

FIREARMS (EXCERPT)

Act 372 of 1927

28.425k Acceptance of license as implied consent to submit to chemical analysis of breath, blood, or urine; collection and testing; refusal to take chemical test; definitions.

Sec. 5k. (1) Acceptance of a license issued under this act to carry a concealed pistol constitutes implied consent to submit to a chemical analysis under this section. This section also applies to individuals listed in section 12a.

(2) An individual shall not carry a concealed pistol or portable device that uses electro-muscular disruption technology while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of .10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or \$100.00, or both. The court shall order the county clerk in the county in which the individual was issued a license to carry a concealed pistol to revoke the license. The county clerk shall notify the department of state police of the revocation in a manner prescribed by the department of state police. The department of state police shall immediately enter that revocation into the law enforcement information network.

(b) If the person had a bodily alcohol content of .08 or more but less than .10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or \$100.00, or both. The court shall order the county clerk in the county in which the individual was issued a license to carry a concealed pistol to suspend the license for 3 years. The county clerk shall notify the department of state police of that suspension in a manner prescribed by the department of state police. The department of state police shall immediately enter that suspension into the law enforcement information network.

(c) If the person had a bodily alcohol content of .02 or more but less than .08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a state civil infraction and shall be fined \$100.00. The peace officer shall notify the department of state police of a civil infraction under this subdivision. The department of state police shall notify the county clerk in the county in which the individual was issued the license, who shall suspend the license for 1 year. The department of state police shall immediately enter that suspension into the law enforcement information network.

(3) This section does not prohibit an individual licensed under this act to carry a concealed pistol who has any bodily alcohol content from doing any of the following:

(a) Transporting that pistol in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(b) Transporting that pistol on a vessel if the pistol is transported unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(c) Transporting a portable device using electro-muscular disruption technology in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger, or, if the vehicle does not have a trunk, from transporting that portable device in a locked compartment or container.

(d) Transporting a portable device using electro-muscular disruption technology on a vessel if the portable device is transported in a locked compartment or container.

(4) A peace officer who has probable cause to believe an individual is carrying a concealed pistol or a portable device using electro-muscular disruption technology in violation of this section may require the individual to submit to a chemical analysis of his or her breath, blood, or urine.

(5) Before an individual is required to submit to a chemical analysis under subsection (4), the peace officer shall inform the individual of all of the following:

(a) The individual may refuse to submit to the chemical analysis, but if he or she chooses to do so, all of the following apply:

(i) The officer may obtain a court order requiring the individual to submit to a chemical analysis.

(ii) The refusal shall result in his or her license to carry a concealed pistol being suspended for 6 months.

(b) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis described in subsection (4) from a person of his or her own choosing.

(6) The collection and testing of breath, blood, and urine specimens under this section shall be conducted in the same manner that breath, blood, and urine specimens are collected and tested for alcohol- and

controlled-substance-related driving violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(7) If a person refuses to take a chemical test authorized under this section, the person is responsible for a state civil infraction and shall be fined \$100.00. A peace officer shall promptly report the refusal in writing to the department of state police. The department of state police shall notify the county clerk in the county in which the license was issued, who shall suspend the license for 6 months. The department of state police shall immediately enter that suspension into the law enforcement information network.

(8) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(c) "Under the influence of alcoholic liquor or a controlled substance" means that the individual's ability to properly handle a pistol or to exercise clear judgment regarding the use of that pistol was substantially and materially affected by the consumption of alcoholic liquor or a controlled substance.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2012, Act 123, Eff. Aug. 6, 2012;—Am. 2015, Act 3, Eff. Dec. 1, 2015.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: CPL

Popular name: Right to Carry

Popular name: Shall Issue