

# HOUSE BILL NO. 5790

May 19, 2020, Introduced by Reps. Love, Hood, Kennedy, Gay-Dagnogo, Tyrone Carter, Bolden, Sowerby, Ellison, Tate and Cynthia Johnson 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



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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:

4       (a) A commercially available trigger lock or other device  
5 designed to disable the firearm and prevent the discharge of the  
6 firearm.

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

9       (2) This section does not apply to any of the following:

10       (a) The sale of a firearm to a police officer or a police  
11 agency.

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

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

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

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



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

3 (3) A federally licensed firearms dealer shall not sell a  
4 firearm in this state unless the firearm is accompanied with, free  
5 of charge, a brochure or pamphlet that includes safety information  
6 on the use and storage of the firearm in a home environment.

7 (4) Upon the sale of a firearm, a federally licensed firearms  
8 dealer shall sign a statement and require the purchaser to sign a  
9 statement stating that the sale is in compliance with subsections  
10 (1), (2), and (3).

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

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

22 (7) A federally licensed firearms dealer is not liable for  
23 damages arising from the use or misuse of a firearm if the sale  
24 complies with this section, any other applicable law of this state,  
25 and applicable federal law.

26 (8) This section does not create a civil action or liability  
27 for damages arising from the use or misuse of a firearm or  
28 ammunition for a person, other than a federally licensed firearms  
29 dealer, who produces a firearm or ammunition.

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

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

(a) A breach of contract, other contract issue, or an action based on a provision of the uniform commercial code, 1962 PA 174, MCL 440.1101 to ~~440.11102~~, **440.9994**, in which the political subdivision is the purchaser and owner of the firearm or ammunition.

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

(c) A product liability, personal injury, or wrongful death action when an employee or agent or property of the political subdivision has been injured or damaged as a result of a defect in the design or manufacture of the firearm or ammunition purchased and owned by the political subdivision.

(11) Subsection (10) does not allow an action based on any of the following:

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

(b) Failure to warn the purchaser, transferee, or user of the



1 firearm's or ammunition's inherent potential to cause injury,  
2 damage, or death.

3 (c) Failure to sell with or incorporate into the product a  
4 device or mechanism to prevent a firearm or ammunition from being  
5 discharged by an unauthorized person unless specifically provided  
6 for by contract.

7 (12) Subsections (9) ~~through to~~ (11) do not create a civil  
8 action.

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

13 (14) ~~Beginning September 1, 2000, a~~ **Except as otherwise**  
14 **provided in subsection (15),** a person who violates this section is  
15 guilty of a crime as follows:

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

19 (b) For a second conviction, the person is guilty of a  
20 misdemeanor punishable by imprisonment for not more than 1 year or  
21 a fine of not more than \$1,000.00, or both.

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

25 (15) **A federally licensed firearms dealer shall not, as a**  
26 **condition of purchasing ammunition, require an individual to**  
27 **purchase a firearm from that federally licensed firearms dealer. A**  
28 **federally licensed firearms dealer that violates this subsection is**  
29 **responsible for a civil infraction and may be fined not more than**



1 \$1,000.00.

2 (16) ~~(15)~~ As used in this section:

3 (a) "Federally licensed firearms dealer" means a person  
4 licensed under ~~section 923 of title 18 of the United States Code,~~  
5 18 U.S.C. ~~USC~~ 923.

6 (b) "Firearm or ammunition" includes a component of a firearm  
7 or ammunition.

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

10 (d) "Political subdivision" means a county, city, village,  
11 township, charter township, school district, community college, or  
12 public university or college.

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

