

HOUSE BILL No. 5079

August 1, 2007, Introduced by Rep. Young 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 15 (MCL 28.435), as added by 2000 PA 265.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 15. (1) Except as provided in subsection (2), a federally
2 licensed firearms dealer shall not sell a firearm in this state
3 unless the sale includes 1 of the following:

1 (a) A commercially available trigger lock or other device
2 designed to disable the firearm and prevent the discharge of the
3 firearm.

4 (b) A commercially available gun case or storage container
5 that can be secured to prevent unauthorized access to the firearm.

6 (2) ~~This~~ **WITH THE EXCEPTION OF SUBSECTION (7), THIS** section
7 does not apply to any of the following:

8 (a) The sale of a firearm to a police officer or a police
9 agency.

10 (b) The sale of a firearm to a person who presents to the
11 federally licensed firearms dealer 1 of the following:

12 (i) A trigger lock or other device designed to disable the
13 firearm and prevent the discharge of the firearm together with a
14 copy of the purchase receipt for the federally licensed firearms
15 dealer to keep. A separate trigger lock or device and a separate
16 purchase receipt shall be required for each firearm purchased.

17 (ii) A gun case or storage container that can be secured to
18 prevent unauthorized access to the firearm together with a copy of
19 the purchase receipt for the federally licensed firearms dealer to
20 keep. A separate gun case or storage container and a separate
21 purchase receipt shall be required for each firearm purchased.

22 (c) The sale of an antique firearm. As used in this
23 subdivision, "antique firearm" means that term as defined in
24 section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

25 (d) The sale or transfer of a firearm if the seller is not a
26 federally licensed firearms dealer.

27 (3) A federally licensed firearms dealer shall not sell a

1 firearm in this state unless the firearm is accompanied with, free
2 of charge, a brochure or pamphlet that includes safety information
3 on the use and storage of the firearm in a home environment.

4 (4) Upon the sale of a firearm, a federally licensed firearms
5 dealer shall sign a statement and require the purchaser to sign a
6 statement stating that the sale is in compliance with subsections
7 (1), (2), and (3).

8 (5) A federally licensed firearms dealer shall retain a copy
9 of the signed statements prescribed in subsection (4) and, if
10 applicable, a copy of the receipt prescribed in subsection (2)(b),
11 for at least 6 years.

12 (6) A federally licensed firearms dealer in this state shall
13 post in a conspicuous manner at the entrances, exits, and all
14 points of sale on the premises where firearms are sold a notice
15 that says the following: "You may be criminally and civilly liable
16 for any harm caused by a person less than 18 years of age who
17 lawfully gains unsupervised access to your firearm if unlawfully
18 stored."

19 **(7) BEGINNING JULY 1, 2008, A FEDERALLY LICENSED FIREARMS**
20 **DEALER SHALL NOT SELL A PISTOL IN THIS STATE UNLESS THE DEALER HAS**
21 **PROVIDED THE DEPARTMENT OF STATE POLICE WITH A RECORD DERIVED FROM**
22 **THE PISTOL THAT IS SUFFICIENT TO ESTABLISH A BALLISTIC FINGERPRINT**
23 **FOR THE PISTOL. THE DEPARTMENT OF STATE POLICE SHALL PROMULGATE**
24 **RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969**
25 **PA 306, MCL 24.201 TO 24.328, THAT ESTABLISH THE TYPE OR TYPES OF**
26 **RECORDS THAT ARE SUFFICIENT FOR PURPOSES OF THIS SUBSECTION.**

27 (8) ~~(7)~~—A federally licensed firearms dealer is not liable for

1 damages arising from the use or misuse of a firearm if the sale
2 complies with this section, any other applicable law of this state,
3 and applicable federal law.

4 (9) ~~(8)~~—This section does not create a civil action or
5 liability for damages arising from the use or misuse of a firearm
6 or ammunition for a person, other than a federally licensed
7 firearms dealer, who produces a firearm or ammunition.

8 (10) ~~(9)~~—Subject to subsections ~~(10)~~—(11) to ~~(12)~~—(13), a
9 political subdivision shall not bring a civil action against any
10 person who produces a firearm or ammunition. The authority to bring
11 a civil action under this section is reserved exclusively to the
12 state and can be brought only by the attorney general. The court
13 shall award costs and reasonable attorney fees to each defendant
14 named in a civil action filed in violation of this subsection.

15 (11) ~~(10)~~—Subject to subsection ~~(11)~~—(12), subsection ~~(9)~~—(10)
16 does not prohibit a civil action by a political subdivision based
17 on 1 or more of the following, which the court shall narrowly
18 construe:

19 (a) A breach of contract, other contract issue, or an action
20 based on a provision of the uniform commercial code, 1962 PA 174,
21 MCL 440.1101 to 440.11102, in which the political subdivision is
22 the purchaser and owner of the firearm or ammunition.

23 (b) Expressed or implied warranties arising from the purchase
24 of a firearm or ammunition by the political subdivision or the use
25 of a firearm or ammunition by an employee or agent of the political
26 subdivision.

27 (c) A product liability, personal injury, or wrongful death

1 action when an employee or agent or property of the political
2 subdivision has been injured or damaged as a result of a defect in
3 the design or manufacture of the firearm or ammunition purchased
4 and owned by the political subdivision.

5 (12) ~~(11)~~ Subsection ~~(10)~~ **(11)** does not allow an action based
6 on any of the following:

7 (a) A firearm's or ammunition's inherent potential to cause
8 injury, damage, or death.

9 (b) Failure to warn the purchaser, transferee, or user of the
10 firearm's or ammunition's inherent potential to cause injury,
11 damage, or death.

12 (c) Failure to sell with or incorporate into the product a
13 device or mechanism to prevent a firearm or ammunition from being
14 discharged by an unauthorized person unless specifically provided
15 for by contract.

16 (13) ~~(12)~~ Subsections ~~(9)~~ through ~~(11)~~ **(10) TO (12)** do not
17 create a civil action.

18 (14) ~~(13)~~ Subsections ~~(9)~~ through ~~(11)~~ **(10) TO (12)** are
19 intended only to clarify the current status of the law in this
20 state, are remedial in nature, and, therefore, apply to a civil
21 action pending on the effective date of this act.

22 (15) ~~(14)~~ Beginning September 1, 2000, a person who violates
23 this section is guilty of a crime as follows:

24 (a) Except as provided in subdivision (b) or (c), the person
25 is guilty of a misdemeanor punishable by imprisonment for not more
26 than 93 days or a fine of not more than \$500.00, or both.

27 (b) For a second conviction, the person is guilty of a

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

3 (c) For a third or subsequent conviction, the person is guilty
4 of a felony punishable by imprisonment for not more than 2 years or
5 a fine of not more than \$5,000.00, or both.

6 (16) ~~(15)~~As used in this section:

7 (a) "Federally licensed firearms dealer" means a person
8 licensed under ~~section 923 of title 18 of the United States Code,~~
9 18 U.S.C. ~~USC~~ 923.

10 (b) "Firearm or ammunition" includes a component of a firearm
11 or ammunition.

12 (c) "Person" means an individual, partnership, corporation,
13 association, or other legal entity.

14 (d) "Political subdivision" means a county, city, village,
15 township, charter township, school district, community college, or
16 public university or college.

17 (e) "Produce" means to manufacture, construct, design,
18 formulate, develop standards for, prepare, process, assemble,
19 inspect, test, list, certify, give a warning or instructions
20 regarding, market, sell, advertise, package, label, distribute, or
21 transfer.