

HOUSE BILL No. 6010

September 13, 1990, Introduced by Reps. Bartnik, Alley, Hoffman, Stacey, Middaugh, Gnodtke, Profit and Hertel and referred to the Committee on Tourism, Fisheries and Wildlife.

A bill to amend sections 223, 224, 227b, 228, and 232a of Act No. 328 of the Public Acts of 1931, entitled "The Michigan penal code," 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 227f, 234a, 234b, 234c, 357b, and 535b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 223, 224, 227b, 228, and 232a of Act
2 No. 328 of the Public Acts of 1931, section 224 as amended by Act
3 No. 346 of the Public Acts of 1980, being sections 750.223,
4 750.224, 750.227b, 750.228, and 750.232a of the Michigan Compiled
5 Laws, are amended and sections 227f, 234a, 234b, 234c, 357b, and
6 535b are added to read as follows:

1 Sec. 223. (1) ~~Any~~ A person who sells a pistol without
2 complying with section 2 of Act No. 372 of the Public Acts of
3 1927, as amended, being section 28.422 of the MICHIGAN Compiled
4 Laws, ~~of 1948, shall be~~ IS guilty of a misdemeanor.

5 (2) ~~Any~~ A person who sells a firearm more than 30 inches
6 in length to a person under 18 years of age ~~shall be~~ IS guilty
7 of a misdemeanor.

8 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON SHALL NOT
9 SELL A FIREARM OR AMMUNITION TO A PERSON THE SELLER KNOWS IS
10 UNDER INDICTMENT FOR OR HAS BEEN CONVICTED OF A CRIME PUNISHABLE
11 BY IMPRISONMENT FOR MORE THAN 1 YEAR.

12 (4) SUBSECTION (3) DOES NOT APPLY TO A PURCHASER WHO IS A
13 LICENSED SELLER DURING THE TERM OF THE INDICTMENT UNTIL ANY CON-
14 VICTION PURSUANT TO THE INDICTMENT BECOMES FINAL OR TO A PUR-
15 CHASER GRANTED RELIEF FROM THE DISABILITY PURSUANT TO SECTION 2
16 OF ACT NO. 372 OF THE PUBLIC ACTS OF 1927.

17 (5) A PERSON WHO VIOLATES SUBSECTION (3) IS GUILTY OF A
18 FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR
19 BY A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

20 (6) AS USED IN THIS SECTION, "CRIME PUNISHABLE BY IMPRISON-
21 MENT FOR MORE THAN 1 YEAR" MEANS THAT TERM AS DEFINED IN
22 SECTION 2 OF ACT NO. 372 OF THE PUBLIC ACTS OF 1927.

23 Sec. 224. (1) A person shall not manufacture, sell, offer
24 for sale, or possess a machine gun or firearm ~~which~~ THAT shoots
25 or is designed to shoot automatically more than 1 shot without
26 manual reloading, by a single function of the trigger; a muffler
27 ~~OR~~ OR silencer; ~~or device for deadening or muffling the sound~~

1 ~~of a discharged firearm,~~ a bomb or bombshell; a blackjack,
2 slungshot, billy, metallic knuckles, sand club, sand bag, or
3 bludgeon; or any type of device, weapon, cartridge, container, or
4 contrivance designed ~~for the purpose of rendering~~ TO RENDER a
5 person either temporarily or permanently disabled by the ejec-
6 tion, release, or emission of a gas or other substance. A person
7 who violates this section is guilty of a felony, punishable by
8 imprisonment for not more than 5 years, or a fine of not more
9 than \$2,500.00, or both.

10 (2) Subsection (1) does not apply to a cs device as defined
11 in section 224d; or to a person manufacturing firearms, explo-
12 sives, or munitions of war by virtue of a contract with a depart-
13 ment of the government of the United States; or to a person
14 licensed by the secretary of the treasury of the United States or
15 the secretary's delegate to manufacture, sell, or possess a
16 machine gun, or the type of device, weapon, cartridge, container,
17 or contrivance mentioned in subsection (1).

18 (3) AS USED IN THIS CHAPTER, "MUFFLER" OR "SILENCER" MEANS A
19 DEVICE FOR MUFFLING, SILENCING, OR DEADENING THE REPORT OF A
20 FIREARM; A COMBINATION OF PARTS, DESIGNED OR REDESIGNED, AND
21 INTENDED FOR USE IN ASSEMBLING OR FABRICATING A MUFFLER OR
22 SILENCER; OR A PART INTENDED ONLY FOR USE IN ASSEMBLING OR FABRI-
23 CATING A MUFFLER OR SILENCER.

24 Sec. 227b. (1) ~~EXCEPT~~ AS PROVIDED IN SUBSECTIONS (2),
25 (3), AND (4), A person who carries or has in his OR HER posses-
26 sion a firearm ~~at the time~~ WHEN he OR SHE commits or attempts
27 to commit a felony, except ~~the~~ A violation of SECTION 223,

1 section 227, or section 227a, is guilty of a felony, and shall be
2 imprisoned for 2 years. Upon a second conviction under this
3 ~~section~~ SUBSECTION, the person shall be imprisoned for 5
4 years. Upon a third or subsequent conviction under this
5 ~~section~~ SUBSECTION, the person shall be imprisoned for 10
6 years.

7 (2) A PERSON WHO CARRIES OR HAS IN HIS OR HER POSSESSION A
8 FIREARM ON WHICH HE OR SHE KNOWS THE NUMBER OR OTHER MARK HAS
9 BEEN ALTERED, REMOVED, OR OBLITERATED IN VIOLATION OF SECTION 230
10 WHEN THE PERSON COMMITS OR ATTEMPTS TO COMMIT A FELONY, EXCEPT A
11 VIOLATION OF SECTION 227, 227A, OR 230, IS GUILTY OF A FELONY AND
12 SHALL BE IMPRISONED FOR 4 YEARS. UPON A SECOND CONVICTION UNDER
13 THIS SUBSECTION, THE PERSON SHALL BE IMPRISONED FOR 10 YEARS.
14 UPON A THIRD OR SUBSEQUENT CONVICTION UNDER THIS SUBSECTION, THE
15 PERSON SHALL BE IMPRISONED FOR 20 YEARS.

16 (3) A PERSON WHO CARRIES OR HAS IN HIS OR HER POSSESSION A
17 SHOTGUN EQUIPPED WITH A ROTARY MAGAZINE CAPABLE OF HOLDING MORE
18 THAN 9 ROUNDS OF AMMUNITION AT THE TIME HE OR SHE COMMITS OR
19 ATTEMPTS TO COMMIT A FELONY, EXCEPT A VIOLATION OF SECTION 223,
20 227, 227A, OR 230, IS GUILTY OF A FELONY AND SHALL BE IMPRISONED
21 FOR 4 YEARS. UPON A SECOND CONVICTION UNDER THIS SUBSECTION, THE
22 PERSON SHALL BE IMPRISONED FOR 10 YEARS. UPON A THIRD OR SUBSE-
23 QUENT CONVICTION UNDER THIS SUBSECTION, THE PERSON SHALL BE
24 IMPRISONED FOR 20 YEARS.

25 (4) A PERSON WHO CARRIES OR HAS IN HIS OR HER POSSESSION A
26 FIREARM AT THE TIME HE OR SHE COMMITS OR ATTEMPTS TO COMMIT A
27 FELONY VIOLATION OF SECTION 7401, 7402, 7403, OR 7407 OF THE

1 PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
2 SECTIONS 333.7401, 333.7402, 333.7403, AND 333.7407 OF THE
3 MICHIGAN COMPILED LAWS, IS GUILTY OF A FELONY, AND SHALL BE
4 IMPRISONED FOR 4 YEARS. UPON A SECOND CONVICTION UNDER THIS SUB-
5 SECTION, THE PERSON SHALL BE IMPRISONED FOR 10 YEARS. UPON A
6 THIRD OR SUBSEQUENT CONVICTION UNDER THIS SUBSECTION, THE PERSON
7 SHALL BE IMPRISONED 20 YEARS.

8 (5) ~~(2) The~~ A term of imprisonment prescribed by this sec-
9 tion ~~shall be~~ IS in addition to the sentence imposed for the
10 conviction of the felony or the attempt to commit the felony, and
11 shall be served consecutively with and preceding any term of
12 imprisonment imposed for the conviction of the felony or attempt
13 to commit the felony.

14 (6) ~~(3) The~~ A term of imprisonment imposed under this sec-
15 tion shall not be suspended. The person subject to the sentence
16 mandated by this section ~~shall not be~~ IS NOT eligible for
17 parole or probation during the mandatory term imposed pursuant to
18 subsection (1), (2), (3), OR (4).

19 SEC. 227F. (1) A PERSON WHO COMMITS OR ATTEMPTS TO COMMIT A
20 CRIME THAT INVOLVES A VIOLENT ACT OR A THREAT OF A VIOLENT ACT
21 AGAINST ANOTHER PERSON WHILE WEARING BODY ARMOR IS GUILTY OF A
22 FELONY.

23 (2) AS USED IN THIS SECTION, "BODY ARMOR" MEANS CLOTHING OR
24 A DEVICE DESIGNED OR INTENDED TO PROTECT THE PERSON OR A PORTION
25 OF THE PERSON'S BODY FROM INJURY CAUSED BY A FIREARM.

26 Sec. 228. (1) ~~Safety inspection Any person who shall fail~~
27 ~~to comply with the provision of~~ EXCEPT AS PROVIDED IN SUBSECTION

1 (2), A PERSON WHO FAILS TO HAVE HIS OR HER PISTOL INSPECTED AS
2 REQUIRED UNDER section 9 of Act No. 372 of the Public Acts of
3 1927, being section ~~+6758~~ 28.429 of the MICHIGAN Compiled Laws,
4 ~~of 1929, pertaining to the safety inspection of pistols, shall~~
5 ~~be~~ IS guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT
6 MORE THAN 90 DAYS, OR A FINE OF NOT MORE THAN \$100.00, OR BOTH.

7 (2) SUBSECTION (1) DOES NOT APPLY TO A PERSON WHO OBTAINED A
8 PISTOL IN VIOLATION OF SECTION 9 OF ACT NO. 372 OF THE PUBLIC
9 ACTS OF 1927, BEFORE THE EFFECTIVE DATE OF THE 1990 AMENDATORY
10 ACT THAT ADDED THIS SUBSECTION, WHO HAS NOT BEEN CONVICTED OF
11 THAT VIOLATION, AND WHO HAS HIS OR HER PISTOL INSPECTED AS
12 REQUIRED UNDER SECTION 9 OF ACT NO. 372 OF THE PUBLIC ACTS OF
13 1927 WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE 1990 AMENDA-
14 TORY ACT THAT ADDED THIS SUBSECTION.

15 Sec. 232a. (1) ~~Purchaser of pistol Any person who shall~~
16 ~~purchase a pistol without having obtained a license to purchase~~
17 ~~as provided~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A PERSON WHO
18 OBTAINS A PISTOL in VIOLATION OF section 2 of Act No. 372 of the
19 Public Acts of 1927, as amended, ~~shall be~~ BEING SECTION 28.422
20 OF THE MICHIGAN COMPILED LAWS, IS guilty of a misdemeanor, PUN-
21 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF
22 NOT MORE THAN \$100.00, OR BOTH.

23 (2) SUBSECTION (1) DOES NOT APPLY TO A PERSON WHO OBTAINED A
24 PISTOL IN VIOLATION OF SECTION 2 OF ACT NO. 372 OF THE PUBLIC
25 ACTS OF 1927 BEFORE THE EFFECTIVE DATE OF THE 1990 AMENDATORY ACT
26 THAT ADDED THIS SUBSECTION, WHO HAS NOT BEEN CONVICTED OF THAT
27 VIOLATION, AND WHO OBTAINS A LICENSE AS REQUIRED UNDER SECTION 2

1 OF ACT NO. 372 OF THE PUBLIC ACTS OF 1927 WITHIN 90 DAYS AFTER
2 THE EFFECTIVE DATE OF THE 1990 AMENDATORY ACT THAT ADDED THIS
3 SUBSECTION.

4 (3) ~~Any~~ A person who ~~shall~~ intentionally ~~make~~ MAKES a
5 false statement ~~in any~~ ON AN application for a license to pur-
6 chase a pistol, under section 2 of Act No. 372 of the Public
7 Acts of 1927, as amended, ~~shall be~~ IS guilty of a misdemeanor,
8 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF
9 NOT MORE THAN \$100.00, OR BOTH.

10 (4) A PERSON WHO USES OR ATTEMPTS TO USE FALSE IDENTIFICA-
11 TION OR THE IDENTIFICATION OF ANOTHER PERSON TO PURCHASE A FIRE-
12 ARM IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR
13 NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$100.00, OR
14 BOTH.

15 SEC. 234A. AN INDIVIDUAL WHO INTENTIONALLY DISCHARGES A
16 FIREARM FROM A MOTOR VEHICLE IN SUCH A MANNER AS TO ENDANGER THE
17 SAFETY OF ANOTHER INDIVIDUAL IS GUILTY OF A FELONY, PUNISHABLE BY
18 IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR A FINE OF NOT MORE
19 THAN \$2,000.00, OR BOTH.

20 SEC. 234B. (1) AN INDIVIDUAL WHO INTENTIONALLY DISCHARGES A
21 FIREARM AT A FACILITY THAT HE OR SHE KNOWS OR HAS REASON TO
22 BELIEVE IS A DWELLING OR AN OCCUPIED STRUCTURE IS GUILTY OF A
23 FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR
24 A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

25 (2) AN INDIVIDUAL WHO INTENTIONALLY DISCHARGES A FIREARM IN
26 A FACILITY THAT HE OR SHE KNOWS OR HAS REASON TO BELIEVE IS AN
27 OCCUPIED STRUCTURE IN RECKLESS DISREGARD FOR THE SAFETY OF ANY

1 INDIVIDUAL IS GUILTY OF A FELONY, PUNISHABLE BY IMPRISONMENT FOR
2 NOT MORE THAN 4 YEARS, OR A FINE OF NOT MORE THAN \$2,000.00, OR
3 BOTH.

4 (3) AS USED IN THIS SECTION:

5 (A) "DWELLING" MEANS A FACILITY HABITUALLY USED BY 1 OR MORE
6 INDIVIDUALS AS A PLACE OF ABODE, WHETHER OR NOT AN INDIVIDUAL IS
7 PRESENT IN THE FACILITY.

8 (B) "OCCUPIED STRUCTURE" MEANS A FACILITY IN WHICH 1 OR MORE
9 INDIVIDUALS ARE PRESENT.

10 SEC. 234C. (1) AN INDIVIDUAL WHO INTENTIONALLY DISCHARGES A
11 FIREARM AT A MOTOR VEHICLE THAT HE OR SHE KNOWS OR HAS REASON TO
12 BELIEVE IS AN EMERGENCY OR LAW ENFORCEMENT VEHICLE IS GUILTY OF A
13 FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR
14 A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

15 (2) AS USED IN THIS SECTION, "EMERGENCY OR LAW ENFORCEMENT
16 VEHICLE" MEANS 1 OR MORE OF THE FOLLOWING:

17 (A) A MOTOR VEHICLE OWNED OR OPERATED BY A FIRE DEPARTMENT
18 OF A LOCAL UNIT OF GOVERNMENT OF THIS STATE.

19 (B) A MOTOR VEHICLE OWNED OR OPERATED BY A POLICE AGENCY OF
20 THE UNITED STATES, OF THIS STATE, OR OF A LOCAL UNIT OF GOVERN-
21 MENT OF THIS STATE.

22 (C) A MOTOR VEHICLE OWNED OR OPERATED BY THE DEPARTMENT OF
23 NATURAL RESOURCES THAT IS USED FOR LAW ENFORCEMENT PURPOSES.

24 (D) A MOTOR VEHICLE OWNED OR OPERATED BY AN ENTITY LICENSED
25 TO PROVIDE EMERGENCY MEDICAL SERVICES UNDER PART 192 OF ARTICLE
26 17 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF
27 1978, BEING SECTIONS 333.20901 TO 333.20979 OF THE MICHIGAN

1 COMPILED LAWS, AND THAT IS USED TO PROVIDE EMERGENCY MEDICAL
2 ASSISTANCE TO INDIVIDUALS.

3 (E) A MOTOR VEHICLE OWNED OR OPERATED BY A VOLUNTEER
4 EMPLOYEE OR PAID EMPLOYEE OF AN ENTITY DESCRIBED IN
5 SUBDIVISIONS (A) TO (C) WHILE THE MOTOR VEHICLE IS BEING USED TO
6 PERFORM EMERGENCY OR LAW ENFORCEMENT DUTIES FOR THAT ENTITY.

7 SEC. 357B. A PERSON WHO COMMITS LARCENY BY STEALING THE
8 FIREARM OF ANOTHER PERSON IS GUILTY OF A FELONY, PUNISHABLE BY
9 IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BY A FINE OF NOT MORE
10 THAN \$2,500.00, OR BOTH.

11 SEC. 535B. (1) A PERSON WHO TRANSPORTS OR SHIPS A STOLEN
12 FIREARM OR STOLEN AMMUNITION, KNOWING THAT THE FIREARM OR AMMUNI-
13 TION WAS STOLEN, IS GUILTY OF A FELONY, PUNISHABLE BY IMPRISON-
14 MENT FOR NOT MORE THAN 10 YEARS OR BY A FINE OF NOT MORE THAN
15 \$5,000.00, OR BOTH.

16 (2) A PERSON WHO RECEIVES, CONCEALS, STORES, BARTERS, SELLS,
17 DISPOSES OF, PLEDGES, OR ACCEPTS AS SECURITY FOR A LOAN A STOLEN
18 FIREARM OR STOLEN AMMUNITION, KNOWING THAT THE FIREARM OR AMMUNI-
19 TION WAS STOLEN, IS GUILTY OF A FELONY, PUNISHABLE BY IMPRISON-
20 MENT FOR NOT MORE THAN 10 YEARS OR BY A FINE OF NOT MORE THAN
21 \$5,000.00, OR BOTH.

22 Section 2. This amendatory act shall not take effect unless
23 Senate Bill No. _____ or House Bill No. _____ (request
24 no. 06104'90) of the 85th Legislature is enacted into law.