

HOUSE BILL No. 4155

February 4, 2009, Introduced by Rep. Rick Jones and referred to the Committee on Tourism,
Outdoor Recreation and Natural Resources.

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 the title and sections 5f, 5k, and 5o (MCL 28.425f, 28.425k, and 28.425o), the title as amended and section 5k as added by 2000 PA 381, section 5f as amended by 2008 PA 194, and section 5o as amended by 2008 PA 407.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

1

1 An act to regulate and license the selling, purchasing,
2 possessing, and carrying of certain firearms, ~~and~~ gas ejecting
3 devices, **AND ELECTRO-MUSCULAR DISRUPTION DEVICES**; to prohibit the
4 buying, selling, or carrying of certain firearms, ~~and~~ gas ejecting
5 devices, **AND ELECTRO-MUSCULAR DISRUPTION DEVICES** without a license
6 or other authorization; to provide for the forfeiture of firearms
7 under certain circumstances; to provide for penalties and remedies;
8 to provide immunity from civil liability under certain
9 circumstances; to prescribe the powers and duties of certain state
10 and local agencies; to prohibit certain conduct against individuals
11 who apply for or receive a license to carry a concealed pistol; to
12 make appropriations; to prescribe certain conditions for the
13 appropriations; and to repeal all acts and parts of acts
14 inconsistent with this act.

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

19 (2) An individual who is licensed under this act to carry a
20 concealed pistol and who is carrying a concealed pistol shall show
21 both of the following to a peace officer upon request by that peace
22 officer:

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

24 (b) His or her driver license or Michigan personal
25 identification card.

26 (3) An individual licensed under this act to carry a concealed

1 pistol and who is carrying a concealed pistol and who is stopped by
2 a peace officer shall immediately disclose to the peace officer
3 that he or she is carrying a pistol concealed upon his or her
4 person or in his or her vehicle. **IF THE INDIVIDUAL ALSO IS CARRYING**
5 **ON HIS OR HER PERSON OR IN HIS OR HER VEHICLE A PORTABLE DEVICE**
6 **THAT USES ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY PURSUANT TO**
7 **SECTION 224A(2) (A) (xi) OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL**
8 **750.224A, HE OR SHE ALSO SHALL IMMEDIATELY DISCLOSE THAT FACT TO**
9 **THE PEACE OFFICER.**

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

13 (5) An individual who violates subsection (3) is responsible
14 for a state civil infraction and may be fined as follows:

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

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

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

25 (7) A pistol carried in violation of this section is subject
26 to immediate seizure by a peace officer. If a peace officer seizes
27 a pistol under this subsection, the individual has 45 days in which

1 to display his or her license or documentation to an authorized
2 employee of the law enforcement entity that employs the peace
3 officer. If the individual displays his or her license or
4 documentation to an authorized employee of the law enforcement
5 entity that employs the peace officer within the 45-day period, the
6 authorized employee of that law enforcement entity shall return the
7 pistol to the individual unless the individual is prohibited by law
8 from possessing a firearm. If the individual does not display his
9 or her license or documentation within the 45-day period, the
10 pistol is subject to forfeiture as provided in section 5g. A pistol
11 is not subject to immediate seizure under this subsection if both
12 of the following circumstances exist:

13 (a) The individual has his or her driver license or Michigan
14 personal identification card in his or her possession when the
15 violation occurs.

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

19 (8) As used in this section, "peace officer" includes a motor
20 carrier officer appointed under section 6d of 1935 PA 59, MCL
21 28.6d, and security personnel employed by the state under section
22 6c of 1935 PA 59, MCL 28.6c.

23 Sec. 5k. (1) Acceptance of a license issued under this act to
24 carry a concealed pistol constitutes implied consent to submit to a
25 chemical analysis under this section. This section also applies to
26 individuals listed in section ~~12a(a)~~**12A(1)(A)** to (f).

27 (2) An individual shall not carry a concealed pistol while he

1 or she is under the influence of alcoholic liquor or a controlled
2 substance or while having a bodily alcohol content prohibited under
3 this section. ~~A person~~ **AN INDIVIDUAL LICENSED UNDER THIS ACT TO**
4 **CARRY A CONCEALED PISTOL WHO, PURSUANT TO SECTION 224A(2) (A) (xi) OF**
5 **THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.224A, MAY CARRY A**
6 **PORTABLE DEVICE THAT USES ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY**
7 **SHALL NOT CARRY THAT PORTABLE DEVICE WHILE UNDER THE INFLUENCE OF**
8 **ALCOHOLIC LIQUOR OR A CONTROLLED SUBSTANCE OR WHILE HAVING A BODILY**
9 **ALCOHOL CONTENT PROHIBITED UNDER THIS SECTION. AN INDIVIDUAL** who
10 violates this section is responsible for a state civil infraction
11 or guilty of a crime as follows:

12 (a) If the person was under the influence of alcoholic liquor
13 or a controlled substance or a combination of alcoholic liquor and
14 a controlled substance, or had a bodily alcohol content of .10 or
15 more grams per 100 milliliters of blood, per 210 liters of breath,
16 or per 67 milliliters of urine, the individual is guilty of a
17 misdemeanor punishable by imprisonment for not more than 93 days or
18 \$100.00, or both. The court shall order the concealed weapon
19 licensing board that issued the individual a license to carry a
20 concealed pistol to permanently revoke the license. The concealed
21 weapon licensing board shall permanently revoke the license as
22 ordered by the court.

23 (b) If the person had a bodily alcohol content of .08 or more
24 but less than .10 grams per 100 milliliters of blood, per 210
25 liters of breath, or per 67 milliliters of urine, the individual is
26 guilty of a misdemeanor punishable by imprisonment for not more
27 than 93 days or \$100.00, or both. The court may order the concealed

1 weapon licensing board that issued the individual a license to
 2 carry a concealed pistol to revoke the license for not more than 3
 3 years. The concealed weapon licensing board shall revoke the
 4 license as ordered by the court.

5 (c) If the person had a bodily alcohol content of .02 or more
 6 but less than .08 grams per 100 milliliters of blood, per 210
 7 liters of breath, or per 67 milliliters of urine, the individual is
 8 responsible for a state civil infraction and may be fined not more
 9 than \$100.00. The court may order the concealed weapon licensing
 10 board that issued the individual the license to revoke the license
 11 for 1 year. The concealed weapon licensing board shall revoke the
 12 license as ordered by the court. The court shall notify the
 13 concealed weapon licensing board that issued the individual a
 14 license to carry a concealed pistol if an individual is found
 15 responsible for a subsequent violation of this subdivision.

16 (3) This section does not prohibit an individual licensed
 17 under this act to carry a concealed pistol who has any bodily
 18 alcohol content from ~~transporting~~ **DOING ANY OF THE FOLLOWING:**

19 **(A) TRANSPORTING** that pistol in the locked trunk of his or her
 20 motor vehicle or another motor vehicle in which he or she is a
 21 passenger or, if the vehicle does not have a trunk, from
 22 transporting that pistol unloaded in a locked compartment or
 23 container that is separated from the ammunition for that pistol. ~~or~~

24 **(B) TRANSPORTING THAT PISTOL** on a vessel if the pistol is
 25 transported unloaded in a locked compartment or container that is
 26 separated from the ammunition for that pistol.

27 **(C) TRANSPORTING A PORTABLE DEVICE USING ELECTRO-MUSCULAR**

1 DISRUPTION TECHNOLOGY IN THE LOCKED TRUNK OF HIS OR HER MOTOR
2 VEHICLE OR ANOTHER MOTOR VEHICLE IN WHICH HE OR SHE IS A PASSENGER,
3 OR, IF THE VEHICLE DOES NOT HAVE A TRUNK, FROM TRANSPORTING THAT
4 PORTABLE DEVICE IN A LOCKED COMPARTMENT OR CONTAINER.

5 (D) TRANSPORTING A PORTABLE DEVICE USING ELECTRO-MUSCULAR
6 DISRUPTION TECHNOLOGY ON A VESSEL IF THE PORTABLE DEVICE IS
7 TRANSPORTED IN A LOCKED COMPARTMENT OR CONTAINER.

8 (4) A peace officer who has probable cause to believe an
9 individual is carrying a concealed pistol **OR A PORTABLE DEVICE**
10 **USING ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY** in violation of this
11 section may require the individual to submit to a chemical analysis
12 of his or her breath, blood, or urine.

13 (5) Before an individual is required to submit to a chemical
14 analysis under subsection (4), the peace officer shall inform the
15 individual of all of the following:

16 (a) The individual may refuse to submit to the chemical
17 analysis, but if he or she chooses to do so, all of the following
18 apply:

19 (i) The officer may obtain a court order requiring the
20 individual to submit to a chemical analysis.

21 (ii) The refusal may result in his or her license to carry a
22 concealed pistol being suspended or revoked.

23 (b) If the individual submits to the chemical analysis, he or
24 she may obtain a chemical analysis described in subsection (4) from
25 a person of his or her own choosing.

26 (6) The collection and testing of breath, blood, and urine
27 specimens under this section shall be conducted in the same manner

1 that breath, blood, and urine specimens are collected and tested
2 for alcohol- and controlled-substance-related driving violations
3 under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

4 (7) If a person refuses to take a chemical test authorized
5 under this section, the peace officer shall promptly report the
6 refusal in writing to the concealed weapon licensing board that
7 issued the license to the individual to carry a concealed pistol.

8 (8) If a person takes a chemical test authorized under this
9 section and the test results indicate that the individual had any
10 bodily alcohol content while carrying a concealed pistol, the peace
11 officer shall promptly report the violation in writing to the
12 concealed weapon licensing board that issued the license to the
13 individual to carry a concealed pistol.

14 (9) As used in this section:

15 (a) "Alcoholic liquor" means that term as defined in section
16 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
17 436.1105.

18 (b) "Controlled substance" means that term as defined in
19 section 7104 of the public health code, 1978 PA 368, MCL ~~333.7401~~
20 **333.7104**.

21 Sec. 5o. (1) Subject to subsection ~~(4)~~-(5), an individual
22 licensed under this act to carry a concealed pistol, or who is
23 exempt from licensure under section 12a(1)(f), shall not carry a
24 concealed pistol on the premises of any of the following:

25 (a) A school or school property except that a parent or legal
26 guardian of a student of the school is not precluded from carrying
27 a concealed pistol while in a vehicle on school property, if he or

1 she is dropping the student off at the school or picking up the
2 child from the school. As used in this section, "school" and
3 "school property" mean those terms as defined in section 237a of
4 the Michigan penal code, 1931 PA 328, MCL 750.237a.

5 (b) A public or private child care center or day care center,
6 public or private child caring institution, or public or private
7 child placing agency.

8 (c) A sports arena or stadium.

9 (d) A bar or tavern licensed under the Michigan liquor control
10 code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the
11 primary source of income of the business is the sale of alcoholic
12 liquor by the glass and consumed on the premises. This subdivision
13 does not apply to an owner or employee of the business. The
14 Michigan liquor control commission shall develop and make available
15 to holders of licenses under the Michigan liquor control code of
16 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign
17 stating that "This establishment prohibits patrons from carrying
18 concealed weapons". The owner or operator of an establishment
19 licensed under the Michigan liquor control code of 1998, 1998 PA
20 58, MCL 436.1101 to 436.2303, may, but is not required to, post the
21 sign developed under this subdivision. A record made available by
22 an establishment licensed under the Michigan liquor control code of
23 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce
24 this subdivision is exempt from disclosure under the freedom of
25 information act, 1976 PA 442, MCL 15.231 to 15.246.

26 (e) Any property or facility owned or operated by a church,
27 synagogue, mosque, temple, or other place of worship, unless the

1 presiding official or officials of the church, synagogue, mosque,
2 temple, or other place of worship permit the carrying of concealed
3 pistol on that property or facility.

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

9 (g) A hospital.

10 (h) A dormitory or classroom of a community college, college,
11 or university.

12 (2) **SUBJECT TO SUBSECTION (5), AN INDIVIDUAL WHO IS LICENSED**
13 **UNDER THIS ACT TO CARRY A CONCEALED PISTOL AND WHO, PURSUANT TO**
14 **SECTION 224A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.224A,**
15 **ALSO CARRIES ON HIS OR HER PERSON OR IN HIS OR HER VEHICLE A**
16 **PORTABLE DEVICE THAT USES ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY**
17 **SHALL NOT CARRY THAT PORTABLE DEVICE ON ANY OF THE PREMISES**
18 **DESCRIBED IN SUBSECTION (1).**

19 (3) ~~(2)~~—An individual licensed under this act to carry a
20 concealed pistol, or who is exempt from licensure under section
21 12a(1)(f), shall not carry a concealed pistol in violation of R
22 432.1212 or a successor rule of the Michigan administrative code
23 promulgated under the Michigan gaming control and revenue act, 1996
24 IL 1, MCL 432.201 to 432.226.

25 (4) ~~(3)~~—As used in subsection (1), "premises" does not include
26 parking areas of the places identified under subsection (1).

27 (5) ~~(4)~~—~~Subsection (1) does~~—**SUBSECTIONS (1) AND (2) DO** not

1 apply to any of the following:

2 (a) An individual licensed under this act who is a retired
3 police officer or retired law enforcement officer. The concealed
4 weapon licensing board may require a letter from the law
5 enforcement agency stating that the retired police officer or law
6 enforcement officer retired in good standing.

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

12 (c) An individual who is licensed as a private investigator or
13 private detective under the professional investigator licensure
14 act, 1965 PA 285, MCL 338.821 to 338.851.

15 (d) An individual who is licensed under this act and who is a
16 corrections officer of a county sheriff's department.

17 (e) An individual who is licensed under this act and who is a
18 motor carrier officer or capitol security officer of the department
19 of state police.

20 (f) An individual who is licensed under this act and who is a
21 member of a sheriff's posse.

22 (g) An individual who is licensed under this act and who is an
23 auxiliary officer or reserve officer of a police or sheriff's
24 department.

25 (h) An individual who is licensed under this act and who is a
26 parole or probation officer of the department of corrections.

27 (i) A state court judge or state court retired judge who is

1 licensed under this act. The concealed weapon licensing board may
2 require a state court retired judge to obtain and carry a letter
3 from the judicial tenure commission stating that the state court
4 retired judge is in good standing as authorized under section 30 of
5 article VI of the state constitution of 1963, and rules promulgated
6 under that section, in order to qualify under this subdivision.

7 (6) ~~(5)~~—An individual who violates this section is responsible
8 for a state civil infraction or guilty of a crime as follows:

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

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

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

22 Enacting section 1. This amendatory act does not take effect
23 unless all of the following bills of the 95th Legislature are
24 enacted into law:

25 (a) Senate Bill No. _____ or House Bill No. 4156 (request no.
26 00001'09).

27 (b) Senate Bill No. _____ or House Bill No. 4164 (request no.

1 00003'09).