

Act No. 321
Public Acts of 1990
Approved by the Governor
December 19, 1990
Filed with the Secretary of State
December 20, 1990

STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990

Introduced by Reps. Bartnik, Alley, Hoffman, Stacey, Middaugh, Gnodtke, Profit and Hertel

ENROLLED HOUSE BILL No. 6010

AN ACT to amend sections 223, 224, 227b, 228, and 232a of Act No. 328 of the Public Acts of 1931, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," section 224 as amended by Act No. 346 of the Public Acts of 1980, being sections 750.223, 750.224, 750.227b, 750.228, and 750.232a of the Michigan Compiled Laws; and to add sections 224e, 227f, 234a, 234b, 234c, 234d, 234e, 234f, 357b, and 535b.

The People of the State of Michigan enact:

Section 1. Sections 223, 224, 227b, 228, and 232a of Act No. 328 of the Public Acts of 1931, section 224 as amended by Act No. 346 of the Public Acts of 1980, being sections 750.223, 750.224, 750.227b, 750.228, and 750.232a of the Michigan Compiled Laws, are amended and sections 224e, 227f, 234a, 234b, 234c, 234d, 234e, 234f, 357b, and 535b are added to read as follows:

Sec. 223. (1) A person who knowingly sells a pistol without complying with section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

(2) A person who knowingly sells a firearm more than 30 inches in length to a person under 18 years of age is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both. A second or subsequent violation of this subsection is a felony punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both. It is an affirmative defense to a prosecution under this subsection that the person who sold the firearm asked to see and was shown a driver's license or identification card issued by a state that identified the purchaser as being 18 years of age or older.

(3) A licensed dealer who knowingly sells a pistol without complying with section 2a of Act No. 372 of the Public Acts of 1927, being section 28.422a of the Michigan Compiled Laws, is guilty of a misdemeanor, punishable by a fine of not more than \$100.00.

(4) Except as provided in subsection (5), a person shall not sell a firearm or ammunition to a person the seller knows is under indictment for or has been convicted of a crime punishable by imprisonment for more than 1 year.

(5) Subsection (4) does not apply to a purchaser who is a licensed seller during the term of the indictment until any conviction pursuant to the indictment becomes final or to a purchaser granted relief from the disability pursuant to section 2 of Act No. 372 of the Public Acts of 1927.

(6) A person who violates subsection (4) is guilty of a felony, punishable by imprisonment for not more than 10 years, or by a fine of not more than \$5,000.00, or both.

(7) As used in this section:

(a) "Licensed dealer" means a person licensed under section 923 of chapter 44 of title 18 of the United States Code who regularly buys and sells firearms as a commercial activity with the principal objective of livelihood and profit.

(b) "Crime punishable by imprisonment for more than 1 year" means that term as defined in section 2 of Act No. 372 of the Public Acts of 1927.

Sec. 224. (1) A person shall not manufacture, sell, offer for sale, or possess a machine gun or firearm that shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger; a muffler or silencer; a bomb or bombshell; a blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, or bludgeon; or any type of device, weapon, cartridge, container, or contrivance designed to render a person either temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance. A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$2,500.00, or both.

(2) Subsection (1) does not apply to a cs device as defined in section 224d; or to a person manufacturing firearms, explosives, or munitions of war by virtue of a contract with a department of the government of the United States; or to a person licensed by the secretary of the treasury of the United States or the secretary's delegate to manufacture, sell, or possess a machine gun, or the type of device, weapon, cartridge, container, or contrivance mentioned in subsection (1).

(3) As used in this chapter, "muffler" or "silencer" means a device for muffling, silencing, or deadening the report of a firearm; a combination of parts, designed or redesigned, and intended for use in assembling or fabricating a muffler or silencer; or a part, designed or redesigned, and intended only for use in assembling or fabricating a muffler or silencer.

Sec. 224e. (1) A person shall not knowingly do any of the following:

(a) Manufacture, sell, distribute, or possess or attempt to manufacture, sell, distribute, or possess a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm.

(b) Demonstrate to another person or attempt to demonstrate to another person how to manufacture or install a device to convert a semiautomatic firearm into a fully automatic firearm.

(2) A person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

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

(a) A police agency of this state, or of a local unit of government of this state, or of the United States.

(b) An employee of an agency described in subdivision (a), if the manufacture, sale, distribution, or possession or attempted manufacture, sale, distribution, or possession or demonstration or attempted demonstration is in the course of his or her official duties as an employee of that agency.

(c) The armed forces.

(d) A member or employee of the armed forces, if the manufacture, sale, distribution, or possession or attempted manufacture, sale, distribution, or possession or demonstration or attempted demonstration is in the course of his or her official duties as a member or employee of the armed forces.

(e) A licensed collector who possesses a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm that was lawfully owned by that licensed collector before the effective date of the amendatory act that added this section. This subdivision does not permit a licensed collector who lawfully owned a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm before the effective date of the amendatory act that added this section to sell or distribute or attempt to sell or distribute that device to another person after the effective date of the amendatory act that added this section.

(4) As used in this section:

(a) "Fully automatic firearm" means a firearm employing gas pressure or force of recoil to mechanically eject an empty cartridge from the firearm after a shot, and to load the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(b) "Licensed collector" means a person who is licensed under chapter 44 of title 18 of the United States Code to acquire, hold, or dispose of firearms as curios or relics.

(c) "Semiautomatic firearm" means a firearm employing gas pressure or force of recoil to mechanically eject an empty cartridge from the firearm after a shot, and to load the next cartridge from the magazine, but requiring renewed pressure on the trigger for each successive shot.

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

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

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

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

Sec. 227f. (1) A person who commits or attempts to commit a crime that involves a violent act or a threat of a violent act against another person while wearing body armor is guilty of a felony.

(2) As used in this section, "body armor" means clothing or a device designed or intended to protect the person or a portion of the person's body from injury caused by a firearm.

Sec. 228. (1) Except as provided in subsection (2), a person who fails to have his or her pistol inspected as required under section 9 of Act No. 372 of the Public Acts of 1927, being section 28.429 of the Michigan Compiled Laws, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 9 of Act No. 372 of the Public Acts of 1927, before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who has his or her pistol inspected as required under section 9 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

Sec. 232a. (1) Except as provided in subsection (2), a person who obtains a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927 before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who obtains a license as required under section 2 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

(3) A person who intentionally makes a material false statement on an application for a license to purchase a pistol under section 2 of Act No. 372 of the Public Acts of 1927, as amended, is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

(4) A person who uses or attempts to use false identification or the identification of another person to purchase a firearm is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

Sec. 234a. An individual who intentionally discharges a firearm from a motor vehicle, a snowmobile, or an off-road vehicle in such a manner as to endanger the safety of another individual is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

Sec. 234b. (1) An individual who intentionally discharges a firearm at a facility that he or she knows or has reason to believe is a dwelling or an occupied structure is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

(2) An individual who intentionally discharges a firearm in a facility that he or she knows or has reason to believe is an occupied structure in reckless disregard for the safety of any individual is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

(3) As used in this section:

(a) "Dwelling" means a facility habitually used by 1 or more individuals as a place of abode, whether or not an individual is present in the facility.

(b) "Occupied structure" means a facility in which 1 or more individuals are present.

Sec. 234c. (1) An individual who intentionally discharges a firearm at a motor vehicle that he or she knows or has reason to believe is an emergency or law enforcement vehicle is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

(2) As used in this section, "emergency or law enforcement vehicle" means 1 or more of the following:

(a) A motor vehicle owned or operated by a fire department of a local unit of government of this state.

(b) A motor vehicle owned or operated by a police agency of the United States, of this state, or of a local unit of government of this state.

(c) A motor vehicle owned or operated by the department of natural resources that is used for law enforcement purposes.

(d) A motor vehicle owned or operated by an entity licensed to provide emergency medical services under part 192 of article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20901 to 333.20979 of the Michigan Compiled Laws, and that is used to provide emergency medical assistance to individuals.

(e) A motor vehicle owned or operated by a volunteer employee or paid employee of an entity described in subdivisions (a) to (c) while the motor vehicle is being used to perform emergency or law enforcement duties for that entity.

Sec. 234d. (1) Except as provided in subsection (2), a person shall not possess a firearm on the premises of any of the following: (a) A depository financial institution or a subsidiary or affiliate thereof.

(b) A church or other house of religious worship.

(c) A school.

(d) A court.

(e) A theatre.

(f) A sports arena.

(g) A day care center.

(h) A hospital.

(i) An establishment licensed under the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.68 of the Michigan Compiled Laws.

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

(a) A person who owns, or is employed by or contracted by, an entity described in subsection (1) if the possession of that firearm is to provide security services for that entity.

(b) A peace officer lawfully performing his or her duties as a peace officer.

(c) A person licensed by this state or another state to carry a concealed weapon.

(d) A person who possesses a firearm in a school for purposes of providing or receiving instruction in firearms safety.

(e) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is for purposes of display or exhibition and with the permission of the owner or an agent of the owner of that entity.

(3) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

Sec. 234e. (1) Except as provided in subsection (2), a person shall not knowingly brandish a firearm in public.

(2) Subsection (1) does not apply to any of the following:

(a) A peace officer lawfully performing his or her duties as a peace officer.

(b) A person lawfully engaged in hunting.

(c) A person lawfully engaged in target practice.

(d) A person lawfully engaged in the sale, purchase, repair, or transfer of that firearm.

(3) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

Sec. 234f. (1) A person less than 18 years of age shall not possess a firearm in public except under the direct supervision of a person 18 years of age or older.

(2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

Sec. 357b. A person who commits larceny by stealing the firearm of another person is guilty of a felony, punishable by imprisonment for not more than 5 years or by a fine of not more than \$2,500.00, or both.

Sec. 535b. (1) A person who transports or ships a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than \$5,000.00, or both.

(2) A person who receives, conceals, stores, barter, sells, disposes of, pledges, or accepts as security for a loan a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than \$5,000.00, or both.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

(a) House Bill No. 5366.

(b) House Bill No. 5437.

(c) House Bill No. 6009.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

