



HOUSE BILL No. 4926

September 30, 1999, Introduced by Reps. Thomas, Jacobs, Baird, Lockwood, LaForge, Schauer, Brater, Dennis, Brewer, Minore, Hanley, Price, Garza, Clark, Hardman, Stallworth, Quarles and Lemmons and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 223, 234d, and 237a (MCL 750.223, 750.234d, and 750.237a), section 223 as amended by 1992 PA 221 and section 234d as amended and section 237a as added by 1994 PA 158, and by adding sections 223a, 223b, 223c, and 223d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 223. (1) A person who knowingly 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~~ 1927 PA 372, MCL 28.422, is guilty of a ~~misdemeanor, pun-~~
5 ~~ishable by imprisonment for not more than 90 days, or a fine of~~
6 ~~not more than \$100.00, or both~~ CRIME AS FOLLOWS:

1 (A) IF THE PURCHASER IS 18 YEARS OF AGE OR OLDER, THE PERSON
2 IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT
3 MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$100.00, OR BOTH.

4 (B) IF THE PURCHASER IS LESS THAN 18 YEARS OF AGE, THE
5 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
6 MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.
7 FOR A SECOND OR SUBSEQUENT VIOLATION OF THIS SUBDIVISION, THE
8 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
9 MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

10 (2) ~~A~~ SUBJECT TO SUBSECTION (3), A person who knowingly
11 sells, FURNISHES, LOANS, OR GIVES a firearm more than 30 inches
12 in length to a person ~~under~~ LESS THAN 18 years of age is guilty
13 of a ~~misdemeanor~~ FELONY, punishable by imprisonment for not
14 more than ~~90 days~~ 4 YEARS, or a fine of not more than ~~\$500.00~~
15 \$5,000.00, or both. A second or subsequent violation of this
16 subsection is a felony punishable by imprisonment for not more
17 than 4 years, or a fine of not more than ~~\$2,000.00~~ \$10,000.00,
18 or both. It is an affirmative defense to a prosecution under
19 this subsection that the person who sold OR LOANED the firearm
20 asked to see and was shown a driver's license or identification
21 card issued by a state that identified the purchaser as being 18
22 years of age or older.

23 (3) SUBSECTION (2) DOES NOT APPLY TO A PERSON WHO SELLS,
24 FURNISHES, LOANS, OR GIVES A FIREARM MORE THAN 30 INCHES IN
25 LENGTH TO A PERSON UNDER 18 YEARS OF AGE SOLELY TO HUNT OR TARGET
26 PRACTICE AS PROVIDED BY LAW.

1 (4) ~~(3)~~ A seller shall not sell, FURNISH, LOAN, OR GIVE a
2 firearm or ammunition to a person if the seller knows that either
3 of the following circumstances exists:

4 (a) The person is under indictment for a felony. As used in
5 this subdivision, "felony" means a violation of a law of this
6 state, or of another state, or of the United States that is pun-
7 ishable by imprisonment for 4 years or more.

8 (b) The person is prohibited under section 224f from pos-
9 sessed, using, transporting, selling, purchasing, carrying,
10 shipping, receiving, or distributing a firearm.

11 (5) ~~(4)~~ A person who violates subsection ~~(3)~~ (4) is
12 guilty of a felony, punishable by imprisonment for not more than
13 10 years, or by a fine of not more than \$5,000.00, or both.

14 (6) ~~(5)~~ As used in this section, "licensed dealer" means a
15 person licensed under section 923 of ~~chapter 44 of~~ title 18 of
16 the United States Code who regularly buys and sells firearms as a
17 commercial activity with the principal objective of livelihood
18 and profit.

19 SEC. 223A. (1) A PERSON ENGAGED IN THE BUSINESS OF SELLING
20 FIREARMS AT WHOLESALE TO DEALERS OF FIREARMS SHALL NOT SELL A
21 FIREARM TO A DEALER UNLESS THAT DEALER HAS A FIXED PLACE OF
22 BUSINESS.

23 (2) AS USED IN THIS SECTION:

24 (A) "DEALER" MEANS A PERSON ENGAGED IN THE BUSINESS OF
25 BUYING, SELLING, OR DEALING IN FIREARMS AT RETAIL.

1 (B) "FIXED PLACE OF BUSINESS" MEANS A BUILDING CUSTOMARILY
2 USED TO CONDUCT THE BUSINESS OF BUYING, SELLING, OR DEALING IN
3 FIREARMS.

4 (C) "WHOLESALE" MEANS A SALE OF A FIREARM TO A DEALER FOR
5 RESALE AT RETAIL.

6 (3) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDE-
7 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR BY
8 A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

9 SEC. 223B. (1) AN INDIVIDUAL ENGAGED IN THE BUSINESS OF
10 SELLING PISTOLS IN THIS STATE SHALL INCLUDE A TRIGGER LOCK WITH
11 THE SALE OF EACH FIREARM. AS USED IN THIS SECTION, "TRIGGER
12 LOCK" MEANS A DEVICE OPERATED BY A KEY OR COMBINATION LOCK OR A
13 SUBSTANTIALLY SIMILAR MECHANISM THAT IS DESIGNED FOR USE ON PIS-
14 TOLS, IS COMMERCIALY AVAILABLE, AND DISABLES THE TRIGGER MECHA-
15 NISM OF THE PISTOL TO PREVENT THE DISCHARGE OF THAT PISTOL.

16 (2) AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
17 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR
18 OR BY A FINE OF NOT MORE THAN \$1,000.00, OR BOTH. FOR A SECOND
19 OR SUBSEQUENT VIOLATION, THE PERSON IS GUILTY OF A FELONY PUNISH-
20 ABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT
21 MORE THAN \$5,000.00, OR BOTH.

22 SEC. 223C. (1) A PERSON SHALL NOT OFFER FOR SALE OR SELL A
23 FIREARM OR AMMUNITION AT A GUN SHOW UNLESS THAT PERSON IS
24 LICENSED UNDER SECTION 923 OF TITLE 18 OF THE UNITED STATES CODE,
25 18 U.S.C. 923. AS USED IN THIS SECTION, "GUN SHOW" MEANS A PLACE
26 WHERE DEALERS, COLLECTORS, AND OWNERS OF FIREARMS GATHER TO BUY,
27 SELL, OR TRADE FIREARMS. GUN SHOW DOES NOT INCLUDE A RETAIL

1 STORE WHERE FIREARMS ARE CUSTOMARILY SOLD OR A PRIVATE
2 RESIDENCE.

3 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDE-
4 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A
5 FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

6 SEC. 223D. (1) THE OWNER OF A FIREARM WHOSE FIREARM IS USED
7 BY A MINOR IN THE COMMISSION OF A CRIME IS GUILTY OF A MISDE-
8 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A
9 FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

10 (2) THIS SECTION DOES NOT APPLY TO A PERSON WHOSE FIREARM IS
11 OBTAINED BY THE MINOR IN AN UNLAWFUL MANNER.

12 Sec. 234d. (1) Except as provided in subsection (2), a
13 person shall not possess a firearm on the premises of any of the
14 following:

15 (a) A depository financial institution or a subsidiary or
16 affiliate of a depository financial institution.

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

18 (c) A court.

19 (d) A theatre.

20 (e) A sports arena.

21 (f) A day care center.

22 (g) A hospital.

23 (h) An establishment licensed under the Michigan liquor con-
24 trol ~~act, Act No. 8 of the Public Acts of the Extra Session of~~
25 ~~1933, being sections 436.1 to 436.58 of the Michigan Compiled~~
26 ~~Laws~~ CODE OF 1998, 1998 PA 58, MCL 436.1101 TO 436.2303.

1 (I) A LIBRARY.

2 (J) AN INSTITUTION OF HIGHER EDUCATION OR ANY BUILDING,
3 FACILITY, OR REAL PROPERTY OPERATED BY AN INSTITUTION OF HIGHER
4 EDUCATION, UNLESS THE INDIVIDUAL IS PARTICIPATING IN A COURSE OF
5 STUDY OR TRAINING THAT REQUIRES THE INDIVIDUAL TO CARRY A CON-
6 CEALED PISTOL DURING THAT COURSE OF STUDY OR TRAINING.

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

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

11 (b) A peace officer.

12 (c) A person licensed by this state or another state to
13 carry a concealed weapon BUT ONLY WHILE ON PREMISES DESCRIBED IN
14 SUBSECTION (1)(A).

15 (d) A person who possesses a firearm on the premises of an
16 entity described in subsection (1) if that possession is with the
17 permission of the owner or an agent of the owner of that entity.

18 (3) A person who violates this section is guilty of a misde-
19 meanor punishable by imprisonment for not more than ~~90 days~~ 1
20 YEAR or a fine of not more than ~~\$100.00~~ \$1,000.00, or both.

21 Sec. 237a. (1) An individual who engages in conduct pro-
22 scribed under section 224, 224a, 224b, 224c, 224e, 226, 227,
23 227a, 227f, 234a, 234b, or 234c, or who engages in conduct pro-
24 scribed under section 223(2) for a second or subsequent time, in
25 a weapon free school zone is guilty of a felony punishable by 1
26 or more of the following:

1 (a) Imprisonment for not more than the maximum term of
2 imprisonment authorized for the section violated.

3 (b) Community service for not more than 150 hours.

4 (c) A fine of not more than 3 times the maximum fine autho-
5 rized for the section violated.

6 (2) An individual who engages in conduct proscribed under
7 section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4),
8 233, 234, 234e, 234f, 235, 236, or 237, or who engages in conduct
9 proscribed under section 223(2) for the first time, in a weapon
10 free school zone is guilty of a misdemeanor punishable by 1 or
11 more of the following:

12 (a) Imprisonment for not more than the maximum term of
13 imprisonment authorized for the section violated or 93 days,
14 whichever is greater.

15 (b) Community service for not more than 100 hours.

16 (c) A fine of not more than \$2,000.00 or the maximum fine
17 authorized for the section violated, whichever is greater.

18 (3) Subsections (1) and (2) do not apply to conduct pro-
19 scribed under a section enumerated in those subsections to the
20 extent that the proscribed conduct is otherwise exempted or
21 authorized under this chapter.

22 (4) Except as provided in subsection (5), an individual who
23 possesses a weapon in a weapon free school zone is guilty of a
24 misdemeanor punishable by 1 or more of the following:

25 (a) Imprisonment for not more than ~~93 days~~ 1 YEAR.

26 (b) Community service for not more than 100 hours.

1 (c) A fine of not more than \$2,000.00.

2 (5) Subsection (4) does not apply to any of the following:

3 (a) An individual employed by or contracted by a school if
4 the possession of that weapon is to provide security services for
5 the school.

6 (b) A peace officer.

7 ~~(c) An individual licensed by this state or another state
8 to carry a concealed weapon.~~

9 (C) ~~(d)~~ An individual who possesses a weapon provided by a
10 school or a school's instructor on school property for purposes
11 of providing or receiving instruction in the use of that weapon.

12 (D) ~~(e)~~ An individual who possesses a firearm on school
13 property if that possession is with the permission of the
14 school's principal or an agent of the school designated by the
15 school's principal or the school board.

16 (E) ~~(f)~~ An individual who is 18 years of age or older who
17 is not a student at the school and who possesses a firearm on
18 school property while transporting a student to or from the
19 school if any of the following apply:

20 (i) The individual is carrying an antique firearm, com-
21 pletely unloaded, in a wrapper or container in the trunk of a
22 vehicle while en route to or from a hunting or target shooting
23 area or function involving the exhibition, demonstration or sale
24 of antique firearms.

25 (ii) The individual is carrying a firearm unloaded in a
26 wrapper or container in the trunk of the person's vehicle, while
27 in possession of a valid Michigan hunting license or proof of

1 valid membership in an organization having shooting range
2 facilities, and while en route to or from a hunting or target
3 shooting area.

4 (iii) The person is carrying a firearm unloaded in a wrapper
5 or container in the trunk of the person's vehicle from the place
6 of purchase to his or her home or place of business or to a place
7 of repair or back to his or her home or place of business, or in
8 moving goods from one place of abode or business to another place
9 of abode or business.

10 (iv) The person is carrying an unloaded firearm in the pas-
11 senger compartment of a vehicle that does not have a trunk, if
12 the person is otherwise complying with the requirements of
13 subparagraph (ii) or (iii) and the wrapper or container is not
14 readily accessible to the occupants of the vehicle.

15 (6) As used in this section:

16 (a) "Antique firearm" means either of the following:

17 (i) A firearm not designed or redesigned for using rimfire
18 or conventional center fire ignition with fixed ammunition and
19 manufactured in or before 1898, including a matchlock, flintlock,
20 percussion cap, or similar type of ignition system or a replica
21 of such a firearm, whether actually manufactured before or after
22 ~~the year~~ 1898.

23 (ii) A firearm using fixed ammunition manufactured in or
24 before 1898, for which ammunition is no longer manufactured in
25 the United States and is not readily available in the ordinary
26 channels of commercial trade.

1 (b) "School" means a public, private, denominational, or
2 parochial school offering developmental kindergarten,
3 kindergarten, or any grade from 1 through 12.

4 (c) "School property" means a building, playing field, or
5 property used for school purposes to impart instruction to chil-
6 dren or used for functions and events sponsored by a school,
7 except a building used primarily for adult education or college
8 extension courses.

9 (d) "Weapon free school zone" means school property and a
10 vehicle used by a school to transport students to or from school
11 property.