

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 370

(As amended June 26, 2008)
(1 of 2)

[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 1, 2a, 5f, and 5o (MCL 28.421, 28.422a, 28.425f, and 28.425o), section 2a as added by 2000 PA 381 and sections 1, 5f and 5o as amended by 2002 PA 719.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

[Sec. 1. As used in this act:

(a) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(b) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for

House Bill No. 370 (H-4) as amended June 26, 2008 (2 of 2)
propelling by a spring, or by gas or air, BB's not exceeding .177
caliber.

(c) "Misdemeanor" means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(d) "Peace officer" means, except as otherwise provided in this act, an individual who is employed as a law enforcement officer, as that term is defined under section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602, by this state or another state, a political subdivision of this state or another state, or the United States, and who is required to carry a firearm in the course of his or her duties as a law enforcement officer.

(e) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(f) "Purchaser" means a person who receives a pistol from another person by purchase or gift.

(g) "Reserve peace officer", "auxiliary officer", or "reserve officer" means, except as otherwise provided in this act, an individual authorized on a voluntary or irregular basis by a duly authorized police agency of this state or a political subdivision of this state to act as a law enforcement officer, who is responsible for the preservation of the peace, the prevention and detection of crime, and the enforcement of the general criminal laws of this state, and who is otherwise eligible to possess a firearm under this act.

(h) "Retired police officer" or "retired law enforcement officer" means an individual who was a ~~certified~~ police officer or ~~certified~~ law enforcement officer ~~as those terms are defined~~ **WHO WAS CERTIFIED AS DESCRIBED** under section 2(~~k~~)-**9A** of the commission on the law enforcement standards act, 1965 PA 203, MCL ~~28.602~~-**28.609A**, and retired in good standing from his or her employment as a police officer or law enforcement officer.

(i) "Seller" means a person who sells or gives a pistol to another person.

(J) "STATE COURT JUDGE" MEANS A JUDGE OF THE DISTRICT COURT, CIRCUIT COURT, PROBATE COURT, OR COURT OF APPEALS OR JUSTICE OF THE SUPREME COURT OF THIS STATE WHO IS SERVING EITHER BY ELECTION OR APPOINTMENT.

(K) "STATE COURT RETIRED JUDGE" MEANS A JUDGE OR JUSTICE DESCRIBED IN SUBDIVISION (J) WHO IS RETIRED.]

1 Sec. 2a. (1) An individual who is licensed under section 5b to
2 carry a concealed pistol is not required to obtain a license under
3 section 2 to purchase, carry, **POSSESS**, or transport a pistol.

4 (2) If an individual licensed under section 5b purchases **OR**
5 **OTHERWISE ACQUIRES** a pistol, the seller shall complete a ~~sales~~
6 record in ~~triplicate~~-**QUADRUPLICATE** on a form provided by the
7 department of state police. The record shall include the
8 ~~individual's~~-**PURCHASER'S** concealed weapon license number. The
9 ~~individual purchasing the pistol~~-**PURCHASER** shall sign the record.
10 The seller shall ~~shall~~-**MAY** retain 1 copy of the record. ~~, provide 1 copy~~
11 ~~to the individual purchasing the pistol,~~-**THE PURCHASER SHALL**
12 **RECEIVE 3 COPIES OF THE RECORD** and forward ~~the original~~-**2 COPIES** to
13 ~~the department of state police~~ **DEPARTMENT OF THE CITY, VILLAGE, OR**
14 **TOWNSHIP IN WHICH THE PURCHASER RESIDES, OR, IF THE PURCHASER DOES**
15 **NOT RESIDE IN A CITY, VILLAGE, OR TOWNSHIP HAVING A POLICE**
16 **DEPARTMENT, TO THE COUNTY SHERIFF,** within 10 days following the
17 purchase **OR ACQUISITION. THE RETURN OF THE COPIES TO THE POLICE**
18 **DEPARTMENT OR COUNTY SHERIFF MAY BE MADE IN PERSON OR MAY BE MADE**
19 **BY FIRST-CLASS MAIL OR CERTIFIED MAIL SENT WITHIN THE 10-DAY PERIOD**
20 **TO THE PROPER ADDRESS OF THE POLICE DEPARTMENT OR COUNTY SHERIFF. A**
21 **PURCHASER WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS**
22 **SUBSECTION IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE**
23 **FINED NOT MORE THAN \$250.00. IF A PURCHASER IS FOUND RESPONSIBLE**
24 **FOR A STATE CIVIL INFRACTION UNDER THIS SUBSECTION, THE COURT SHALL**
25 **NOTIFY THE DEPARTMENT OF STATE POLICE AND THE CONCEALED WEAPON**
26 **LICENSING BOARD THAT ISSUED THE LICENSE OF THAT DETERMINATION.**

27 (3) **WITHIN 48 HOURS AFTER RECEIVING THE RECORD COPIES RETURNED**

1 UNDER SUBSECTION (2), THE POLICE DEPARTMENT OR COUNTY SHERIFF SHALL
2 FORWARD 1 COPY OF THE RECORD TO THE DEPARTMENT OF STATE POLICE. THE
3 POLICE DEPARTMENT OR COUNTY SHERIFF SHALL RETAIN THE OTHER COPY OF
4 THE RECORD AS AN OFFICIAL RECORD FOR NOT LESS THAN 6 YEARS. WITHIN
5 10 DAYS AFTER RECEIVING THE RECORD COPIES RETURNED UNDER SUBSECTION
6 (2), THE POLICE DEPARTMENT OR COUNTY SHERIFF SHALL ELECTRONICALLY
7 ENTER THE INFORMATION INTO THE PISTOL ENTRY DATABASE AS REQUIRED BY
8 THE DEPARTMENT OF STATE POLICE IF IT HAS THE ABILITY TO
9 ELECTRONICALLY ENTER THAT INFORMATION. IF THE POLICE DEPARTMENT OR
10 COUNTY SHERIFF DOES NOT HAVE THAT ABILITY, THE POLICE DEPARTMENT OR
11 COUNTY SHERIFF SHALL PROVIDE THAT INFORMATION TO THE DEPARTMENT OF
12 STATE POLICE IN A MANNER OTHERWISE REQUIRED BY THE DEPARTMENT OF
13 STATE POLICE. ANY POLICE DEPARTMENT OR COUNTY SHERIFF THAT PROVIDED
14 PISTOL DESCRIPTIONS TO THE DEPARTMENT OF STATE POLICE UNDER FORMER
15 SECTION 9 OF THIS ACT SHALL CONTINUE TO PROVIDE PISTOL DESCRIPTIONS
16 TO THE DEPARTMENT OF STATE POLICE UNDER THIS SUBSECTION. THE
17 PURCHASER HAS THE RIGHT TO OBTAIN A COPY OF THE INFORMATION PLACED
18 IN THE PISTOL ENTRY DATABASE UNDER THIS SUBSECTION TO VERIFY THE
19 ACCURACY OF THAT INFORMATION. THE POLICE DEPARTMENT OR COUNTY
20 SHERIFF MAY CHARGE A FEE NOT TO EXCEED \$1.00 FOR THE COST OF
21 PROVIDING THE COPY. THE PURCHASER MAY CARRY, USE, POSSESS, AND
22 TRANSPORT THE PISTOL FOR 30 DAYS BEGINNING ON THE DATE OF PURCHASE
23 OR ACQUISITION ONLY WHILE HE OR SHE IS IN POSSESSION OF HIS OR HER
24 COPY OF THE RECORD. HOWEVER, THE PERSON IS NOT REQUIRED TO HAVE THE
25 RECORD IN HIS OR HER POSSESSION WHILE CARRYING, USING, POSSESSING,
26 OR TRANSPORTING THE PISTOL AFTER THIS PERIOD.

27 (4) ~~(3)~~—This section does not apply to a person or entity

1 exempt under section 2(7).

2 (5) ~~(4)~~—An individual who makes a material false statement on
3 a sales record under this section is guilty of a felony punishable
4 by imprisonment for not more than 4 years or a fine of not more
5 than \$2,500.00, or both.

6 (6) ~~(5)~~—The department of state police may promulgate rules to
7 implement this section.

8 Sec. 5f. (1) An individual who is licensed under this act to
9 carry a concealed pistol shall have his or her license to carry
10 that pistol in his or her possession at all times he or she is
11 carrying a concealed pistol.

12 (2) An individual who is licensed under this act to carry a
13 concealed pistol and who is carrying a concealed pistol shall show
14 both of the following to a peace officer upon request by that peace
15 officer:

16 (a) His or her license to carry a concealed pistol.

17 (b) His or her driver license or Michigan personal
18 identification card.

19 (3) An individual licensed under this act to carry a concealed
20 pistol and who is carrying a concealed pistol and who is stopped by
21 a peace officer shall immediately disclose to the peace officer
22 that he or she is carrying a pistol concealed upon his or her
23 person or in his or her vehicle.

24 (4) An individual who violates subsection (1) or (2) is
25 responsible for a state civil infraction and may be fined not more
26 than \$100.00.

27 (5) An individual who violates subsection (3) is responsible

1 for a state civil infraction and may be fined as follows:

2 (a) For a first offense, by a fine of not more than \$500.00 or
3 by the individual's license to carry a concealed pistol being
4 suspended for 6 months, or both.

5 (b) For a subsequent offense within 3 years of a prior
6 offense, by a fine of not more than \$1,000.00 and by the
7 individual's license to carry a concealed pistol being revoked.

8 (6) If an individual is found responsible for a state civil
9 infraction under this section, the court shall notify the
10 department of state police and the concealed weapon licensing board
11 that issued the license of that determination.

12 (7) A pistol carried in violation of this section is subject
13 to immediate seizure by a peace officer. If a peace officer seizes
14 a pistol under this subsection, the individual has 45 days in which
15 to display his or her license or documentation to an authorized
16 employee of the law enforcement entity that employs the peace
17 officer. If the individual displays his or her license or
18 documentation to an authorized employee of the law enforcement
19 entity that employs the peace officer within the 45-day period, the
20 authorized employee of that law enforcement entity shall return the
21 pistol to the individual unless the individual is prohibited by law
22 from possessing a firearm. If the individual does not display his
23 or her license or documentation within the 45-day period, the
24 pistol is subject to forfeiture as provided in section 5g. A pistol
25 is not subject to immediate seizure under this subsection if both
26 of the following circumstances exist:

27 (a) The individual has his or her driver license or Michigan

1 personal identification card in his or her possession when the
2 violation occurs.

3 (b) The peace officer verifies through the law enforcement
4 information network that the individual is licensed under this act
5 to carry a concealed pistol.

6 (8) AS USED IN THIS SECTION, "PEACE OFFICER" INCLUDES A MOTOR
7 CARRIER OFFICER APPOINTED UNDER SECTION 6D OF 1935 PA 59, MCL
8 28.6D, AND SECURITY PERSONNEL EMPLOYED BY THE STATE UNDER SECTION
9 6C OF 1935 PA 59, MCL 28.6C.

10 Sec. 50. (1) Subject to subsection (4), an individual licensed
11 under this act to carry a concealed pistol, or who is exempt from
12 licensure under section ~~12a(f)~~ 12A(1)(F), shall not carry a
13 concealed pistol on the premises of any of the following:

14 (a) A school or school property except that a parent or legal
15 guardian of a student of the school is not precluded from carrying
16 a concealed pistol while in a vehicle on school property, if he or
17 she is dropping the student off at the school or picking up the
18 child from the school. As used in this section, "school" and
19 "school property" mean those terms as defined in section 237a of
20 the Michigan penal code, 1931 PA 328, MCL 750.237a.

21 (b) A public or private child care center or day care center,
22 public or private child caring institution, or public or private
23 child placing agency.

24 (c) A sports arena or stadium.

25 (d) A bar or tavern licensed under the Michigan liquor control
26 code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the
27 primary source of income of the business is the sale of alcoholic

1 liquor by the glass and consumed on the premises. This subdivision
2 ~~shall~~**DOES** not apply to an owner or employee of the business. The
3 Michigan liquor control commission shall develop and make available
4 to holders of licenses under the Michigan liquor control code of
5 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign
6 stating that "This establishment prohibits patrons from carrying
7 concealed weapons". The owner or operator of an establishment
8 licensed under the Michigan liquor control code of 1998, 1998 PA
9 58, MCL 436.1101 to 436.2303, may, but ~~shall~~**IS** not ~~be~~ required to,
10 post the sign developed under this subdivision. A record made
11 available by an establishment licensed under the Michigan liquor
12 control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303,
13 necessary to enforce this subdivision is exempt from disclosure
14 under the freedom of information act, 1976 PA 442, MCL 15.231 to
15 15.246.

16 (e) Any property or facility owned or operated by a church,
17 synagogue, mosque, temple, or other place of worship, unless the
18 presiding official or officials of the church, synagogue, mosque,
19 temple, or other place of worship permit the carrying of concealed
20 pistol on that property or facility.

21 (f) An entertainment facility with a seating capacity of 2,500
22 or more individuals that the individual knows or should know has a
23 seating capacity of 2,500 or more individuals or that has a sign
24 above each public entrance stating in letters not less than 1-inch
25 high a seating capacity of 2,500 or more individuals.

26 (g) A hospital.

27 (h) A dormitory or classroom of a community college, college,

1 or university.

2 (2) An individual licensed under this act to carry a concealed
3 pistol, or who is exempt from licensure under section ~~12a(f)~~
4 **12A(1)(F)**, shall not carry a concealed pistol in violation of R
5 432.1212 or a successor rule of the Michigan administrative code
6 promulgated ~~pursuant to~~ **UNDER** the Michigan gaming control and
7 revenue act, ~~the Initiated Law of 1996 IL 1~~, MCL 432.201 to
8 432.226.

9 (3) As used in subsection (1), "premises" does not include
10 parking areas of the places identified under subsection (1).

11 (4) Subsection (1) does not apply to any of the following:

12 (a) An individual licensed under this act who is a retired
13 police officer or retired law enforcement officer. The concealed
14 weapon licensing board may require a letter from the law
15 enforcement agency stating that the retired police officer or law
16 enforcement officer retired in good standing.

17 (b) An individual who is licensed under this act and who is
18 employed or contracted by an entity described under subsection (1)
19 to provide security services and is required by his or her employer
20 or the terms of a contract to carry a concealed firearm on the
21 premises of the employing or contracting entity.

22 (c) An individual who is licensed as a private investigator or
23 private detective under the private detective license act, 1965 PA
24 285, MCL 338.821 to 338.851.

25 (d) Any of the following who is licensed under this act: ~~while~~
26 ~~on duty and in the course of his or her employment.~~

27 (i) A corrections officer of a county sheriff's department.

Senate Bill No. 370 (H-4) as amended June 26, 2008

1 (ii) A motor carrier officer or capitol security officer of the
2 department of state police.

3 (iii) A member of a sheriff's posse.

4 (iv) An auxiliary officer or reserve officer of a police or
5 sheriff's department.

6 (v) A parole or probation officer of the department of
7 corrections.

**[(vi) A STATE COURT JUDGE OR STATE COURT RETIRED JUDGE. THE
CONCEALED WEAPON LICENSING BOARD MAY REQUIRE A STATE COURT RETIRED JUDGE
TO OBTAIN AND CARRY A LETTER FROM THE JUDICIAL TENURE COMMISSION STATING
THAT THE STATE COURT RETIRED JUDGE IS IN GOOD STANDING AS AUTHORIZED
UNDER SECTION 30 OF ARTICLE VI OF THE STATE CONSTITUTION OF 1963 AND
RULES PROMULGATED UNDER THAT SECTION IN ORDER TO QUALIFY UNDER THIS
SUBPARAGRAPH.]**

8 (5) An individual who violates this section is responsible for
9 a state civil infraction or guilty of a crime as follows:

10 (a) Except as provided in subdivisions (b) and (c), the
11 individual is responsible for a state civil infraction and may be
12 fined not more than \$500.00. The court shall order the individual's
13 license to carry a concealed pistol suspended for 6 months.

14 (b) For a second violation, the individual is guilty of a
15 misdemeanor punishable by a fine of not more than \$1,000.00. The
16 court shall order the individual's license to carry a concealed
17 pistol revoked.

18 (c) For a third or subsequent violation, the individual is
19 guilty of a felony punishable by imprisonment for not more than 4
20 years or a fine of not more than \$5,000.00, or both. The court
21 shall order the individual's license to carry a concealed pistol
22 revoked.

23 Enacting section 1. This amendatory act takes effect 180 days
24 after the date it is enacted into law.

25 Enacting section 2. This amendatory act does not take effect
26 unless all of the following bills of the 94th Legislature are
27 enacted into law:

S00859'07 * (H-4)

TVD

- 1 (a) House Bill No. 4490.
- 2 (b) House Bill No. 4491.