



HOUSE BILL No. 4918

September 29, 1999, Introduced by Reps. Jacobs, Thomas, Baird, LaForge, Lockwood, Schauer, Brater, Martinez, Dennis, Brewer, Minore, Hanley, Price, Garza, Clark, Hardman, Stallworth, Quarles and Lemmons and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1927 PA 372, entitled

"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; to provide for the forfeiture of firearms possessed in violation of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

by amending sections 2 and 6 (MCL 28.422 and 28.426), as amended by 1994 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as provided in subsection (2), a person
2 shall not purchase, carry, or transport a pistol in this state
3 without first having obtained a license for the pistol as pre-
4 scribed in this section.

5 (2) A person who brings a pistol into this state who is on
6 leave from active duty with the armed forces of the United States

1 or who has been discharged from active duty with the armed forces
2 of the United States shall obtain a license for the pistol within
3 30 days after his or her arrival in this state.

4 (3) The commissioner or chief of police of a city, township,
5 or village police department that issues licenses to purchase,
6 carry, or transport pistols, or his or her duly authorized
7 deputy, or the sheriff or his or her duly authorized deputy, in
8 the parts of a county not included within a city, township, or
9 village having an organized police department, in discharging the
10 duty to issue licenses shall with due speed and diligence issue
11 licenses to purchase, carry, or transport pistols to qualified
12 applicants residing within the city, village, township, or
13 county, as applicable unless he or she has probable cause to
14 believe that the applicant would be a threat to himself or her-
15 self or to other individuals, or would commit an offense with the
16 pistol that would violate a law of this or another state or of
17 the United States. An applicant is qualified if all of the fol-
18 lowing circumstances exist:

19 (a) The person is not subject to an order or disposition for
20 which he or she has received notice and an opportunity for a
21 hearing, and which was entered into the law enforcement informa-
22 tion network pursuant to any of the following:

23 (i) Section ~~464a(1)~~ 464A of the mental health code, ~~Act~~
24 ~~No. 258 of the Public Acts of 1974, being section 330.1464a of~~
25 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1464A.

26 (ii) Section ~~444a(1)~~ 444A of the revised probate code,
27 ~~Act No. 642 of the Public Acts of 1978, being section 700.444a~~

1 ~~of the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A, OR
2 SECTION 5107 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998
3 PA 368, MCL 700.5107.

4 (iii) Section ~~2950(9)~~ 2950 OR 2950A of the revised judica-
5 ture act of 1961, ~~Act No. 236 of the Public Acts of 1961, being~~
6 ~~section 600.2950 of the Michigan Compiled Laws~~ 1961 PA 236, MCL
7 600.2950 AND 600.2950A.

8 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
9 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

10 (iv) ~~(v)~~ Section ~~14(7)~~ 14 of ~~chapter 84 of the Revised~~
11 ~~Statutes of 1846, being section 552.14 of the Michigan Compiled~~
12 ~~Laws~~ 1846 RS 84, MCL 552.14.

13 (v) ~~(vi)~~ Section ~~6b(5)~~ 6B of chapter V of the code of
14 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~
15 ~~being section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175,
16 MCL 765.6B, if the order has a condition imposed pursuant to sec-
17 tion 6b(3) of chapter V of ~~Act No. 175 of the Public Acts of~~
18 ~~1927~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 765.6B.

19 (vi) ~~(vii)~~ Section ~~16b(1)~~ 16B of chapter IX of ~~Act~~
20 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~
21 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA
22 175, MCL 769.16B.

23 (b) The person is 18 years of age or older or, if the seller
24 is licensed pursuant to section 923 of title 18 of the United
25 States Code, 18 U.S.C. 923, is 21 years of age or older.

26 (c) The person is a citizen of the United States and is a
27 legal resident of this state.

1 (d) A felony charge against the person is not pending at the
2 time of application.

3 (e) The person is not prohibited from possessing, using,
4 transporting, selling, purchasing, carrying, shipping, receiving,
5 or distributing a firearm under section 224f of the Michigan
6 penal code, Act No. 328 of the Public Acts of 1931, being section
7 750.224f of the Michigan Compiled Laws.

8 (f) The person has not been adjudged insane in this state or
9 elsewhere unless he or she has been adjudged restored to sanity
10 by court order.

11 (g) The person is not under an order of involuntary commit-
12 ment in an inpatient or outpatient setting due to mental
13 illness.

14 (h) The person has not been adjudged legally incapacitated
15 in this state or elsewhere. This subdivision does not apply to a
16 person who has had his or her legal capacity restored by order of
17 the court.

18 (i) The person correctly answers 70% or more of the ques-
19 tions on a basic pistol safety review questionnaire approved by
20 the basic pistol safety review board and provided to the individ-
21 ual free of charge by the licensing authority. If the person
22 fails to correctly answer 70% or more of the questions on the
23 basic pistol safety review questionnaire, the licensing authority
24 shall inform the person of the questions he or she answered
25 incorrectly and allow the person to attempt to complete another
26 basic pistol safety review questionnaire. The person shall not
27 be allowed to attempt to complete more than 2 basic pistol safety

1 review questionnaires on any single day. The licensing authority
2 shall allow the person to attempt to complete the questionnaire
3 during normal business hours on the day the person applies for
4 his or her license.

5 (J) THE PERSON HAS NOT APPLIED FOR ANY OTHER LICENSE TO PUR-
6 CHASE, CARRY, OR TRANSPORT A PISTOL IN THE CURRENT CALENDAR
7 MONTH.

8 (K) THE PERSON PROVIDES PROOF OF FINANCIAL RESPONSIBILITY
9 ARISING OUT OF THE OWNERSHIP OR USE OF THE PERSON'S PISTOL OF NOT
10 LESS THAN \$20,000.00 FOR BODILY INJURY TO OR DEATH OF 1 PERSON IN
11 ANY 1 ACCIDENT, AND SUBJECT TO THAT LIMIT, TO A LIMIT OF NOT LESS
12 THAN \$40,000.00 FOR BODILY INJURY TO OR DEATH OF 2 OR MORE PER-
13 SONS IN ANY 1 ACCIDENT. A PERSON'S HOMEOWNER'S OR RENTER'S
14 INSURANCE POLICY THAT, AT A MINIMUM, PROVIDES COVERAGE PRESCRIBED
15 IN THIS SUBDIVISION IS CONSIDERED AS COMPLYING WITH THIS
16 SUBDIVISION.

17 (4) Applications for licenses under this section shall be
18 signed by the applicant under oath upon forms provided by the
19 director of the department of state police. Licenses to pur-
20 chase, carry, or transport pistols shall be executed in tripli-
21 cate upon forms provided by the director of the department of
22 state police and shall be signed by the licensing authority.
23 Three copies of the license shall be delivered to the applicant
24 by the licensing authority.

25 (5) Upon the sale of the pistol, the seller shall fill out
26 the license forms describing the pistol sold, together with the
27 date of sale, and sign his or her name in ink indicating that the

1 pistol was sold to the licensee. The licensee shall also sign
2 his or her name in ink indicating the purchase of the pistol from
3 the seller. The seller may retain a copy of the license as a
4 record of the sale of the pistol. The licensee shall return
5 2 copies of the license to the licensing authority within 10 days
6 following the purchase of the pistol.

7 (6) One copy of the license shall be retained by the licens-
8 ing authority as an official record for a period of 6 years. The
9 other copy of the license shall be forwarded by the licensing
10 authority within 48 hours to the director of the department of
11 state police. A license is void unless used within 10 days after
12 the date of its issue.

13 (7) This section does not apply to the purchase of pistols
14 from wholesalers by dealers regularly engaged in the business of
15 selling pistols at retail, or to the sale, barter, or exchange of
16 pistols kept solely as relics, curios, or antiques not made for
17 modern ammunition or permanently deactivated. This section does
18 not prevent the transfer of ownership of pistols that are inher-
19 ited if the license to purchase is approved by the commissioner
20 or chief of police, sheriff, or their authorized deputies, and
21 signed by the personal representative of the estate or by the
22 next of kin having authority to dispose of the pistol.

23 (8) The licensing authority shall provide a basic pistol
24 safety brochure to each applicant for a license under this sec-
25 tion before the applicant answers the basic pistol safety review
26 questionnaire. A basic pistol safety brochure shall contain, but

1 is not limited to providing, information on all of the following
2 subjects:

3 (a) Rules for safe handling and use of pistols.

4 (b) Safe storage of pistols.

5 (c) Nomenclature and description of various types of
6 pistols.

7 (d) The responsibilities of owning a pistol.

8 (9) The basic pistol safety brochure shall be supplied in
9 addition to the safety pamphlet required by section 9b.

10 (10) The basic pistol safety brochure required in subsection
11 (8) shall be produced by a national nonprofit membership organi-
12 zation that provides voluntary pistol safety programs that
13 include training individuals in the safe handling and use of
14 pistols.

15 (11) A person who forges any matter on an application for a
16 license under this section is guilty of a felony, punishable by
17 imprisonment for not more than 4 years or a fine of not more than
18 \$2,000.00, or both.

19 (12) A licensing authority shall implement this section
20 during all of the licensing authority's normal business hours and
21 shall set hours for implementation that allow an applicant to use
22 the license within the time period set forth in subsection (6).

23 Sec. 6. (1) The prosecuting attorney, the sheriff, and the
24 director of the department of state police, or their respective
25 authorized deputies, shall constitute boards exclusively autho-
26 rized to issue a license to an applicant residing within their
27 respective counties, to carry a pistol concealed on the person

1 and to carry a pistol, whether concealed or otherwise, in a
2 vehicle operated or occupied by the applicant. AS USED IN THIS
3 SECTION ONLY, "PISTOL" MEANS A FIREARM THAT IS 12 INCHES OR LESS
4 IN LENGTH. The county clerk of each county shall be clerk of the
5 licensing board, which board shall be known as the concealed
6 weapon licensing board. A license to carry a pistol concealed on
7 the person or to carry a pistol, whether concealed or otherwise,
8 in a vehicle operated or occupied by the person applying for the
9 license, shall not be granted to a person unless the person is 18
10 years of age or older, is a citizen of the United States, and has
11 resided in this state 6 months or more. A license shall not be
12 issued unless it appears that the applicant has good reason to
13 fear injury to his or her person or property, or has other proper
14 reasons, and is a suitable person to be licensed. A license
15 shall not be issued under this section unless all of the follow-
16 ing circumstances exist:

17 (a) The person is not the subject of an order or disposition
18 entered into the law enforcement information network pursuant to
19 any of the following:

20 (i) Section ~~464a(1)~~ 464A of the mental health code, ~~Act~~
21 ~~No. 258 of the Public Acts of 1974, being section 330.1464a of~~
22 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1464A.

23 (ii) Section ~~444a(1)~~ 444A of the revised probate code,
24 ~~Act No. 642 of the Public Acts of 1978, being section 700.444a~~
25 ~~of the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A, OR SEC-
26 TION 5107 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA
27 368, MCL 700.1507.

1 (iii) Section ~~2950(9)~~ 2950 AND 2950A of the revised
2 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~
3 ~~being section 600.2950 of the Michigan Compiled Laws~~ 1961 PA
4 236, MCL 600.2950 AND 600.2950A.

5 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
6 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

7 (iv) ~~(v)~~ Section ~~14(7)~~ 14 of ~~chapter 84 of the Revised~~
8 ~~Statutes of 1846, being section 552.14 of the Michigan Compiled~~
9 ~~Laws~~ 1846 RS 84, MCL 552.14.

10 (v) ~~(vi)~~ Section ~~6b(5)~~ 6B of chapter V of the code of
11 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~
12 ~~being section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175,
13 MCL 765.6B, if the order has a condition imposed pursuant to sec-
14 tion 6b(3) of chapter V of ~~Act No. 175 of the Public Acts of~~
15 ~~1927~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 765.6B.

16 (vi) ~~(vii)~~ Section ~~16b(1)~~ 16B of chapter IX of ~~Act~~
17 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~
18 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA
19 175, MCL 769.16B.

20 (b) The person has not been convicted of a felony or con-
21 fined for a felony conviction in this state or elsewhere during
22 the 8-year period immediately preceding the date of the applica-
23 tion, and a felony charge against the person is not pending at
24 the time he or she applies for a license described in this
25 section.

26 (c) The person has not been adjudged insane unless the
27 person has been adjudged restored to sanity by court order.

1 (d) The person is not under an order of involuntary
2 commitment in an inpatient or outpatient setting due to mental
3 illness.

4 (e) The person has not been adjudged legally incapacitated
5 in this state or elsewhere. This subdivision does not apply to a
6 person who has had his or her legal capacity restored by court
7 order.

8 (F) THE PERSON HAS NOT BEEN CONVICTED DURING THE 8-YEAR
9 PERIOD IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION AND A
10 CHARGE IS NOT PENDING FOR A VIOLATION OF SECTION 625, 625M, OR
11 626 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625,
12 257.625M, AND 257.626, OR SECTION 7403 OR 7404 OF THE PUBLIC
13 HEALTH CODE, 1978 PA 368, MCL 333.7403 AND 333.7404.

14 (2) If an applicant resides in a city, village, or township
15 having an organized department of police, a license shall not be
16 issued unless the application is first approved in writing by the
17 supervisor, commissioner or chief of police, or marshal of that
18 city, village, or township. If an application is not approved in
19 the manner prescribed by this subsection, the applicant has 10
20 days to appeal, in writing, to the concealed weapon licensing
21 board in the county in which the applicant resides. Upon receipt
22 of a written appeal, that concealed weapon licensing board shall
23 schedule a hearing to be held at its next scheduled meeting,
24 which shall not be less than 15 days after the receipt of the
25 fingerprint comparison report. The concealed weapon licensing
26 board shall determine at the hearing whether the applicant is
27 qualified to carry a concealed weapon pursuant to this section.

1 Notice of the hearing shall be mailed to the applicant and the
2 organized department of police not less than 10 days before the
3 scheduled hearing. The applicant shall deposit the sum of \$10.00
4 with the county clerk at the time the appeal is made. If, after
5 appeal, a license is not issued, the deposit shall be credited to
6 the general fund of the county. If a license is issued, the
7 deposit shall be processed as the license fee required under sub-
8 section (6).

9 (3) If an applicant does not reside in a city, village, or
10 township that has an organized department of police, a license
11 shall not be issued unless the application is first submitted for
12 approval or objection to the supervisor of the township in which
13 the applicant resides. The supervisor shall indicate in writing
14 on the application whether he or she objects to the license being
15 issued. If action is not taken by a supervisor within 14 days
16 after the application is submitted to the supervisor, the con-
17 cealed weapon licensing board shall consider the application as
18 if a statement of no objection had been included. If the super-
19 visor objects to the application in writing, the applicant may
20 appeal the objection to the concealed weapon licensing board of
21 the county in which the applicant resides within 10 days after
22 the objection. Upon receipt of a written appeal, that concealed
23 weapon licensing board shall schedule a hearing to be held at its
24 next scheduled meeting, which shall not be less than 15 days
25 after the receipt of the fingerprint comparison report. The con-
26 cealed weapon licensing board shall determine at the hearing
27 whether the applicant is qualified to carry a concealed weapon

1 pursuant to this section. Notice of the hearing shall be mailed
2 to the applicant and the supervisor of the township not less than
3 10 days before the scheduled hearing. The applicant shall
4 deposit the sum of \$10.00 with the county clerk at the time the
5 appeal is made. If, after appeal, a license is not issued, the
6 deposit shall be credited to the general fund of the county. If
7 a license is issued, the deposit shall be processed as the
8 license fee required under subsection (6).

9 (4) An applicant shall have 2 sets of fingerprints taken by
10 the sheriff, or the sheriff's authorized representative, of the
11 county in which the applicant resides, if the applicant does not
12 reside in a city, village, or township having an organized
13 department of police, or by the commissioner or chief of police,
14 or marshal, or an authorized representative of the commissioner
15 or chief of police or marshal, if the applicant resides within a
16 city, village, or township having an organized department of
17 police. The first set of fingerprints shall be taken on forms
18 furnished by the department of state police, and the second set
19 on forms furnished by the federal bureau of investigation. The
20 person taking the prints shall forward the first set of finger-
21 prints to the department of state police and the second set to
22 the federal bureau of investigation or other agency designated by
23 the federal bureau of investigation. The director of the bureau
24 of identification of the department of state police shall compare
25 the fingerprints with those already on file in the bureau. A
26 license shall not be issued unless the report is received by the
27 clerk of the board from the department of state police and the

1 federal bureau of investigation that the comparisons do not show
2 that the applicant was convicted of or confined for a felony
3 during the 8-year period. The board may grant a temporary permit
4 in case of emergency pending the results of the comparisons. The
5 temporary permit shall be issued for a period of not more than 30
6 days and shall expire automatically at the end of the period for
7 which it was issued. Upon receipt of the comparison report from
8 the federal bureau of investigation, the bureau of identification
9 of the department of state police shall forward a report of both
10 comparisons to the officer taking the prints and also to the
11 county clerk of the county in which the applicant resides, who as
12 clerk of the board shall keep a record of the report and shall
13 report to the board. The fingerprints received under this sec-
14 tion shall be filed in the bureau of identification of the
15 department of state police in the noncriminal section of the
16 files.

17 (5) The application for a license shall state each reason
18 for the necessity or desirability of carrying a pistol concealed
19 on the person or carrying a pistol, whether or not concealed, in
20 a vehicle occupied by the person applying for the license. A
21 license issued under this section shall limit the carrying of a
22 pistol to the reason or reasons satisfactory to the board, and
23 each restriction shall appear conspicuously on the face of the
24 license. The license shall be an authorization to carry a pistol
25 in compliance with this section only to the extent contained in
26 the face of the license and the license shall be revoked by the
27 board if the pistol is carried contrary to the authorization.

1 (6) The prosecuting attorney shall be the chairperson of the
2 board, which shall convene at least once in each calendar month
3 and at other times as the board is called to convene by the
4 chairperson. Each license shall be issued only upon written
5 application signed by the applicant under oath and upon a form
6 provided by the director of the department of state police. Each
7 license shall be issued only with the approval of a majority of
8 the members of the board and shall be executed in triplicate upon
9 forms provided by the director of the department of state
10 police. Each license shall be signed in the name of the con-
11 cealed weapon licensing board by the county clerk with the seal
12 of the circuit court affixed to the license. The county clerk
13 shall first collect a licensing fee of \$10.00 from the applicant
14 for each license delivered to the applicant. One copy of the
15 license shall be delivered to the applicant, the duplicate shall
16 be retained by the county clerk as a permanent official record
17 for a period of 6 years, and the triplicate of the license shall
18 be forwarded within 48 hours to the director of the department of
19 state police who shall file and index each license received and
20 retain it as a permanent official record for a period of 6
21 years. A license is valid for a definite period of not more than
22 3 years, and that period shall be stated in the license. A
23 renewal of the license shall not be granted except upon the
24 filing of a new application. A license shall bear the imprint of
25 the right thumb of the licensee, or, if a right thumb imprint is
26 impossible to obtain, the license shall bear the imprint of the
27 left thumb or some other finger of the licensee. The licensee

1 shall carry the license upon his or her person when carrying a
2 pistol concealed upon his or her person, or when carrying the
3 pistol, whether or not concealed, in a vehicle occupied by the
4 licensee. The licensee shall display the license upon the
5 request of a peace officer. On the first day of each month the
6 county clerk shall remit to the state treasurer \$2.00 for each
7 license issued during the preceding month. On the first day of
8 each month the county clerk shall pay into the general fund of
9 the county the remainder of each license fee for each license
10 issued during the preceding month.

11 (7) The county clerk may issue a copy of a license issued
12 pursuant to this section for a fee of \$3.00 which fee shall be
13 paid into the general fund of the county.

14 (8) A charter county may impose by ordinance a different
15 amount for the concealed weapon licensing fee prescribed by sub-
16 section (6). A charter county shall not impose a fee which is
17 greater than the cost of the service for which the fee is
18 charged.