1 to 257.923.

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

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

13 Sec. 10. (1) The commission shall create and maintain a
14 computerized database of individuals who apply for a certificate
15 under this act. The database shall contain only the following
16 information as to each individual:

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

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

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

24 (d) A statement of all criminal charges pending and criminal
25 convictions obtained against the individual during the certificate
26 period.

27 (e) A statement of all determinations of responsibility for

1 civil infractions of this act pending or obtained against the
2 individual during the certificate period.

3 (2) If an individual who was denied a certificate is
4 subsequently issued a certificate, the commission shall delete from
5 the computerized database the previous reasons for the denial.

6 (3) The commission shall provide the information described in
7 subsection (1)(a) and (b) to the department of state police in a
8 manner prescribed by the department of state police for
9 dissemination through the law enforcement information network.

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

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 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

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 March 1, 2009.