

HOUSE BILL No. 5064

October 12, 2011, Introduced by Reps. Opsommer, Rendon, Lori, Horn, LeBlanc, Smiley, Agema, McMillin, Bumstead, Hooker, Heise, Yonker, Shirkey, Kurtz, Daley and Poleski 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,"

(MCL 28.421 to 28.435) by amending the title, as amended by 2000 PA 381, and by adding sections 1b and 16.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate and license the selling, purchasing, possessing, ~~and carrying,~~ **TRANSPORTING, AND STORING** of certain

1 firearms, **AMMUNITION**, and gas ejecting devices; to prohibit the
2 buying, selling, or carrying of certain firearms and gas ejecting
3 devices without a license or other authorization; to provide for
4 the forfeiture of firearms under certain circumstances; to provide
5 for penalties and remedies; to provide immunity from civil
6 liability under certain circumstances; to prescribe the powers and
7 duties of certain state and local agencies **AND BUSINESS ENTITIES**
8 **AND EMPLOYERS**; to prohibit certain conduct against individuals who
9 apply for or receive a license to carry a concealed pistol; to make
10 appropriations; to prescribe certain conditions for the
11 appropriations; and to repeal all acts and parts of acts
12 inconsistent with this act.

13 **SEC. 1B. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE**
14 **"MICHIGAN FIREARMS ACT".**

15 **SEC. 16. (1) A PERSON WHO LAWFULLY POSSESSES A FIREARM OR**
16 **AMMUNITION MAY TRANSPORT THAT FIREARM OR AMMUNITION IN A PRIVATELY**
17 **OWNED MOTOR VEHICLE OR STORE THAT FIREARM OR AMMUNITION IN A PARKED**
18 **AND LOCKED PRIVATELY OWNED MOTOR VEHICLE THAT IS PRESENT IN A**
19 **BUSINESS'S, COMMERCIAL ENTERPRISE'S, EMPLOYER'S, OR STATE SERVICE**
20 **AGENCY'S PARKING LOT, PARKING GARAGE, OR OTHER AREA DESIGNATED OR**
21 **OTHERWISE USED FOR PARKING VEHICLES IF THE FIREARM IS KEPT OUT OF**
22 **PLAIN VIEW AND IN A MANNER DESCRIBED IN CHAPTER XXXVII OF THE**
23 **MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.222 TO 750.239A, OR**
24 **OTHERWISE ALLOWED BY LAW.**

25 **(2) A BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE**
26 **SERVICE AGENCY SHALL NOT PROHIBIT A PERSON WHO LAWFULLY POSSESSES A**
27 **FIREARM FROM TRANSPORTING OR STORING THE FIREARM OR AMMUNITION IN A**

1 LOCKED AND PRIVATELY OWNED MOTOR VEHICLE THAT IS PARKED IN A
2 PARKING LOT, PARKING GARAGE, OR OTHER AREA DESIGNATED FOR PARKING
3 VEHICLES IN COMPLIANCE WITH SUBSECTION (1).

4 (3) EXCEPT IN CASES OF GROSS NEGLIGENCE, A BUSINESS,
5 COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE AGENCY IS NOT
6 LIABLE IN A CIVIL ACTION FOR DAMAGES RESULTING FROM OR ARISING OUT
7 OF ANOTHER PERSON'S ACT INVOLVING A FIREARM OR AMMUNITION THAT IS
8 TRANSPORTED OR STORED AS DESCRIBED IN SUBSECTION (1).

9 (4) A PERSON WHO WAS OR WOULD BE DENIED THE ABILITY TO
10 TRANSPORT OR STORE A FIREARM OR AMMUNITION BY A VIOLATION OF
11 SUBSECTION (2) AND BUT FOR THAT VIOLATION WOULD BE OR WAS ENTITLED
12 LEGALLY TO DO SO MAY BRING AN ACTION TO ENJOIN ANY PERSON, BUSINESS
13 ENTITY, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE AGENCY
14 FROM VIOLATING SUBSECTION (2). A PREVAILING PLAINTIFF UNDER THIS
15 SUBSECTION SHALL BE AWARDED COSTS AND ATTORNEY FEES.

16 (5) A BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE
17 SERVICE AGENCY SHALL NOT DISCHARGE, OR OTHERWISE PENALIZE, AN
18 EMPLOYEE FOR TRANSPORTING OR STORING A FIREARM AS AUTHORIZED UNDER
19 SUBSECTION (1). AN EMPLOYEE WHO TRANSPORTS OR STORES A FIREARM OR
20 AMMUNITION AS AUTHORIZED UNDER SUBSECTION (1) AND IS DISCHARGED BY
21 A BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE
22 AGENCY FOR VIOLATING A POLICY OR RULE PROHIBITED UNDER SUBSECTION
23 (2) MAY DEMAND THAT THE BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER,
24 OR STATE SERVICE AGENCY TAKE ALL OF THE FOLLOWING ACTIONS:

25 (A) REINSTATE THE EMPLOYEE TO THE SAME POSITION THE EMPLOYEE
26 HELD AT THE TIME OF HIS OR HER TERMINATION FROM EMPLOYMENT, OR TO
27 AN EQUIVALENT POSITION.

1 (B) REINSTATE THE EMPLOYEE'S FULL FRINGE BENEFITS AND
2 SENIORITY RIGHTS, IF ANY.

3 (C) COMPENSATE THE EMPLOYEE FOR ANY LOST WAGES, BENEFITS, OR
4 OTHER LOST REMUNERATION, INCLUDING, BUT NOT LIMITED TO, UNPAID
5 LEAVE OR FURLOUGH, CAUSED BY THE TERMINATION.

6 (D) PAYMENT OF REASONABLE ATTORNEY FEES AND COSTS INCURRED BY
7 THE EMPLOYEE IN SEEKING REDRESS FOR A VIOLATION OF SUBSECTION (2).

8 (6) IF A DEMAND DESCRIBED IN SUBSECTION (5) IS DENIED OR THE
9 BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE AGENCY
10 FAILS TO RESPOND TO THE DEMAND WITHIN 14 DAYS, THE EMPLOYEE MAY
11 BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION FOR
12 WRONGFULLY DISCHARGING OR PENALIZING THE EMPLOYEE IN VIOLATION OF
13 SUBSECTION (5). A PREVAILING PLAINTIFF UNDER THIS SUBSECTION IS
14 ENTITLED TO ALL OF THE REMEDIES DESCRIBED UNDER SUBSECTION (5), AS
15 APPLICABLE.

16 (7) IT IS A COMPLETE DEFENSE TO AN ACTION UNDER THIS SECTION
17 THAT COMPLIANCE WITH THIS SECTION WOULD NECESSITATE THE VIOLATION
18 OF ANOTHER APPLICABLE FEDERAL OR STATE LAW OR REGULATION. HOWEVER,
19 THIS DEFENSE DOES NOT APPLY IF COMPLIANCE WITH THIS SECTION CAN BE
20 RECONCILED WITH THE OTHER LAW OR REGULATION.

21 (8) THIS SECTION DOES NOT APPLY IF THE MOTOR VEHICLE IS OWNED
22 OR LEASED BY THE EMPLOYER AND USED BY AN EMPLOYEE IN THE COURSE AND
23 SCOPE OF THE EMPLOYEE'S EMPLOYMENT, UNLESS THE EMPLOYEE IS REQUIRED
24 TO TRANSPORT OR STORE A FIREARM IN THE DISCHARGE OF THE EMPLOYEE'S
25 DUTIES.

26 (9) THIS SECTION DOES NOT AUTHORIZE A PERSON WHO HOLDS A
27 LICENSE TO CARRY A CONCEALED PISTOL UNDER SECTION 5B OR WHO IS

1 EXEMPT FROM LICENSURE TO POSSESS A CONCEALED PISTOL IN A CONCEALED
2 MANNER OTHER THAN AS PRESCRIBED UNDER THIS ACT.

3 (10) AS USED IN THIS SECTION, "MOTOR VEHICLE" MEANS ANY
4 VEHICLE THAT IS REQUIRED TO BE REGISTERED WITH THE SECRETARY OF
5 STATE, INCLUDING, BUT NOT LIMITED TO, AN AUTOMOBILE, TRUCK,
6 MINIVAN, SPORTS UTILITY VEHICLE, OR MOTORCYCLE.