

# HOUSE BILL No. 4611

April 19, 2007, Introduced by Reps. Rick Jones, Espinoza, Brown, Nofs, Stahl, Sheltroun, Polidori, Scott, Stakoe, Hune, Mayes, Schuitmaker, Meadows, Condino, Bieda, Calley, Elsenheimer, LeBlanc, David Law, LaJoy, Pearce and Agema and referred to the Committee on Judiciary.

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; 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:

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

1

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) "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 333.7401.

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 Michigan commission on law  
23 enforcement standards established under section 3 of the commission  
24 on law 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) "Qualified retired law enforcement officer" means that

1 term as defined in 18 USC 926C(c).

2 Sec. 3. The commission shall establish requirements and  
3 procedures through which a qualified retired law enforcement  
4 officer may be certified to carry a concealed firearm under 18 USC  
5 926C and this act. The commission shall establish requirements and  
6 procedures through which certification under 18 USC 926C and this  
7 act may be denied or revoked. The commission may promulgate rules  
8 to implement this act in accordance with the administrative  
9 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

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

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

23 (2) An applicant for certification shall be required to submit  
24 to fingerprint-based identification and criminal history searches.  
25 The commission or its agents may conduct criminal history inquiries  
26 on applicants for certification through the law enforcement  
27 information network and the national crime information center,

1 operated through the department of state police, and the national  
2 crime information center, operated by the federal bureau of  
3 investigation.

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

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

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

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

21       (3) A certificate holder who is carrying a concealed firearm  
22 and who is stopped by a peace officer shall immediately disclose to  
23 the peace officer that he or she is carrying a concealed firearm on  
24 his or her person or is transporting a firearm in his or her  
25 vehicle.

26       (4) Upon notice of revocation, a certificate holder is  
27 required to forfeit his or her certificate to the commission by

1 returning the certificate in person to the commission or returning  
2 the certificate by certified mail.

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

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

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

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

13 (i) Restrains the certificate holder from harassing, stalking,  
14 or threatening an intimate partner of the person or a child of the  
15 intimate partner or person, or engaging in other conduct that would  
16 place an intimate partner in reasonable fear of bodily injury to  
17 the partner or child.

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

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

23 (c) A laboratory result reflecting the unauthorized presence  
24 of controlled substances following a drug test administered to the  
25 certificate holder.

26 (2) A certificate holder who fails to file a written report as  
27 required under subsection (1) is guilty of a misdemeanor punishable

1 by imprisonment for not more than 1 year or a fine of not more than  
2 \$5,000.00, or both.

3 Sec. 9. (1) Acceptance of a certificate issued under this act  
4 constitutes implied consent to submit to a chemical analysis under  
5 this section.

6 (2) A certificate holder shall not carry a concealed firearm  
7 while he or she is under the influence of alcoholic liquor or a  
8 controlled substance or while having a bodily alcohol content  
9 prohibited under this section. A person who violates this section  
10 is responsible for a state civil infraction or is guilty of a crime  
11 as follows:

12 (a) If the person was under the influence of alcoholic liquor  
13 or a controlled substance or a combination of alcoholic liquor and  
14 a controlled substance, or had a bodily alcohol content of .10 or  
15 more grams per 100 milliliters of blood, per 210 liters of breath,  
16 or per 67 milliliters of urine, the individual is guilty of a  
17 misdemeanor punishable by imprisonment for not more than 93 days or  
18 a fine of not more than \$100.00, or both. The court shall order the  
19 commission to permanently revoke the certificate. The commission  
20 shall permanently revoke the certificate as ordered by the court.

21 (b) If the person had a bodily alcohol content of .08 or more  
22 but less than .10 grams per 100 milliliters of blood, per 210  
23 liters of breath, or per 67 milliliters of urine, the individual is  
24 guilty of a misdemeanor punishable by imprisonment for not more  
25 than 93 days or a fine of not more than \$100.00, or both. The court  
26 may order the commission to revoke the certificate for not more  
27 than 3 years. The commission shall revoke the certificate as

1 ordered by the court.

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

10 (3) This section does not prohibit an individual certified  
11 under this act to carry a concealed firearm who has any bodily  
12 alcohol content from transporting that firearm in the locked trunk  
13 of his or her motor vehicle or another motor vehicle in which he or  
14 she is a passenger or, if the vehicle does not have a trunk, from  
15 transporting that firearm unloaded in a locked compartment or  
16 container that is separated from the ammunition for that firearm or  
17 on a vessel if the firearm is transported unloaded in a locked  
18 compartment or container that is separated from the ammunition for  
19 that firearm.

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

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

27 (a) The certificate holder may refuse to submit to the

1 chemical analysis, but if he or she chooses to do so, all of the  
2 following apply:

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

5 (ii) The refusal may result in his or her certificate being  
6 revoked.

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

10 (6) The collection and testing of breath, blood, and urine  
11 specimens under this section shall be conducted in the same manner  
12 that breath, blood, and urine specimens are collected and tested  
13 for alcohol-related and controlled-substance-related motor vehicle  
14 operation violations under the Michigan vehicle code, 1949 PA 300,  
15 MCL 257.1 to 257.923.

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

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

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



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

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

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

8 (d) A statement of all criminal charges pending and criminal  
9 convictions obtained against the individual during the certificate  
10 period.

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

14 (2) If an individual who was denied a certificate is  
15 subsequently issued a certificate, the department of state police  
16 shall delete from the computerized database the previous reasons  
17 for the denial.

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

21 (4) Information in the database, compiled under subsections  
22 (1) through (3), is confidential, is not subject to disclosure  
23 under the freedom of information act, 1976 PA 442, MCL 15.231 to  
24 15.246, and shall not be disclosed to any person except for  
25 purposes of this act or for law enforcement purposes. The  
26 information compiled under subsection (5) is subject to disclosure  
27 under the freedom of information act, 1976 PA 442, MCL 15.231 to

1 15.246.

2 (5) The department of state police shall file an annual report  
3 with the secretary of the senate and the clerk of the house of  
4 representatives setting forth all of the following information:

5 (a) The number of certificate applications received.

6 (b) The number of certificates issued.

7 (c) The number of applications for certificates that were  
8 denied.

9 (d) Categories for denial under subdivision (c).

10 (e) The number of certificates revoked.

11 (f) Categories for revocation under subdivision (e).

12 (g) The number of applications for certificates pending at the  
13 time the report is made.

14 (h) The number of charges of state civil infractions of this  
15 act or charges of criminal violations, categorized by offense,  
16 filed against certificate holders that resulted in a finding of  
17 responsibility or a criminal conviction. The report shall indicate  
18 the number of crimes in each category of criminal offense that  
19 involved the brandishing or use of a firearm, the number that  
20 involved the carrying of a firearm by the certificate holder during  
21 the commission of the crime, and the number in which no firearm was  
22 carried by the certificate holder during the commission of the  
23 crime.

24 (i) The number of pending criminal charges, categorized by  
25 offense, against certificate holders.

26 (j) The number of criminal cases dismissed, categorized by  
27 offense, against certificate holders.

1 (k) The number of cases filed against certificate holders for  
2 criminal violations that resulted in a finding of not responsible  
3 or not guilty, categorized by offense.

4 (l) The number of suicides by certificate holders.

5 (m) Actual costs incurred per certificate.

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

10 Sec. 12. A firearm that is carried in violation of this act is  
11 subject to seizure and forfeiture in the same manner that property  
12 is subject to seizure and forfeiture under sections 4701 to 4709 of  
13 the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to  
14 600.4709. This section does not apply if the violation is a state  
15 civil infraction under section 5f(7) of 1927 PA 372, MCL 28.425f,  
16 unless the individual fails to present his or her certificate  
17 within the 45-day period described in that section.

18 Sec. 13. (1) The retired law enforcement officer safety fund  
19 is created in the state treasury. The money in the fund shall be  
20 expended by the commission only to carry out the purposes of this  
21 act.

22 (2) The state treasurer shall credit to the fund deposits from  
23 the collection of application fees as provided in section 14. The  
24 state treasurer may invest money in the fund in any manner  
25 authorized by law for the investment of state money.

26 (3) The unencumbered balance remaining in the fund at the end  
27 of a fiscal year shall remain in the fund and shall not revert to

1 the general fund.

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

6       Sec. 15. The commission or any law enforcement agency,  
7 governmental entity, agent, employee, volunteer, designee, or  
8 individual who is acting in good faith in discharging his or her  
9 responsibilities under this act is immune from civil liability for  
10 any damages resulting from the ownership, possession, carrying,  
11 use, or discharge of a firearm by any qualified retired law  
12 enforcement officer who has been certified under this act or whose  
13 certification has been denied. The immunity provided under this  
14 section is in addition to any immunity otherwise provided by law.

15       Sec. 16. This act does not preempt any existing state or  
16 federal statute, regulation, or other authority governing the use,  
17 possession, carrying, or receiving of firearms or ammunition in  
18 this state, including application by a qualified retired law  
19 enforcement officer to carry a concealed firearm under 18 USC 926C.

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

22       Enacting section 1. This act takes effect January 1, 2008.