

# HOUSE BILL No. 4820

May 15, 1989, Introduced by Reps. Johnson and Martin and referred to the Committee on Tourism, Fisheries and Wildlife.

A bill to amend the title and section 1 of Act No. 372 of the Public Acts of 1927, entitled as amended

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

being section 28.421 of the Michigan Compiled Laws; and to add sections 3, 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, and 3l.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 1 of Act No. 372 of the  
2 Public Acts of 1927, being section 28.421 of the Michigan  
3 Compiled Laws, is amended and sections 3, 3a, 3b, 3c, 3d, 3e, 3f,  
4 3g, 3h, 3i, 3j, 3k, and 3l are added to read as follows:

## TITLE

1  
2 An act to regulate and license the selling, purchasing, pos-  
3 sessed, and carrying of certain firearms and gas ejecting  
4 devices; to prohibit the buying, selling, or carrying of certain  
5 firearms and gas ejecting devices without a license; TO PRESCRIBE  
6 THE POWERS AND DUTIES OF CERTAIN STATE OFFICERS AND AGENCIES; TO  
7 ESTABLISH FEES; and to repeal all acts and parts of acts incon-  
8 sistent with the provisions of this act.

9 Sec. 1. As used in this act:

10 (A) "BARREL LENGTH" MEANS THE INTERNAL LENGTH OF THE BARREL  
11 OF A PISTOL OR A SHORT-BARRELED PISTOL MEASURED INTERNALLY FROM  
12 THE FACE OF THE CLOSED BREACH OF THAT PISTOL TO THE FORWARD FACE  
13 OF THE END OF THE BARREL.

14 (B) "DEALER" MEANS A PERSON WHO IS LICENSED AS A FEDERAL  
15 FIREARMS DEALER.

16 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE OF  
17 THIS STATE.

18 (D) ~~(a)~~ "Pistol" means any firearm, loaded or unloaded, 30  
19 inches or less in length, BUT WITH A BARREL LENGTH OF NOT LESS  
20 THAN 5 INCHES, or any firearm, loaded or unloaded, ~~which~~ THAT  
21 by its construction and appearance conceals it as a firearm,  
22 EXCEPT THAT FOR PURPOSES OF SECTIONS 6 TO 14, PISTOL INCLUDES A  
23 SHORT-BARRELED PISTOL.

24 (E) ~~(b)~~ "Purchaser" means any person who receives a  
25 REGULATED RIFLE OR A pistol from another PERSON by purchase,  
26 gift, or loan.

1 (F) "REGULATED RIFLE" MEANS A SEMIAUTOMATIC RIFLE THAT IS  
2 CAPABLE OF FIRING CENTER-FIRE AMMUNITION, AND THAT IS PROVIDED BY  
3 THE MANUFACTURER WITH A MAGAZINE CAPACITY OF 20 OR MORE ROUNDS OF  
4 AMMUNITION OR THAT IS DESIGNED BY THE MANUFACTURER TO ACCOMMODATE  
5 A SILENCER, BAYONET, FLASH SUPPRESSOR, OR FOLDING STOCK.

6 (G) "RIFLE" MEANS THAT TERM AS IT IS DEFINED IN SECTION 222  
7 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF  
8 1931, BEING SECTION 750.222 OF THE MICHIGAN COMPILED LAWS.

9 (H) ~~(e)~~ "Seller" means any person, INCLUDING, BUT NOT  
10 LIMITED TO, A DEALER, who sells, furnishes, loans, or gives a  
11 pistol to another PERSON.

12 (I) "SEMIAUTOMATIC RIFLE" MEANS A RIFLE EMPLOYING GAS PRES-  
13 SURE OR FORCE OF RECOIL TO MECHANICALLY EJECT AN EMPTY CARTRIDGE  
14 FROM THE RIFLE AFTER A SHOT, AND TO LOAD THE NEXT CARTRIDGE FROM  
15 THE MAGAZINE, BUT REQUIRING RENEWED PRESSURE ON THE TRIGGER FOR  
16 EACH SUCCESSIVE SHOT.

17 (J) "SHORT-BARRELED PISTOL" MEANS ANY FIREARM, LOADED OR  
18 UNLOADED, 30 INCHES OR LESS IN LENGTH, AND WITH A BARREL LENGTH  
19 OF LESS THAN 5 INCHES.

20 SEC. 3. BEFORE PURCHASING A REGULATED RIFLE OR A  
21 SHORT-BARRELED PISTOL FROM A DEALER, A PERSON SHALL CONSENT IN  
22 WRITING ON A FORM PROVIDED BY THE DEPARTMENT, TO HAVE THE DEALER  
23 OBTAIN CRIMINAL HISTORY RECORD INFORMATION FROM THE DEPARTMENT.

24 SEC. 3A. A FIREARMS DEALER SHALL NOT SELL OR TRANSFER A  
25 REGULATED RIFLE OR A SHORT-BARRELED PISTOL TO A RESIDENT OF THIS  
26 STATE UNTIL HE OR SHE HAS DONE ALL OF THE FOLLOWING:

1 (A) OBTAINED A WRITTEN CONSENT FORM FROM THAT RESIDENT  
2 PERMITTING THE DEALER TO CONTACT THE DEPARTMENT TO OBTAIN THE  
3 CRIMINAL HISTORY OF THAT RESIDENT.

4 (B) PROVIDED THE DEPARTMENT WITH INFORMATION REGARDING THE  
5 NAME, BIRTH DATE, GENDER, RACE, AND SOCIAL SECURITY NUMBER OF THE  
6 PERSON SEEKING TO PURCHASE THE REGULATED RIFLE OR SHORT-BARRELED  
7 PISTOL.

8 (C) REQUESTED AND RECEIVED BY TELEPHONE THE CRIMINAL HISTORY  
9 OF THE PERSON SEEKING TO PURCHASE THE REGULATED RIFLE OR  
10 SHORT-BARRELED PISTOL.

11 SEC. 3B. (1) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A  
12 TOLL-FREE TELEPHONE NUMBER TO RESPOND TO CRIMINAL HISTORY INFOR-  
13 MATION INQUIRIES BY DEALERS. THE NUMBER SHALL BE OPERATIONAL 7  
14 DAYS A WEEK BETWEEN THE HOURS OF 8:00 A.M. AND 10:00 P.M., AND  
15 THE DEPARTMENT SHALL RESPOND TO DEALER INQUIRIES DURING THOSE  
16 HOURS. EXCEPT AS PROVIDED IN SUBSECTION (2), IF A DEALER  
17 REQUESTS BY TELEPHONE THE CRIMINAL HISTORY OF A PERSON SEEKING TO  
18 PURCHASE A REGULATED RIFLE OR A SHORT-BARRELED PISTOL, THE  
19 DEPARTMENT SHALL PROVIDE THE CRIMINAL HISTORY OF THAT PERSON TO  
20 THE DEALER AT THE TIME THE DEALER REQUESTS THAT INFORMATION BY  
21 TELEPHONE, OR BY RETURN CALL WITHOUT DELAY.

22 (2) IF A CRIMINAL HISTORY INVESTIGATION INDICATES THAT A  
23 PERSON SEEKING TO PURCHASE A REGULATED RIFLE OR A SHORT-BARRELED  
24 PISTOL HAS A CRIMINAL RECORD, THE DEPARTMENT SHALL HAVE UNTIL THE  
25 END OF THE DEALER'S NEXT BUSINESS DAY TO ADVISE THE DEALER  
26 WHETHER ITS RECORDS INDICATE THAT THE PURCHASER IS PROHIBITED  
27 FROM PURCHASING A REGULATED RIFLE OR SHORT-BARRELED PISTOL BY

1 STATE OR FEDERAL LAW. IF THE DEPARTMENT FAILS TO PROVIDE THE  
2 INFORMATION REQUIRED UNDER THIS SUBSECTION TO A DEALER BY THE END  
3 OF THAT DEALER'S NEXT BUSINESS DAY, THE DEALER MAY IMMEDIATELY  
4 COMPLETE THE SALE OR TRANSFER OF THE REGULATED RIFLE OR THE  
5 SHORT-BARRELED PISTOL TO THAT PERSON. A SALE OR TRANSFER MADE  
6 UNDER THIS SUBSECTION IS NOT A VIOLATION OF THIS ACT.

7 SEC. 3C. IN THE CASE OF ELECTRONIC FAILURE OR OTHER CIRCUM-  
8 STANCES BEYOND THE CONTROL OF THE DEPARTMENT, THE DEPARTMENT  
9 SHALL IMMEDIATELY NOTIFY THE DEALER OF ANY DELAY IN OBTAINING  
10 INFORMATION FOR THE CRIMINAL HISTORY INVESTIGATION AND PROVIDE  
11 THE DEALER WITH AN ESTIMATE OF THE LENGTH OF THAT DELAY. IF A  
12 DEALER IS NOTIFIED OF A DELAY UNDER THIS SUBSECTION, THE DEPART-  
13 MENT SHALL, AS SOON AS POSSIBLE, BUT NOT LATER THAN THE DEALER'S  
14 NEXT BUSINESS DAY, INFORM THE DEALER OF WHETHER THE RECORDS OF  
15 THE DEPARTMENT INDICATE THAT THE PURCHASER IS PROHIBITED FROM  
16 PURCHASING A REGULATED RIFLE OR SHORT-BARRELED PISTOL BY STATE OR  
17 FEDERAL LAW. A DEALER WHO REQUESTS A CRIMINAL HISTORY INVESTIGA-  
18 TION BUT IS TOLD THAT A RESPONSE WILL NOT BE AVAILABLE BY THE END  
19 OF THAT DEALER'S NEXT BUSINESS DAY MAY IMMEDIATELY COMPLETE THE  
20 SALE OR TRANSFER OF THE REGULATED RIFLE OR SHORT-BARRELED PISTOL  
21 TO THAT PURCHASER. A SALE OR TRANSFER MADE UNDER THIS SUBSECTION  
22 IS NOT A VIOLATION OF THIS ACT.

23 SEC. 3D. THE DEPARTMENT OF STATE POLICE SHALL NOT RETAIN A  
24 RECORD OF A CRIMINAL HISTORY INVESTIGATION REQUESTED BY A DEALER  
25 IF THE PURCHASER OR TRANSFEREE IS NOT PROHIBITED FROM PURCHASING  
26 A REGULATED RIFLE OR SHORT-BARRELED PISTOL BY STATE OR FEDERAL  
27 LAW. A LOG OF A CRIMINAL HISTORY REQUEST MADE BY A DEALER IS NOT

1 A RECORD OF A CRIMINAL HISTORY INVESTIGATION UNDER THIS SECTION  
2 AND MAY BE RETAINED BY THE DEPARTMENT FOR NOT LONGER THAN 1 YEAR  
3 AFTER THE CRIMINAL HISTORY REQUEST IS MADE BY THAT DEALER.

4 SEC. 3E. A DEALER WHO REQUESTS A CRIMINAL HISTORY INVESTI-  
5 GATION BY TELEPHONE UNDER THIS ACT SHALL FURNISH A COPY OF THE  
6 WRITTEN CONSENT FORM SIGNED BY THE PERSON SEEKING TO PURCHASE THE  
7 REGULATED RIFLE OR SHORT-BARRELED PISTOL TO THE DEPARTMENT BY  
8 FIRST-CLASS MAIL, OR BY PERSONAL DELIVERY, WITHIN 24 HOURS AFTER  
9 SALE OR TRANSFER IS MADE. UPON RECEIPT OF THE CONSENT FORM, THE  
10 DEPARTMENT SHALL IMMEDIATELY SEARCH ALL CRIMINAL HISTORY RECORD  
11 INFORMATION AVAILABLE TO THE DEPARTMENT TO DETERMINE WHETHER THE  
12 PURCHASER IS PROHIBITED FROM PURCHASING A REGULATED RIFLE OR  
13 SHORT-BARRELED RIFLE BY STATE OR FEDERAL LAW. IF THE SEARCH  
14 REVEALS THAT THE PERSON IS PROHIBITED FROM PURCHASING A REGULATED  
15 RIFLE OR SHORT-BARRELED PISTOL BY STATE OR FEDERAL LAW, THE  
16 DEPARTMENT SHALL, WITHOUT DELAY, NOTIFY THE PROSECUTING ATTORNEY  
17 OF THE COUNTY IN WHICH THE SALE OR TRANSFER WAS MADE, AND THE  
18 DEALER, OF THE PROHIBITION.

19 SEC. 3F. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), A DEALER  
20 SHALL NOT SELL OR TRANSFER A REGULATED RIFLE OR SHORT-BARRELED  
21 PISTOL TO A PERSON WHO IS NOT A RESIDENT OF THIS STATE UNLESS  
22 BOTH OF THE FOLLOWING CIRCUMSTANCES EXIST:

23 (A) THE DEALER HAS PROVIDED THE DEPARTMENT WITH A WRITTEN  
24 CONSENT FORM SIGNED BY THE PERSON SEEKING TO PURCHASE THE REGU-  
25 LATED RIFLE OR SHORT-BARRELED PISTOL BY FIRST-CLASS MAIL OR BY  
26 PERSONAL DELIVERY WITHIN 24 HOURS AFTER THE FORM IS SIGNED BY  
27 THAT PERSON.

1 (B) THE DEALER HAS RECEIVED INFORMATION FROM THE DEPARTMENT  
2 THAT THE PERSON IS NOT PROHIBITED FROM PURCHASING A REGULATED  
3 RIFLE OR SHORT-BARRELED PISTOL BY STATE OR FEDERAL LAW.

4 (2) A DEALER WHO HAS PROVIDED A COPY OF THE WRITTEN CONSENT  
5 FORM TO THE DEPARTMENT AND WHO HAS NOT BEEN INFORMED BY THE  
6 DEPARTMENT WITHIN 10 DAYS AFTER THE CONSENT FORM IS MAILED OR  
7 DELIVERED WHETHER OR NOT THAT PERSON IS PROHIBITED FROM PURCHAS-  
8 ING A REGULATED RIFLE OR A SHORT-BARRELED PISTOL BY STATE OR FED-  
9 ERAL LAW MAY IMMEDIATELY COMPLETE THE SALE OR TRANSFER OF THE  
10 REGULATED RIFLE OR THE SHORT-BARRELED PISTOL TO THAT PERSON.

11 SEC. 3G. (1) A PERSON WHO IS DENIED THE RIGHT TO PURCHASE A  
12 REGULATED RIFLE OR A SHORT-BARRELED PISTOL UNDER THIS ACT MAY  
13 OBTAIN A COPY OF HIS OR HER CRIMINAL HISTORY BY FILING A SIGNED  
14 WRITTEN REQUEST FOR THAT INFORMATION WITH THE DEPARTMENT. THE  
15 DEPARTMENT SHALL PROVIDE A COPY OF THAT PERSON'S CRIMINAL HISTORY  
16 INFORMATION WITHIN 72 HOURS AFTER THE REQUEST FOR THAT INFORMA-  
17 TION IS RECEIVED BY THE DEPARTMENT.

18 (2) A PERSON WHO IS DENIED THE RIGHT TO PURCHASE A REGULATED  
19 RIFLE OR A SHORT-BARRELED PISTOL UNDER THIS ACT MAY FILE A CIVIL  
20 ACTION IN A COURT OF PROPER JURISDICTION TO CORRECT CRIMINAL HIS-  
21 TORY INFORMATION PROVIDED BY THE DEPARTMENT TO A DEALER. A CIVIL  
22 ACTION UNDER THIS SUBSECTION SHALL BE FILED WITHIN 30 DAYS AFTER  
23 THE PERSON'S REQUEST TO PURCHASE A REGULATED FIREARM OR  
24 SHORT-BARRELED RIFLE IS DENIED.

25 SEC. 3H. A DEALER WHO WILLFULLY AND INTENTIONALLY REQUESTS,  
26 OBTAINS, OR SEEKS TO OBTAIN CRIMINAL HISTORY INFORMATION UNDER  
27 FALSE PRETENSES, OR WHO WILLFULLY AND INTENTIONALLY DISSEMINATES

1 OR SEEKS TO DISSEMINATE CRIMINAL HISTORY INFORMATION EXCEPT AS  
2 AUTHORIZED UNDER THIS ACT, IS GUILTY OF A MISDEMEANOR.

3       SEC. 3I. A LICENSED FIREARM DEALER SHALL COLLECT A FEE OF  
4 \$2.00 FROM EACH RESIDENT, AND \$5.00 FROM EACH NONRESIDENT, WHO  
5 PURCHASES A REGULATED FIREARM OR A SHORT-BARRELED RIFLE UNDER  
6 THIS ACT. THE DEALER SHALL FORWARD ALL OF THE FEES COLLECTED  
7 UNDER THIS SECTION TO THE DEPARTMENT OF TREASURY ON THE TWENTIETH  
8 DAY OF EACH MONTH. THE DEPARTMENT OF TREASURY SHALL DEPOSIT ALL  
9 OF THE FEES COLLECTED UNDER THIS SECTION IN THE GENERAL FUND.

10       SEC. 3J. A PERSON WHO WILLFULLY AND MATERIALLY MAKES A  
11 FALSE STATEMENT ON A CONSENT FORM SIGNED TO PURCHASE A REGULATED  
12 RIFLE OR SHORT-BARRELED PISTOL IS GUILTY OF A MISDEMEANOR.

13       SEC. 3K. THE OFFICE OF CRIMINAL JUSTICE SHALL PROMULGATE  
14 RULES TO ENSURE THE IDENTITY OF PERSONS SEEKING CRIMINAL HISTORY  
15 INFORMATION UNDER THIS ACT AND TO PROTECT THE CONFIDENTIALITY AND  
16 SECURITY OF RECORDS AND DATA PROVIDED BY THE DEPARTMENT TO DEAL-  
17 ERS UNDER THIS ACT.

18       SEC. 3L. SECTIONS 3A THROUGH 3K DO NOT APPLY TO ANY OF THE  
19 FOLLOWING:

20       (A) SALES OR TRANSFERS BETWEEN PERSONS WHO ARE LICENSED  
21 UNDER FEDERAL LAW AS FIREARMS IMPORTERS, COLLECTORS, MANUFACTUR-  
22 ERS, OR DEALERS.

23       (B) SALES OR TRANSFERS TO A LAW ENFORCEMENT OFFICER OF THIS  
24 STATE, A LAW ENFORCEMENT OFFICER OF A LOCAL UNIT OF GOVERNMENT OF  
25 THIS STATE, OR A LAW ENFORCEMENT OFFICER OF THE UNITED STATES.

26       (C) ANTIQUE SHORT-BARRELED HANDGUNS OR PISTOLS.