

HOUSE BILL No. 5659

June 11, 2014, Introduced by Reps. Santana, Zemke, Irwin, Stallworth, Hobbs, Hovey-Wright and Geiss 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, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices 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 2012 PA 123, and by adding section 6b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms, gas ejecting devices,

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

14 **SEC. 6B. (1) A PEACE OFFICER WHO RESPONDS TO A DOMESTIC**
15 **VIOLENCE INCIDENT MAY SEIZE ANY FIREARM OR AMMUNITION ON THE**
16 **PREMISES IF THE PEACE OFFICER BELIEVES THAT THE FIREARM OR**
17 **AMMUNITION MAY EXPOSE A VICTIM OF DOMESTIC VIOLENCE TO THE RISK OF**
18 **BODILY INJURY AND THE PEACE OFFICER HAS EITHER OF THE FOLLOWING:**

19 **(A) PROBABLE CAUSE TO BELIEVE THAT A DOMESTIC VIOLENCE**
20 **INCIDENT HAS OCCURRED.**

21 **(B) PROBABLE CAUSE TO BELIEVE THAT THE ALLEGED PERPETRATOR IS**
22 **IN VIOLATION OF A PERSONAL PROTECTION ORDER, OF A CONDITIONAL**
23 **RELEASE ORDER, OR OF A COURT ORDER PROHIBITING THE POSSESSION OR**
24 **USE OF FIREARMS OR AMMUNITION.**

25 **(2) IF A FIREARM OR AMMUNITION IS SEIZED UNDER SUBSECTION (1),**
26 **THE LAW ENFORCEMENT AGENCY SEIZING THE FIREARM OR AMMUNITION SHALL**
27 **SAFELY STORE THE FIREARM OR AMMUNITION DURING THE PENDENCY OF A**

1 PROCEEDING RELATED TO THE ALLEGED DOMESTIC VIOLENCE INCIDENT. THE
2 LAW ENFORCEMENT AGENCY SHALL KEEP AN INVENTORY OF ALL ITEMS SEIZED
3 UNDER SUBSECTION (1).

4 (3) WITHIN 7 DAYS AFTER A FIREARM OR AMMUNITION IS SEIZED
5 UNDER SUBSECTION (1), THE AGENCY IN POSSESSION OF THE SEIZED
6 FIREARM OR AMMUNITION SHALL GIVE NOTICE OF THE SEIZURE TO EACH OF
7 THE FOLLOWING PERSONS:

8 (A) THE OWNER OF THE FIREARM OR AMMUNITION.

9 (B) A VICTIM OF THE DOMESTIC VIOLENCE.

10 (4) THE NOTICE REQUIRED UNDER SUBSECTION (3) SHALL BE A
11 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY
12 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
13 REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT
14 REASONABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A
15 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE FIREARM
16 OR AMMUNITION WAS SEIZED FOR 10 SUCCESSIVE PUBLISHING DAYS.

17 (5) EXCEPT AS OTHERWISE PROHIBITED BY LAW OR BY PERSONAL
18 PROTECTION ORDER OR IF THE SEIZED PROPERTY HAS BEEN SECURED AS
19 EVIDENCE IN A PENDING CRIMINAL INVESTIGATION, FIREARMS OR
20 AMMUNITION SEIZED UNDER SUBSECTION (1) SHALL BE RETURNED TO THE
21 OWNER WITHIN 7 DAYS AFTER THE OCCURRENCE OF ANY OF THE FOLLOWING:

22 (A) A PROSECUTING ATTORNEY DETERMINES THAT THERE IS
23 INSUFFICIENT PROBABLE CAUSE TO AUTHORIZE A CRIMINAL PROCEEDING.

24 (B) A COURT DISMISSES THE COMPLAINT DUE TO INSUFFICIENT
25 PROBABLE CAUSE.

26 (C) THE PRESIDING MAGISTRATE MAKES A SUBSEQUENT FINDING THAT
27 THE DEFENDANT MAY USE OR POSSESS FIREARMS OR AMMUNITION.

1 (D) THE DEFENDANT IS FOUND NOT GUILTY OF THE CHARGES.

2 (E) THE PRESIDING COURT ORDERS THE RETURN OF THE FIREARM OR
3 AMMUNITION.

4 (6) THE AGENCY IN POSSESSION OF THE SEIZED FIREARM OR
5 AMMUNITION SHALL GIVE NOTICE TO A VICTIM OF THE DOMESTIC VIOLENCE
6 WHEN A FIREARM OR AMMUNITION IS RETURNED UNDER SUBSECTION (5).

7 (7) THIS SECTION DOES NOT IMPAIR THE RIGHT OF THE PROSECUTING
8 ATTORNEY OR LAW ENFORCEMENT AGENCY TO RETAIN FIREARMS OR AMMUNITION
9 SEIZED UNDER THIS SECTION PENDING A CRIMINAL INVESTIGATION.

10 (8) AS USED IN THIS SECTION, "DOMESTIC VIOLENCE" MEANS THAT
11 TERM AS DEFINED IN SECTION 1 OF 1978 PA 389, MCL 400.1501.