

SENATE BILL No. 395

May 3, 1989, Introduced by Senator FAUST and referred
to the Committee on Criminal Justice and Urban Affairs.

A bill to regulate air guns; to provide for the licensing and regulation of dealers, importers, and manufacturers of high-powered air guns; to prescribe the powers and duties of the department of state police and certain officers and employees of the department; to prescribe penalties; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. For the purposes of this act, the words and phrases
2 defined in sections 2 and 3 have the meanings ascribed to them in
3 those sections.

4 Sec. 2. (1) "Air gun" means a handgun, rifle, or smooth
5 bore rifle designed to propel or capable of propelling a projec-
6 tile by means of a spring, air, or gas, without the use of an
7 explosive.

1 (2) "Air gun ammunition" means a BB, shot, pellet, or dart
2 designed or sold for use in an air gun.

3 (3) "Dealer" means any of the following:

4 (a) A person engaged in the business of selling high-powered
5 air guns at wholesale or retail.

6 (b) A person engaged in the business of repairing
7 high-powered air guns.

8 (c) A person whose business or occupation includes the
9 taking or receiving of, by way of pledge or pawn, a high-powered
10 air gun as security for the payment or repayment of money.

11 (4) "Department" means the department of state police.

12 (5) "High-powered air gun" means an air gun designed to
13 propel or capable of propelling a projectile of .177 caliber or
14 smaller at a velocity of 350 feet per second or more or a projec-
15 tile larger than .177 caliber at a velocity of 275 feet per
16 second or more.

17 (6) "Importer" means a person engaged in the business of
18 importing or bringing high-powered air guns into the state for
19 the purpose of sale or distribution.

20 Sec. 3. (1) "License" means a license to engage in business
21 as a dealer, importer, or manufacturer issued by the department
22 pursuant to section 10.

23 (2) "Licensed" means holding a valid license.

24 (3) "Manufacturer" means a person engaged in the business of
25 manufacturing high-powered air guns for the purpose of sale and
26 distribution.

1 (4) "Minor" means an individual less than 18 years of age.

2 (5) "Person" means an individual or a partnership,
3 corporation, or other business entity.

4 Sec. 4. (1) A person shall not sell an air gun or air gun
5 ammunition to a minor.

6 (2) A minor shall not use or possess an air gun outside the
7 curtilage of his or her home except under the supervision of a
8 person 18 years of age or older.

9 Sec. 5. (1) A person, other than a person engaged in the
10 business of selling air guns at retail or wholesale or of import-
11 ing or manufacturing air guns for the purpose of sale or distri-
12 bution, shall not purchase an air gun by mail order.

13 (2) A person engaged in the business of selling, importing,
14 or manufacturing air guns shall not sell an air gun at retail by
15 mail order.

16 Sec. 6. (1) A person shall not sell an air gun unless the
17 following warning is permanently inscribed on or affixed to the
18 gun and is conspicuous and clearly legible: "Dangerous
19 weapon--may cause serious injury or death".

20 (2) A person shall not sell air gun ammunition unless the
21 following warning conspicuously appears on the package in which
22 the ammunition is sold: "Caution: BB guns, air guns, and pellet
23 guns are dangerous weapons that may cause serious injury or
24 death".

25 Sec. 7. A person engaged in the business of selling air
26 guns at retail or wholesale or of importing or manufacturing air
27 guns shall not sell an air gun that has a multishot BB magazine

1 capacity unless all of the following are incorporated in the
2 design of the air gun:

3 (a) A positive BB feed system, using spring pressure, for
4 the transferring of BB's from the magazine to the chamber of the
5 air gun. For purposes of this section, a positive feed system
6 does not include a gravity feed system.

7 (b) A visible storage chamber designed so that the user can
8 ascertain the number of BB's contained in the storage chamber by
9 visually examining it and so that all BB's contained in the stor-
10 age chamber are visible to the user. As used in this subdivi-
11 sion, "storage chamber" means a magazine or a reservoir, or
12 both.

13 (c) An automatic safety. As used in this subdivision,
14 "automatic safety" means a safety that automatically goes on when
15 the action is cocked and that requires the safety to be physi-
16 cally moved from "on" to "off" position in order to fire the air
17 gun.

18 Sec. 8. In addition to any other requirements under this
19 act, a person engaged in the business of selling air guns who
20 sells an air gun at retail shall do all of the following at the
21 time of sale:

22 (a) Give to the purchaser a written document containing all
23 of the following:

24 (i) A warning in boldfaced type that the air gun sold is a
25 dangerous weapon that may cause serious injury or death.

26 (ii) Instructions to inform the user how to handle and
27 operate the gun safely, select safe and appropriate targets, care

1 for and maintain the gun, and store the gun in a safe and
2 appropriate manner.

3 (iii) Information on the type and caliber of projectiles
4 intended to be used in the gun, a warning that the use of an
5 incorrect projectile is not safe, and a warning not to reuse
6 BB's, pellets, or shot.

7 (iv) The muzzle velocity of the gun and the maximum firing
8 distance for each type of projectile that is intended to be used
9 in the gun.

10 (v) Instructions for routine inspection and maintenance of
11 the gun.

12 (vi) Warnings that modification of the gun mechanism may
13 cause malfunction; tampering with the gun may make it unsafe to
14 use; any change in performance such as lower trigger pull and
15 shortened trigger travel indicates possible wear and that the gun
16 should be inspected, replaced, or repaired by a qualified person;
17 and that a gun that is dropped should be checked for proper
18 function.

19 (vii) Information on authorized repair shops.

20 (viii) Other information required by the department or rec-
21 ommended by the manufacturer.

22 (b) Give to the purchaser a copy of this act.

23 (c) Require the purchaser to sign a written acknowledgment
24 of receipt of the documents described in subdivisions (a) and
25 (b).

1 Sec. 9. (1) A person other than a licensed dealer, licensed
2 importer, or licensed manufacturer shall not engage in business
3 as a dealer, importer, or manufacturer.

4 (2) A person other than a licensed dealer, licensed import-
5 er, or licensed manufacturer shall not transport into or receive
6 in this state a high-powered air gun purchased or otherwise
7 obtained outside the state.

8 Sec. 10. (1) An application for a license shall be filed
9 with the department on a form provided by the department and
10 shall contain the information required by the department. The
11 application shall be accompanied by a fee of \$50.00 for each
12 place of business of the applicant to be covered by the license.

13 (2) Upon the filing of a proper application and payment of
14 the fee prescribed in subsection (1), the department shall issue
15 a license to the applicant if all of the following apply:

16 (a) The applicant and, if the applicant is a partnership,
17 corporation, or other business entity, all persons with the power
18 to direct the management and policies of the corporation, part-
19 nership, or business entity, are not less than 21 years of age.

20 (b) None of the following apply to the applicant or, if the
21 applicant is a partnership, corporation, or other business
22 entity, to any person with the power to direct the management and
23 policies of the corporation, partnership, or business entity:

24 (i) The person has been charged with or convicted of a crime
25 punishable by imprisonment for more than 1 year.

26 (ii) The person is a fugitive from justice.

1 (iii) The person is an illegal user of or is addicted to a
2 controlled substance as defined in section 7104 of the public
3 health code, Act No. 368 of the Public Acts of 1978, being
4 section 333.7104 of the Michigan Compiled Laws.

5 (iv) The person has been diagnosed as suffering from mental
6 illness as defined in section 400a of the mental health code, Act
7 No. 258 of the Public Acts of 1974, being section 330.1400a of
8 the Michigan Compiled Laws, or is a person requiring treatment as
9 defined in section 401 of Act No. 258 of the Public Acts of 1974,
10 being section 330.1401 of the Michigan Compiled Laws.

11 (c) The applicant has not knowingly or intentionally vio-
12 lated this act or any rule promulgated under this act.

13 (d) The applicant has not intentionally failed to disclose
14 any material information required in the application or inten-
15 tionally made a false statement of a material fact in connection
16 with the application.

17 (e) The applicant has a premises where he or she conducts or
18 intends to conduct business as a dealer, importer, or
19 manufacturer.

20 Sec. 11. (1) If a person who holds a license violates this
21 act or a rule promulgated under this act, the department, after
22 notice and an opportunity for a hearing, may revoke the license.

23 (2) The department shall give written notice to a person
24 whose application for a license is denied or whose license is
25 revoked specifying the reasons for the denial or revocation. A
26 notice of revocation shall be given to the holder of the license
27 before the effective date of the revocation.

1 (3) If the department denies an application for or revokes a
2 license, the department shall upon request by the applicant or
3 holder of the license promptly hold a hearing to review the
4 denial or revocation. In the case of the revocation of a
5 license, upon the request of the holder of the license, the
6 department shall stay the effective date of the revocation pend-
7 ing the completion of the hearing. A hearing held under this
8 subsection shall be held at a location convenient to the person
9 requesting the hearing.

10 (4) If after a hearing held under subsection (3), the
11 department affirms its denial or revocation of the license, the
12 department shall give written notice of its decision to the
13 applicant or holder of the license. Within 60 days after receiv-
14 ing notice under this subsection, the applicant or holder of the
15 license may petition for review of the department's decision in
16 the circuit court for the county in which the applicant or holder
17 of the license resides or has his or her principal place of
18 business. The court may consider any evidence relevant to the
19 denial or revocation of the petitioner's license. If the court
20 determines that the department was not authorized to deny the
21 application or to revoke the license, the court shall order the
22 department to take the action necessary to comply with the judg-
23 ment of the court.

24 (5) A license issued under section 10 shall expire 1 year
25 after the date on which it was issued. The license may be
26 renewed upon application and payment of the fee as provided in
27 section 10.

1 (6) A license issued under section 10 shall be kept posted
2 and available for inspection at the place of business covered by
3 the license.

4 Sec. 12. (1) A licensed dealer, licensed importer, and
5 licensed manufacturer shall maintain records of importation, pro-
6 duction, shipment, receipt, sale, or other disposition of
7 high-powered air guns as required by the department.

8 (2) A licensed dealer, licensed importer, and licensed manu-
9 facturer shall make the records required under subsection (1)
10 available for inspection during reasonable business hours and
11 shall submit any information or reports concerning those records
12 to the department as required by the department. An officer or
13 employee of the department designated by the department may enter
14 the premises of the licensed dealer, licensed importer, or
15 licensed manufacturer during business hours to inspect the
16 records.

17 (3) A licensed dealer, licensed importer, or licensed manu-
18 facturer shall not sell or deliver a high-powered air gun to a
19 person unless the dealer, importer, or manufacturer notes in the
20 records required to be maintained under subsection (1) all of the
21 following:

22 (a) If the person is a partnership, corporation, or other
23 business entity, the identity and principal and local places of
24 business of the person.

25 (b) If the person is an individual, the person's name, age,
26 and place of residence.

1 (4) Subsection (3) does not apply to transactions between
2 licensed dealers, licensed importers, and licensed
3 manufacturers.

4 (5) A licensed dealer, licensed importer, or licensed manu-
5 facturer shall not sell or deliver a high-powered air gun to a
6 person knowing or having reasonable cause to believe that 1 or
7 more of the following circumstances exist:

8 (a) The person is charged with or has been convicted of a
9 crime punishable by imprisonment for more than 1 year.

10 (b) The person is a fugitive from justice.

11 (c) The person is an illegal user of or is addicted to a
12 controlled substance as defined in section 7104 of the public
13 health code, Act No. 368 of the Public Acts of 1978, being
14 section 333.7104 of the Michigan Compiled Laws.

15 (d) The person has been diagnosed as suffering from mental
16 illness as defined in section 400a of the mental health code, Act
17 No. 258 of the Public Acts of 1974, being section 330.1400a of
18 the Michigan Compiled Laws, or is a person requiring treatment as
19 defined in section 401 of Act No. 258 of the Public Acts of 1974,
20 being section 330.1401 of the Michigan Compiled Laws.

21 (6) A licensed dealer, licensed importer, or licensed manu-
22 facturer shall not knowingly make a false entry in, fail to make
23 an appropriate entry in, or fail to properly maintain a record
24 that the licensee is required to keep pursuant to this section or
25 rules promulgated under this act.

26 (7) A licensed importer or licensed manufacturer shall
27 identify each high-powered air gun imported or manufactured by

1 the licensee by means of a serial number engraved or cast on the
2 gun in a manner prescribed by the department.

3 Sec. 13. (1) A person to whom 1 or more of the circum-
4 stances described in section 12(5)(a) to (d) apply shall not pur-
5 chase or receive a high-powered air gun.

6 (2) In connection with the acquisition or attempted acquisi-
7 tion of a high-powered air gun, a person shall not knowingly make
8 a false or fictitious oral or written statement or furnish a
9 false, fictitious, or misrepresented identification intended or
10 likely to deceive a dealer, importer, or manufacturer with
11 respect to the lawfulness of the transaction.

12 Sec. 14. The department shall promulgate rules pursuant to
13 the administrative procedures act of 1969, Act No. 306 of the
14 Public Acts of 1969, being sections 24.201 to 24.328 of the
15 Michigan Compiled Laws, to implement this act.

16 Sec. 15. A person who violates this act is guilty of a
17 misdemeanor.

18 Sec. 16. Act No. 186 of the Public Acts of 1959, being sec-
19 tions 752.891 and 752.892 of the Michigan Compiled Laws, is
20 repealed.