

SENATE BILL NO. 1059

August 15, 2020, Introduced by Senator LUCIDO and referred to the Committee on Government Operations.

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,"

by amending sections 2 and 2a (MCL 28.422 and 28.422a), section 2 as amended by 2015 PA 200 and section 2a as amended by 2016 PA 301.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as otherwise provided in this act, a person
2 shall not purchase, carry, possess, or transport a pistol in this
3 state without first having obtained a license for the pistol as
4 prescribed in this section.

5 (2) ~~A person~~ **An individual** who brings a pistol into this state
6 who is on leave from active duty with the ~~armed forces~~ **Armed Forces**
7 of the United States or who has been discharged from active duty
8 with the ~~armed forces~~ **Armed Forces** of the United States shall
9 obtain a license for the pistol within 30 days after his or her
10 arrival in this state.

11 (3) The commissioner or chief of police of a city, township,
12 or village police department that issues licenses to purchase,
13 carry, possess, or transport pistols, or his or her duly authorized
14 deputy, or the sheriff or his or her duly authorized deputy, in the
15 parts of a county not included within a city, township, or village
16 having an organized police department, in discharging the duty to
17 issue licenses shall with due speed and diligence issue licenses to
18 purchase, carry, possess, or transport pistols to qualified
19 applicants unless he or she has probable cause to believe that the
20 applicant would be a threat to himself or herself or to other
21 individuals, or would commit an offense with the pistol that would
22 violate a law of this or another state or of the United States. An
23 applicant is qualified if all of the following circumstances exist:

24 (a) The ~~person~~ **individual** is not subject to an order or
25 disposition for which he or she has received notice and an

1 opportunity for a hearing, and which was entered into the law
2 enforcement information network under any of the following:

3 (i) Section 464a of the mental health code, 1974 PA 258, MCL
4 330.1464a.

5 (ii) Section 5107 of the estates and protected individuals
6 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA
7 642.

8 (iii) Section 2950 of the revised judicature act of 1961, 1961
9 PA 236, MCL 600.2950.

10 (iv) Section 2950a of the revised judicature act of 1961, 1961
11 PA 236, MCL 600.2950a.

12 (v) Section 14 of 1846 RS 84, MCL 552.14.

13 (vi) Section 6b of chapter V of the code of criminal procedure,
14 1927 PA 175, MCL 765.6b, if the order has a condition imposed under
15 section 6b(3) of chapter V of the code of criminal procedure, 1927
16 PA 175, MCL 765.6b.

17 (vii) Section 16b of chapter IX of the code of criminal
18 procedure, 1927 PA 175, MCL 769.16b.

19 (b) The ~~person~~**individual** is 18 years of age or older or, if
20 the seller is licensed under 18 USC 923, is 21 years of age or
21 older.

22 (c) The ~~person~~**individual** is a citizen of the United States or
23 an alien lawfully admitted into the United States and is a legal
24 resident of this state. For the purposes of this section, ~~a person~~
25 **an individual** is considered a legal resident of this state if any
26 of the following apply:

27 (i) The ~~person~~**individual** has a valid, lawfully obtained
28 Michigan driver license issued under the Michigan vehicle code,
29 1949 PA 300, MCL 257.1 to 257.923, or an official state personal

1 identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

2 (ii) The ~~person~~**individual** is lawfully registered to vote in
3 this state.

4 (iii) The ~~person~~**individual** is on active duty status with the
5 United States ~~armed forces~~**Armed Forces** and is stationed outside of
6 this state, but the ~~person's~~**individual's** home of record is in this
7 state.

8 (iv) The ~~person~~**individual** is on active duty status with the
9 United States ~~armed forces~~**Armed Forces** and is permanently
10 stationed in this state, but the ~~person's~~**individual's** home of
11 record is in another state.

12 (d) A felony charge or a criminal charge listed in section 5b
13 against the ~~person~~**individual** is not pending at the time of
14 application.

15 (e) The ~~person~~**individual** is not prohibited from possessing,
16 using, transporting, selling, purchasing, carrying, shipping,
17 receiving, or distributing a firearm under section 224f of the
18 Michigan penal code, 1931 PA 328, MCL 750.224f.

19 (f) The ~~person~~**individual** has not been adjudged insane in this
20 state or elsewhere unless he or she has been adjudged restored to
21 sanity by court order.

22 (g) The ~~person~~**individual** is not under an order of involuntary
23 commitment in an inpatient or outpatient setting due to mental
24 illness.

25 (h) The ~~person~~**individual** has not been adjudged legally
26 incapacitated in this state or elsewhere. This subdivision does not
27 apply to ~~a person~~**an individual** who has had his or her legal
28 capacity restored by order of the court.

29 (4) ~~Applications~~**An applicant** for ~~licenses~~**a license** under

1 this section shall ~~be signed by the applicant~~ **sign the application**
 2 under oath ~~upon forms on a form~~ provided by the director of the
 3 department of state police. ~~Licenses~~ **A licensing authority shall**
 4 **issue a license** to purchase, carry, possess, or transport ~~pistols~~
 5 ~~shall be executed a pistol~~ in triplicate ~~upon forms on a form~~
 6 provided by the director of the department of state police. ~~and~~
 7 ~~shall be signed by the~~ **The licensing authority shall sign the**
 8 **license under this section.** ~~Three~~ **The licensing authority shall**
 9 **deliver 3** copies of the license ~~shall be delivered to the~~
 10 applicant. ~~by the licensing authority.~~ A license is void unless
 11 used within 30 days after the date it is issued.

12 (5) If an individual purchases or otherwise acquires a pistol,
 13 the seller shall fill out the license forms describing the pistol,
 14 together with the date of sale or acquisition, and sign his or her
 15 name in ink indicating that the pistol was sold to or otherwise
 16 acquired by the purchaser. The purchaser shall also sign his or her
 17 name in ink indicating the purchase or other acquisition of the
 18 pistol from the seller. The seller may retain a copy of the license
 19 as a record of the transaction. The purchaser shall receive 2
 20 copies of the license. The purchaser shall return 1 copy of the
 21 license to the licensing authority within 10 days after the date
 22 the pistol is purchased or acquired. The **purchaser shall** return ~~of~~
 23 the copy to the licensing authority ~~may be made in person or may be~~
 24 ~~made by~~ first-class mail or certified mail sent within the 10-day
 25 period to the proper address of the licensing authority. **The**
 26 **licensing authority shall provide the purchaser with a receipt**
 27 **indicating that the purchaser returned a copy of the license to the**
 28 **licensing authority.** A purchaser who fails to comply with the
 29 requirements of this subsection is responsible for a state civil

1 infraction and may be fined not more than \$250.00. If a purchaser
2 is found responsible for a state civil infraction under this
3 subsection, the court shall notify the department of state police
4 of that determination.

5 (6) Within 10 days after receiving the license copy returned
6 under subsection (5), the licensing authority shall electronically
7 enter the information into the pistol entry database as required by
8 the department of state police if it has the ability to
9 electronically enter that information. If the licensing authority
10 does not have that ability, the licensing authority shall provide
11 that information to the department of state police in a manner
12 otherwise required by the department of state police. Any licensing
13 authority that provided pistol descriptions to the department of
14 state police under former section 9 of this act shall continue to
15 provide pistol descriptions to the department of state police under
16 this subsection. Within 48 hours after entering or otherwise
17 providing the information on the license copy returned under
18 subsection (5) to the department of state police, the licensing
19 authority shall forward the copy of the license to the department
20 of state police. The purchaser ~~has the right to~~ **may** obtain a copy
21 of the information placed in the pistol entry database under this
22 subsection to verify the accuracy of that information. The
23 licensing authority may charge a fee not to exceed \$1.00 for the
24 cost of providing the copy. The ~~licensee~~ **individual** may carry, use,
25 possess, and transport the pistol for 30 days beginning on the date
26 of purchase or acquisition only while he or she is in possession of
27 his or her copy of the license. However, the ~~person~~ **individual** is
28 not required to have the license in his or her possession while
29 carrying, using, possessing, or transporting the pistol after this

1 period.

2 (7) This section does not apply to the purchase of pistols
3 from wholesalers by dealers regularly engaged in the business of
4 selling pistols at retail, or to the sale, barter, or exchange of
5 pistols kept as relics or curios not made for modern ammunition or
6 permanently deactivated.

7 (8) This section does not prevent the transfer of ownership of
8 pistols to an heir or devisee, whether by testamentary bequest or
9 by the laws of intestacy regardless of whether the pistol is
10 registered with this state. An individual who has inherited a
11 pistol shall obtain a license as required in this section within 30
12 days of taking physical possession of the pistol. The license may
13 be signed by a next of kin of the decedent or the person authorized
14 to dispose of property under the estates and protected individuals
15 code, 1998 PA 386, MCL 700.1101 to 700.8206, including when the
16 next of kin is the individual inheriting the pistol. If the heir or
17 devisee is not qualified for a license under this section, the heir
18 or devisee may direct the next of kin or person authorized to
19 dispose of property under the estates and protected individuals
20 code, 1998 PA 386, MCL 700.1101 to 700.8206, to dispose of the
21 pistol in any manner that is lawful and the heir or devisee
22 considers appropriate. The person authorized to dispose of property
23 under the estates and protected individuals code, 1998 PA 386, MCL
24 700.1101 to 700.8206, is not required to obtain a license under
25 this section if he or she takes temporary lawful possession of the
26 pistol in the process of disposing of the pistol pursuant to the
27 decedent's testamentary bequest or the laws of intestacy. A law
28 enforcement agency may not seize or confiscate a pistol being
29 transferred by testamentary bequest or the laws of intestacy unless

1 the heir or devisee does not qualify for obtaining a license under
2 this section and the next of kin or person authorized to dispose of
3 property under the estates and protected individuals code, 1998 PA
4 386, MCL 700.1101 to 700.8206, is unable to retain his or her
5 temporary possession of the pistol or find alternative lawful
6 storage. If a law enforcement agency seizes or confiscates a pistol
7 under this subsection, the heir or devisee who is not qualified to
8 obtain a license under this section retains ownership interest in
9 the pistol and, within 30 days of being notified of the seizure or
10 confiscation, may file with a court of competent jurisdiction to
11 direct the law enforcement agency to lawfully transfer or otherwise
12 dispose of the pistol. A pistol seized under this subsection ~~shall~~
13 **must** not be destroyed, sold, or used while in possession of the
14 seizing entity or its agents until 30 days have passed since the
15 heir or devisee has been notified of the seizure and no legal
16 action regarding the lawful possession or ownership of the seized
17 pistol has been filed in any court and is pending. As used in this
18 subsection:

19 (a) "Devisee" means that term as defined in section 1103 of
20 the estates and protected individuals code, 1998 PA 386, MCL
21 700.1103.

22 (b) "Heir" means that term as defined in section 1104 of the
23 estates and protected individuals code, 1998 PA 386, MCL 700.1104.

24 (9) An individual who is not a resident of this state is not
25 required to obtain a license under this section if all of the
26 following conditions apply:

27 (a) The individual is licensed in his or her state of
28 residence to purchase, carry, or transport a pistol.

29 (b) The individual is in possession of the license described

1 in subdivision (a).

2 (c) The individual is the owner of the pistol he or she
3 possesses, carries, or transports.

4 (d) The individual possesses the pistol for a lawful purpose.

5 (e) The individual is in this state for a period of 180 days
6 or less and does not intend to establish residency in this state.

7 (10) An individual who is a nonresident of this state shall
8 present the license described in subsection (9) (a) upon the demand
9 of a police officer. An individual who violates this subsection is
10 guilty of a misdemeanor punishable by imprisonment for not more
11 than 90 days or a fine of not more than \$100.00, or both.

12 (11) The licensing authority may require ~~a person~~ **an**
13 **individual** claiming active duty status with the United States ~~armed~~
14 ~~forces~~ **Armed Forces** to provide proof of 1 or both of the following:

15 (a) The ~~person's~~ **individual's** home of record.

16 (b) Permanent active duty assignment in this state.

17 (12) This section does not apply to ~~a person~~ **an individual** who
18 is younger than the age required under subsection (3) (b) and who
19 possesses a pistol if all of the following conditions apply:

20 (a) The ~~person~~ **individual** is not otherwise prohibited from
21 possessing that pistol.

22 (b) The ~~person~~ **individual** is at a recognized target range.

23 (c) The ~~person~~ **individual** possesses the pistol for the purpose
24 of target practice or instruction in the safe use of a pistol.

25 (d) The ~~person~~ **individual** is in the physical presence and
26 under the direct supervision of any of the following:

27 (i) The ~~person's~~ **individual's** parent.

28 (ii) The ~~person's~~ **individual's** guardian.

29 (iii) An individual who is 21 years of age or older, who is

1 authorized by the ~~person's~~**individual's** parent or guardian, and who
2 has successfully completed a pistol safety training course or class
3 that meets the requirements of section 5j(1)(a), (b), or (d), and
4 received a certificate of completion.

5 (e) The owner of the pistol is physically present.

6 (13) This section does not apply to ~~a person~~**an individual** who
7 possesses a pistol if all of the following conditions apply:

8 (a) The ~~person~~**individual** is not otherwise prohibited from
9 possessing a pistol.

10 (b) The ~~person~~**individual** is at a recognized target range or
11 shooting facility.

12 (c) The ~~person~~**individual** possesses the pistol for the purpose
13 of target practice or instruction in the safe use of a pistol.

14 (d) The owner of the pistol is physically present and
15 supervising the use of the pistol.

16 (14) A person who forges any matter on an application for a
17 license under this section is guilty of a felony, punishable by
18 imprisonment for not more than 4 years or a fine of not more than
19 \$2,000.00, or both.

20 (15) A licensing authority shall implement this section during
21 all of the licensing authority's normal business hours and shall
22 set hours for implementation that allow an applicant to use the
23 license within the time period set forth in subsection (4).

24 Sec. 2a. (1) The following individuals are not required to
25 obtain a license under section 2 to purchase, carry, possess, use,
26 or transport a pistol:

27 (a) An individual licensed under section 5b, except for an
28 individual who has an emergency license issued under section 5a(4)
29 or a receipt serving as a concealed pistol license under section

1 5b(9) or 5l(3).

2 (b) A federally licensed firearms dealer.

3 (c) An individual who purchases a pistol from a federally
4 licensed firearms dealer in compliance with 18 USC 922(t).

5 (d) An individual currently employed as a police officer who
6 is licensed or certified under the Michigan commission on law
7 enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

8 (2) If an individual described in subsection (1) purchases or
9 otherwise acquires a pistol, the seller shall complete a record in
10 triplicate on a form provided by the department of state police -
11 ~~The record shall include~~ **that includes** the purchaser's concealed
12 weapon license number, the number of the purchaser's license or
13 certificate issued under the Michigan commission on law enforcement
14 standards act, 1965 PA 203, MCL 28.601 to 28.615, or, if the
15 purchaser is a federally licensed firearms dealer, his or her
16 dealer license number. If the purchaser is not licensed under
17 section 5b or does not have a license or certificate issued under
18 the Michigan commission on law enforcement standards act, 1965 PA
19 203, MCL 28.601 to 28.615, and is not a federally licensed firearms
20 dealer, the record ~~shall~~ **must** include the dealer license number of
21 the federally licensed firearms dealer who is selling the pistol.
22 The purchaser shall sign the record. The seller may retain 1 copy
23 of the record. The purchaser shall receive 2 copies of the record
24 and forward 1 copy to the police department of the city, village,
25 or township in which the purchaser resides, or, if the purchaser
26 does not reside in a city, village, or township having a police
27 department, to the county sheriff, within 10 days following the
28 purchase or acquisition. The **purchaser shall** return ~~of~~ the copy to
29 the police department or county sheriff ~~may be made~~ in person or

1 ~~may be made~~ by first-class mail or certified mail sent within the
2 10-day period to the proper address of the police department or
3 county sheriff. **The police department or county sheriff shall**
4 **provide the purchaser with a receipt indicating that the purchaser**
5 **returned a copy of the license to the police department or county**
6 **sheriff.** A purchaser who fails to comply with the requirements of
7 this subsection is responsible for a state civil infraction and may
8 be fined not more than \$250.00. If a purchaser is found responsible
9 for a state civil infraction under this subsection, the court shall
10 notify the department of state police. If the purchaser is licensed
11 under section 5b, the court shall notify the licensing authority of
12 that determination.

13 (3) Within 10 days after receiving the record copy returned
14 under subsection (2), the police department or county sheriff shall
15 electronically enter the information into the pistol entry database
16 as required by the department of state police if it has the ability
17 to electronically enter that information. If the police department
18 or county sheriff does not have that ability, the police department
19 or county sheriff shall provide that information to the department
20 of state police in a manner otherwise required by the department of
21 state police. Any police department or county sheriff that provided
22 pistol descriptions to the department of state police under former
23 section 9 of this act shall continue to provide pistol descriptions
24 to the department of state police under this subsection. Within 48
25 hours after entering or otherwise providing the information on the
26 record copy returned under subsection (2) to the department of
27 state police, the police department or county sheriff shall forward
28 the copy of the record to the department of state police. The
29 purchaser ~~has the right to~~ **may** obtain a copy of the information

1 placed in the pistol entry database under this subsection to verify
2 the accuracy of that information. The police department or county
3 sheriff may charge a fee not to exceed \$1.00 for the cost of
4 providing the copy. The purchaser may carry, use, possess, and
5 transport the pistol for 30 days beginning on the date of purchase
6 or acquisition only while he or she is in possession of his or her
7 copy of the record. However, the ~~person~~**individual** is not required
8 to have the record in his or her possession while carrying, using,
9 possessing, or transporting the pistol after this period.

10 (4) This section does not apply to a person or entity exempt
11 under section 2(7).

12 (5) An individual who makes a material false statement on a
13 sales record under this section is guilty of a felony punishable by
14 imprisonment for not more than 4 years or a fine of not more than
15 \$2,500.00, or both.

16 (6) The department of state police may promulgate rules to
17 implement this section.

18 (7) The Michigan commission on law enforcement standards shall
19 provide license or certificate information, as applicable, to the
20 department of state police to verify the requirements of this
21 section.

22 (8) As used in this section:

23 (a) "Federally licensed firearms dealer" means a person
24 licensed to sell firearms under 18 USC 923.

25 (b) "Person" means an individual, partnership, corporation,
26 association, or other legal entity.