

HOUSE BILL No. 5301

February 2, 2016, Introduced by Reps. Chatfield, Runestad, Johnson, Aaron Miller, Hooker, Cole, Glenn and Kelly and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 227, 227b, 230, and 237a (MCL 750.227,
750.227b, 750.230, and 750.237a), section 227 as amended by 1986 PA
8 and sections 227b and 237a as amended by 2015 PA 26; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 227. (1) A person shall not carry a dagger, dirk,
2 stiletto, a double-edged nonfolding stabbing instrument of any
3 length, or any other dangerous weapon **OTHER THAN A PISTOL**, except a
4 hunting knife adapted and carried as such, concealed on or about
5 his or her person, or whether concealed or otherwise in any vehicle
6 operated or occupied by the person, except in his or her dwelling
7 house, **IN HIS OR HER** place of business, or on other land possessed
8 by the person.

1 (2) A person **WHO IS PROHIBITED BY STATE OR FEDERAL LAW FROM**
2 **POSSESSING A FIREARM** shall not carry a pistol concealed on or about
3 his or her person, or, whether concealed or otherwise, in a vehicle
4 operated or occupied by the person. ~~, except in his or her dwelling~~
5 ~~house, place of business, or on other land possessed by the person,~~
6 ~~without a license to carry the pistol as provided by law and if~~
7 ~~licensed, shall not carry the pistol in a place or manner~~
8 ~~inconsistent with any restrictions upon such license.~~

9 (3) A person who violates this section is guilty of a felony ~~,~~
10 punishable by imprisonment for not more than 5 years ~~,~~ or by a fine
11 of not more than \$2,500.00.

12 Sec. 227b. (1) A person who carries or has in his or her
13 possession a firearm when he or she commits or attempts to commit a
14 felony, except a violation of section 223, 227, ~~227a,~~ or 230, is
15 guilty of a felony and shall be punished by imprisonment for 2
16 years. Upon a second conviction under this subsection, the person
17 shall be punished by imprisonment for 5 years. Upon a third or
18 subsequent conviction under this subsection, the person shall be
19 punished by imprisonment for 10 years.

20 (2) A person who carries or has in his or her possession a
21 pneumatic gun and uses that pneumatic gun in furtherance of
22 committing or attempting to commit a felony, except a violation of
23 section 223, 227, ~~227a,~~ or 230, is guilty of a felony and shall be
24 punished by imprisonment for 2 years. Upon a second conviction
25 under this subsection, the person shall be punished by imprisonment
26 for 5 years. Upon a third or subsequent conviction under this
27 subsection, the person shall be punished by imprisonment for 10

1 years.

2 (3) A term of imprisonment prescribed by this section is in
3 addition to the sentence imposed for the conviction of the felony
4 or the attempt to commit the felony and shall be served
5 consecutively with and preceding any term of imprisonment imposed
6 for the conviction of the felony or attempt to commit the felony.

7 (4) A term of imprisonment imposed under this section shall
8 not be suspended. The person subject to the sentence mandated by
9 this section is not eligible for parole or probation during the
10 mandatory term imposed under subsection (1) or (2).

11 (5) This section does not apply to a law enforcement officer
12 who is authorized to carry a firearm while in the official
13 performance of his or her duties and who is in the performance of
14 those duties. As used in this subsection, "law enforcement officer"
15 means a person who is regularly employed as a member of a duly
16 authorized police agency or other organization of the United
17 States, this state, or a city, county, township, or village of this
18 state and who is responsible for the prevention and detection of
19 crime and the enforcement of the general criminal laws of this
20 state.

21 Sec. 230. A person who shall ~~wilfully~~**WILLFULLY** alter, remove,
22 or obliterate the name of the maker, model, manufacturer's number,
23 or other mark of identity of a pistol or other firearm, ~~shall be~~**IS**
24 guilty of a felony ~~, punishable~~ by imprisonment for not more than 2
25 years or fine of not more than \$1,000.00. Possession of a firearm
26 upon which the number ~~shall have~~**HAS** been altered, removed, or
27 obliterated, other than an antique firearm, ~~as defined by section~~

1 ~~231a(2)(a) or (b), shall be~~ IS presumptive evidence that the
2 possessor has altered, removed, or obliterated the same.

3 Sec. 237a. (1) An individual who engages in conduct proscribed
4 under section 224, 224a, 224b, 224c, 224e, 226, 227, ~~227a, 227f,~~
5 234a, 234b, or 234c, or who engages in conduct proscribed under
6 section 223(2) for a second or subsequent time, in a weapon free
7 school zone is guilty of a felony punishable by 1 or more of the
8 following:

9 (a) Imprisonment for not more than the maximum term of
10 imprisonment authorized for the section violated.

11 (b) Community service for not more than 150 hours.

12 (c) A fine of not more than 3 times the maximum fine
13 authorized for the section violated.

14 (2) An individual who engages in conduct proscribed under
15 section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4), 233,
16 234, 234e, 234f, 235, 236, or 237, or who engages in conduct
17 proscribed under section 223(2) for the first time, in a weapon
18 free school zone is guilty of a misdemeanor punishable by 1 or more
19 of the following:

20 (a) Imprisonment for not more than the maximum term of
21 imprisonment authorized for the section violated or 93 days,
22 whichever is greater.

23 (b) Community service for not more than 100 hours.

24 (c) A fine of not more than \$2,000.00 or the maximum fine
25 authorized for the section violated, whichever is greater.

26 (3) Subsections (1) and (2) do not apply to conduct proscribed
27 under a section enumerated in those subsections to the extent that

1 the proscribed conduct is otherwise exempted or authorized under
2 this chapter.

3 (4) Except as provided in subsection (5), an individual who
4 possesses a weapon in a weapon free school zone is guilty of a
5 misdemeanor punishable by 1 or more of the following:

6 (a) Imprisonment for not more than 93 days.

7 (b) Community service for not more than 100 hours.

8 (c) A fine of not more than \$2,000.00.

9 (5) Subsection (4) does not apply to any of the following:

10 (a) An individual employed by or contracted by a school if the
11 possession of that weapon is to provide security services for the
12 school.

13 (b) A peace officer.

14 (c) An individual licensed by this state or another state to
15 carry a concealed weapon.

16 (d) An individual who possesses a weapon provided by a school
17 or a school's instructor on school property for purposes of
18 providing or receiving instruction in the use of that weapon.

19 (e) An individual who possesses a firearm on school property
20 if that possession is with the permission of the school's principal
21 or an agent of the school designated by the school's principal or
22 the school board.

23 (f) An individual who is 18 years of age or older who is not a
24 student at the school and who possesses a firearm on school
25 property while transporting a student to or from the school if any
26 of the following apply:

27 (i) The individual is carrying an antique firearm, completely

1 unloaded, in a wrapper or container in the trunk of a vehicle while
2 en route to or from a hunting or target shooting area or function
3 involving the exhibition, demonstration or sale of antique
4 firearms.

5 (ii) The individual is carrying a firearm unloaded in a
6 wrapper or container in the trunk of the person's vehicle, while in
7 possession of a valid Michigan hunting license or proof of valid
8 membership in an organization having shooting range facilities, and
9 while en route to or from a hunting or target shooting area.

10 (iii) The person is carrying a firearm unloaded in a wrapper
11 or container in the trunk of the person's vehicle from the place of
12 purchase to his or her home or place of business or to a place of
13 repair or back to his or her home or place of business, or in
14 moving goods from one place of abode or business to another place
15 of abode or business.

16 (iv) The person is carrying an unloaded firearm in the
17 passenger compartment of a vehicle that does not have a trunk, if
18 the person is otherwise complying with the requirements of
19 subparagraph (ii) or (iii) and the wrapper or container is not
20 readily accessible to the occupants of the vehicle.

21 (6) As used in this section:

22 (a) "Antique firearm" means either of the following:

23 (i) A firearm not designed or redesigned for using rimfire or
24 conventional center fire ignition with fixed ammunition and
25 manufactured in or before 1898, including a matchlock, flintlock,
26 percussion cap, or similar type of ignition system or a replica of
27 such a firearm, whether actually manufactured before or after the

1 year 1898.

2 (ii) A firearm using fixed ammunition manufactured in or
3 before 1898, for which ammunition is no longer manufactured in the
4 United States and is not readily available in the ordinary channels
5 of commercial trade.

6 (b) "School" means a public, private, denominational, or
7 parochial school offering developmental kindergarten, kindergarten,
8 or any grade from 1 through 12.

9 (c) "School property" means a building, playing field, or
10 property used for school purposes to impart instruction to children
11 or used for functions and events sponsored by a school, except a
12 building used primarily for adult education or college extension
13 courses.

14 (d) "Weapon" includes, but is not limited to, a pneumatic gun.

15 (e) "Weapon free school zone" means school property and a
16 vehicle used by a school to transport students to or from school
17 property.

18 Enacting section 1. Sections 227a and 231a of the Michigan
19 penal code, 1931 PA 328, MCL 750.227a and 750.231a, are repealed.