

HOUSE BILL No. 6563

December 3, 2002, Introduced by Rep. Lemmons and referred to the Committee on Civil Law and the Judiciary.

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 or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

by amending section 2 (MCL 28.422), as amended by 1994 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 (2) A person who brings a pistol into this state who is on
2 leave from active duty with the armed forces of the United States
3 or who has been discharged from active duty with the armed forces
4 of the United States shall obtain a license for the pistol within
5 30 days after his or her arrival in this state.

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

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

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

1 (ii) ~~Section 444a(1)~~ FORMER SECTION 444A of the revised
 2 probate code, ~~Act No. 642 of the Public Acts of 1978, being sec-~~
 3 ~~tion 700.444a of the Michigan Compiled Laws~~ 1978 PA 642, MCL
 4 700.444A, OR SECTION 5107 OF THE ESTATES AND PROTECTED INDIVIDU-
 5 ALS CODE, 1998 PA 386, MCL 700.5107.

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

10 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
 11 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

12 ~~(v) Section 14(7) of chapter 84 of the Revised Statutes of~~
 13 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

14 (iv) ~~(vi)~~ Section ~~6b(5)~~ 6B of chapter V of the code of
 15 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~
 16 ~~being section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175,
 17 MCL 765.6B, if the order has a condition imposed pursuant to sec-
 18 tion 6b(3) of chapter V of ~~Act No. 175 of the Public Acts of~~
 19 ~~1927~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 765.6B.

20 (v) ~~(vii)~~ Section ~~16b(1)~~ 16B of chapter IX of ~~Act~~
 21 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~
 22 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA
 23 175, MCL 769.16B.

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

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

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

5 (e) The person is not prohibited from possessing, using,
6 transporting, selling, purchasing, carrying, shipping, receiving,
7 or distributing a firearm under section 224f of the Michigan
8 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
9 ~~tion 750.224f of the Michigan Compiled Laws~~ 1931 PA 328, MCL
10 750.224F.

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

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

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

21 (i) The person correctly answers 70% or more of the ques-
22 tions on a basic pistol safety review questionnaire approved by
23 the basic pistol safety review board and provided to the individ-
24 ual free of charge by the licensing authority. If the person
25 fails to correctly answer 70% or more of the questions on the
26 basic pistol safety review questionnaire, the licensing authority
27 shall inform the person of the questions he or she answered

1 incorrectly and allow the person to attempt to complete another
2 basic pistol safety review questionnaire. The person shall not
3 be allowed to attempt to complete more than 2 basic pistol safety
4 review questionnaires on any single day. The licensing authority
5 shall allow the person to attempt to complete the questionnaire
6 during normal business hours on the day the person applies for
7 his or her license.

8 (4) Applications for licenses under this section shall be
9 signed by the applicant under oath upon forms provided by the
10 director of the department of state police. Licenses to pur-
11 chase, carry, or transport pistols shall be executed in tripli-
12 cate upon forms provided by the director of the department of
13 state police and shall be signed by the licensing authority.
14 Three copies of the license shall be delivered to the applicant
15 by the licensing authority.

16 (5) Upon the sale of the pistol, the seller shall fill out
17 the license forms describing the pistol sold, together with the
18 date of sale, and sign his or her name in ink indicating that the
19 pistol was sold to the licensee. The licensee shall also sign
20 his or her name in ink indicating the purchase of the pistol from
21 the seller. The seller ~~may~~ SHALL retain ~~a copy~~ 2 COPIES of
22 the license as a record of the sale of the pistol. The
23 ~~licensee~~ SELLER shall return ~~2 copies~~ 1 COPY of the license
24 to the licensing authority within 10 days following the
25 ~~purchase~~ SALE of the pistol. THE SELLER SHALL SEND BY
26 FIRST-CLASS MAIL THE SECOND COPY TO THE DEPARTMENT WITHIN 10 DAYS
27 AFTER THE SALE OF THE PISTOL.

1 (6) ~~One~~ THE copy of the license RETURNED BY THE SELLER
2 shall be retained by the licensing authority as an official
3 record for a period of 6 years. ~~The other copy of the license~~
4 ~~shall be forwarded by the licensing authority within 48 hours to~~
5 ~~the director of the department of state police.~~ A license is
6 void unless used within 10 days after the date of its issue.

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

17 (8) The licensing authority shall provide a basic pistol
18 safety brochure to each applicant for a license under this sec-
19 tion before the applicant answers the basic pistol safety review
20 questionnaire. A basic pistol safety brochure shall contain, but
21 is not limited to providing, information on all of the following
22 subjects:

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

24 (b) Safe storage of pistols.

25 (c) Nomenclature and description of various types of
26 pistols.

1 (d) The responsibilities of owning a pistol.

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

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

9 (11) A person who forges any matter on an application for a
10 license under this section is guilty of a felony, punishable by
11 imprisonment for not more than 4 years or a fine of not more than
12 \$2,000.00, or both.

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