

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4490**

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 sections 2, 12, and 12b (MCL 28.422, 28.432, and 28.432b), section 2 as amended by 2004 PA 101, section 12 as amended by 2006 PA 75, and section 12b as added by 1982 PA 182; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as provided in subsection (2), a person

1 shall not purchase, carry, **POSSESS**, or transport a pistol in this
2 state without first having obtained a license for the pistol as
3 prescribed in this section.

4 (2) A person who brings a pistol into this state who is on
5 leave from active duty with the armed forces of the United States
6 or who has been discharged from active duty with the armed forces
7 of the United States shall obtain a license for the pistol within
8 30 days after his or her arrival in this state.

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

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

27 (i) Section 464a(1) of the mental health code, 1974 PA 258, MCL

1 330.1464a.

2 (ii) Section 5107 of the estates and protected individuals
3 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA
4 642.

5 (iii) Section ~~2950(9)~~**2950(10)** of the revised judicature act of
6 1961, 1961 PA 236, MCL 600.2950.

7 (iv) Section 2950a(7) of 1961 PA 236, MCL 600.2950a.

8 (v) Section 14 of 1846 RS 84, MCL 552.14.

9 (vi) Section 6b(5) of chapter V of the code of criminal
10 procedure, 1927 PA 175, MCL 765.6b, if the order has a condition
11 imposed ~~pursuant to~~**UNDER** section 6b(3) of chapter V of 1927 PA
12 175, MCL 765.6b.

13 (vii) Section 16b(1) of chapter IX of 1927 PA 175, MCL 769.16b.

14 (b) The person is 18 years of age or older or, if the seller
15 is licensed pursuant to section 923 of title 18 of the United
16 States Code, 18 USC 923, is 21 years of age or older.

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

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

21 (e) The person is not prohibited from possessing, using,
22 transporting, selling, purchasing, carrying, shipping, receiving,
23 or distributing a firearm under section 224f of the Michigan penal
24 code, 1931 PA 328, MCL 750.224f.

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

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

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

7 (i) The person correctly answers 70% or more of the questions
8 on a basic pistol safety review questionnaire approved by the basic
9 pistol safety review board and provided to the individual free of
10 charge by the licensing authority. If the person fails to correctly
11 answer 70% or more of the questions on the basic pistol safety
12 review questionnaire, the licensing authority shall inform the
13 person of the questions he or she answered incorrectly and allow
14 the person to attempt to complete another basic pistol safety
15 review questionnaire. The person shall not be allowed to attempt to
16 complete more than 2 basic pistol safety review questionnaires on
17 any single day. The licensing authority shall allow the person to
18 attempt to complete the questionnaire during normal business hours
19 on the day the person applies for his or her license.

20 (4) Applications for licenses under this section shall be
21 signed by the applicant under oath upon forms provided by the
22 director of the department of state police. Licenses to purchase,
23 carry, **POSSESS**, or transport pistols shall be executed in
24 ~~triplicate~~ **QUADRUPLICATE** upon forms provided by the director of the
25 department of state police and shall be signed by the licensing
26 authority. ~~Three~~ **FOUR** copies of the license shall be delivered to
27 the applicant by the licensing authority. **A LICENSE IS VOID UNLESS**

1 USED WITHIN 10 DAYS AFTER THE DATE IT IS ISSUED.

2 (5) ~~Upon the sale of the~~ IF AN INDIVIDUAL PURCHASES OR
3 OTHERWISE ACQUIRES A pistol, the seller shall fill out the license
4 forms describing the pistol, ~~sold,~~ together with the date of sale
5 OR ACQUISITION, and sign his or her name in ink indicating that the
6 pistol was sold to OR OTHERWISE ACQUIRED BY the ~~licensee~~ PURCHASER.
7 The ~~licensee~~ PURCHASER shall also sign his or her name in ink
8 indicating the purchase OR OTHER ACQUISITION of the pistol from the
9 seller. The seller may retain a copy of the license as a record of
10 the ~~sale of the pistol~~ TRANSACTION. The ~~licensee~~ PURCHASER SHALL
11 RECEIVE 3 COPIES OF THE LICENSE. THE PURCHASER shall return 2
12 copies of the license to the licensing authority within 10 days
13 ~~following the purchase of the pistol~~ AFTER THE DATE THE PISTOL IS
14 PURCHASED OR ACQUIRED. THE RETURN OF THE COPIES TO THE LICENSING
15 AUTHORITY MAY BE MADE IN PERSON OR MAY BE MADE BY FIRST-CLASS MAIL
16 OR CERTIFIED MAIL SENT WITHIN THE 10-DAY PERIOD TO THE PROPER
17 ADDRESS OF THE LICENSING AUTHORITY. A PURCHASER WHO FAILS TO COMPLY
18 WITH THE REQUIREMENTS OF THIS SUBSECTION IS RESPONSIBLE FOR A STATE
19 CIVIL INFRACTION AND MAY BE FINED NOT MORE THAN \$250.00. IF A
20 PURCHASER IS FOUND RESPONSIBLE FOR A STATE CIVIL INFRACTION UNDER
21 THIS SUBSECTION, THE COURT SHALL NOTIFY THE DEPARTMENT OF STATE
22 POLICE OF THAT DETERMINATION.

23 (6) ~~One copy of the license shall be retained by the licensing~~
24 ~~authority as an official record for a period of 6 years. The other~~
25 ~~copy of the license shall be forwarded by the licensing authority~~
26 ~~within 48 hours to the director of the department of state police.~~
27 ~~A license is void unless used within 10 days after the date of its~~

~~issue.~~ WITHIN 48 HOURS AFTER RECEIVING THE LICENSE COPIES RETURNED UNDER SUBSECTION (5), THE LICENSING AUTHORITY SHALL FORWARD 1 COPY OF THE LICENSE TO THE DEPARTMENT OF STATE POLICE. THE LICENSING AUTHORITY SHALL RETAIN THE OTHER COPY OF THE LICENSE AS AN OFFICIAL RECORD FOR NOT LESS THAN 6 YEARS. WITHIN 10 DAYS AFTER RECEIVING THE LICENSE COPIES RETURNED UNDER SUBSECTION (5), THE LICENSING AUTHORITY SHALL ELECTRONICALLY ENTER THE INFORMATION INTO THE PISTOL ENTRY DATABASE AS REQUIRED BY THE DEPARTMENT OF STATE POLICE IF IT HAS THE ABILITY TO ELECTRONICALLY ENTER THAT INFORMATION. IF THE LICENSING AUTHORITY DOES NOT HAVE THAT ABILITY, THE LICENSING AUTHORITY SHALL PROVIDE THAT INFORMATION TO THE DEPARTMENT OF STATE POLICE IN A MANNER OTHERWISE REQUIRED BY THE DEPARTMENT OF STATE POLICE. ANY LICENSING AUTHORITY THAT PROVIDED PISTOL DESCRIPTIONS TO THE DEPARTMENT OF STATE POLICE UNDER FORMER SECTION 9 OF THIS ACT SHALL CONTINUE TO PROVIDE PISTOL DESCRIPTIONS TO THE DEPARTMENT OF STATE POLICE UNDER THIS SUBSECTION. THE PURCHASER HAS THE RIGHT TO OBTAIN A COPY OF THE INFORMATION PLACED IN THE PISTOL ENTRY DATABASE UNDER THIS SUBSECTION TO VERIFY THE ACCURACY OF THAT INFORMATION. THE LICENSING AUTHORITY MAY CHARGE A FEE NOT TO EXCEED \$1.00 FOR THE COST OF PROVIDING THE COPY. THE LICENSEE MAY CARRY, USE, POSSESS, AND TRANSPORT THE PISTOL FOR 30 DAYS BEGINNING ON THE DATE OF PURCHASE OR ACQUISITION ONLY WHILE HE OR SHE IS IN POSSESSION OF HIS OR HER COPY OF THE LICENSE. HOWEVER, THE PERSON IS NOT REQUIRED TO HAVE THE LICENSE IN HIS OR HER POSSESSION WHILE CARRYING, USING, POSSESSING, OR TRANSPORTING THE PISTOL AFTER THIS PERIOD.

(7) This section does not apply to the purchase of pistols

1 from wholesalers by dealers regularly engaged in the business of
2 selling pistols at retail, or to the sale, barter, or exchange of
3 pistols kept as relics or curios not made for modern ammunition or
4 permanently deactivated. This section does not prevent the transfer
5 of ownership of pistols that are inherited if the license to
6 purchase is approved by the commissioner or chief of police,
7 sheriff, or their authorized deputies, and signed by the personal
8 representative of the estate or by the next of kin having authority
9 to dispose of the pistol.

10 (8) The licensing authority shall provide a basic pistol
11 safety brochure to each applicant for a license under this section
12 before the applicant answers the basic pistol safety review
13 questionnaire. A basic pistol safety brochure shall contain, but is
14 not limited to providing, information on all of the following
15 subjects:

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

17 (b) Safe storage of pistols.

18 (c) Nomenclature and description of various types of pistols.

19 (d) The responsibilities of owning a pistol.

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

22 (10) The basic pistol safety brochure required in subsection
23 (8) shall be produced by a national nonprofit membership
24 organization that provides voluntary pistol safety programs that
25 include training individuals in the safe handling and use of
26 pistols.

27 (11) A person who forges any matter on an application for a

1 license under this section is guilty of a felony, punishable by
2 imprisonment for not more than 4 years or a fine of not more than
3 \$2,000.00, or both.

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

8 Sec. 12. (1) ~~Sections~~ **SECTION 2** ~~and 9 do~~ **DOES** not apply to any
9 of the following:

10 (a) A police or correctional agency of the United States or of
11 this state or any subdivision of this state.

12 (b) The United States army, air force, navy, or marine corps.

13 (c) An organization authorized by law to purchase or receive
14 weapons from the United States or from this state.

15 (d) The national guard, armed forces reserves, or other duly
16 authorized military organization.

17 (e) A member of an entity or organization described in
18 subdivisions (a) ~~to~~ **THROUGH** (d) for a pistol while engaged in the
19 course of his or her duties with that entity or while going to or
20 returning from those duties.

21 (f) A United States citizen holding a license to carry a
22 pistol concealed upon his or her person issued by another state.

23 (g) The regular and ordinary transportation of a pistol as
24 merchandise by an authorized agent of a person licensed to
25 manufacture firearms or a licensed dealer.

26 (h) Purchasing, owning, carrying, possessing, using, or
27 transporting an antique firearm. As used in this subdivision,

1 "antique firearm" means that term as defined in section 231a of the
2 Michigan penal code, 1931 PA 328, MCL 750.231a.

3 (i) An individual carrying, possessing, using, or transporting
4 a pistol belonging to another individual, if the other individual's
5 ~~pistol is properly licensed and inspected under this act~~ **POSSESSION**
6 **OF THE PISTOL IS AUTHORIZED BY LAW** and the individual carrying,
7 possessing, using, or transporting the pistol has obtained a
8 license under section 5b to carry a concealed pistol **OR IS EXEMPT**
9 **FROM LICENSURE AS PROVIDED IN SECTION 12A.**

10 (2) The amendatory act that added ~~subdivision (h)~~ **SUBSECTION**
11 **(1) (H)** shall be known and may be cited as the "Janet Kukuk act".

12 Sec. 12b. ~~Sections~~ **SECTION 2** ~~and 9 do~~ **DOES** not apply to a
13 signaling device ~~which~~ **THAT** is approved by the United States coast
14 guard pursuant to regulations issued under ~~section 4488 of the~~
15 ~~Revised Statutes of the United States, 46 U.S.C. USC 481, or under~~
16 ~~section 5 of the federal boat safety act of 1971, Public Law 92-75,~~
17 ~~46 U.S.C. USC 1454.~~

18 Enacting section 1. Section 9 of 1927 PA 372, MCL 28.429, is
19 repealed.

20 Enacting section 2. This amendatory act takes effect 180 days
21 after the date it is enacted into law.

22 Enacting section 3. This amendatory act does not take effect
23 unless all of the following bills of the 94th Legislature are
24 enacted into law:

25 (a) Senate Bill No. 370.

26 (b) House Bill No. 4491.