

HOUSE BILL No. 4221

February 10, 2009, Introduced by Reps. Ebli, Meadows, Roberts, Liss, Durhal, Valentine,
Lisa Brown, Donigan, Byrnes and Angerer and referred to the Committee on 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 2008 PA 406.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as otherwise provided in this section, a
2 person shall not purchase, carry, possess, or transport a pistol in
3 this state without first having obtained a license for the pistol

1 as prescribed in this section.

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

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

25 (i) Section ~~464a(1)~~**464A** of the mental health code, 1974 PA
26 258, MCL 330.1464a.

27 (ii) Section 5107 of the estates and protected individuals

code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA 642.

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

(iv) Section ~~2950a(7)~~**2950A** of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950a.

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

(vi) Section ~~6b(5)~~**6B** of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed under section 6b(3) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

(vii) Section ~~16b(1)~~**16B** of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(b) The person is 18 years of age or older or, if the seller is licensed under 18 USC 923, is 21 years of age or older.

(c) The person is a citizen of the United States and is a legal resident of this state. For the purposes of this section, a person shall be considered a legal resident of this state if any of the following apply:

(i) The person has a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(ii) The person is lawfully registered to vote in this state.

(iii) The person is on active duty status with the United States armed forces and is stationed outside of this state, but the person's home of record is in this state.

1 (iv) The person is on active duty status with the United States
2 armed forces and is permanently stationed in this state, but the
3 person's home of record is in another state.

4 (d) A felony charge or a criminal charge listed in section 5b
5 against the person is not pending at the time of application.

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

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

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

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

19 (i) The person correctly answers 70% or more of the questions
20 on a basic pistol safety review questionnaire approved by the
21 department of state police and provided to the individual free of
22 charge by the licensing authority. If the person fails to correctly
23 answer 70% or more of the questions on the basic pistol safety
24 review questionnaire, the licensing authority shall inform the
25 person of the questions he or she answered incorrectly and allow
26 the person to attempt to complete another basic pistol safety
27 review questionnaire. The person shall not be allowed to attempt to

1 complete more than 2 basic pistol safety review questionnaires on
2 any single day. The licensing authority shall allow the person to
3 attempt to complete the questionnaire during normal business hours
4 on the day the person applies for his or her license.

5 (4) Applications for licenses under this section shall be
6 signed by the applicant under oath upon forms provided by the
7 director of the department of state police. Licenses to purchase,
8 carry, possess, or transport pistols shall be executed in
9 quadruplicate upon forms provided by the director of the department
10 of state police and shall be signed by the licensing authority.
11 Four copies of the license shall be delivered to the applicant by
12 the licensing authority. A license is void unless used within 10
13 days after the date it is issued.

14 (5) If an individual purchases or otherwise acquires a pistol,
15 the seller shall fill out the license forms describing the pistol,
16 together with the date of sale or acquisition, and sign his or her
17 name in ink indicating that the pistol was sold to or otherwise
18 acquired by the purchaser. The purchaser shall also sign his or her
19 name in ink indicating the purchase or other acquisition of the
20 pistol from the seller. The seller may retain a copy of the license
21 as a record of the transaction. The purchaser shall receive 3
22 copies of the license. The purchaser shall return 2 copies of the
23 license to the licensing authority within 10 days after the date
24 the pistol is purchased or acquired. The return of the copies to
25 the licensing authority may be made in person or may be made by
26 first-class mail or certified mail sent within the 10-day period to
27 the proper address of the licensing authority. A purchaser who

1 fails to comply with the requirements of this subsection is
2 responsible for a state civil infraction and may be fined not more
3 than \$250.00. If a purchaser is found responsible for a state civil
4 infraction under this subsection, the court shall notify the
5 department of state police of that determination.

6 (6) Within 48 hours after receiving the license copies
7 returned under subsection (5), the licensing authority shall
8 forward 1 copy of the license to the department of state police.
9 The licensing authority shall retain the other copy of the license
10 as an official record for not less than 6 years. Within 10 days
11 after receiving the license copies returned under subsection (5),
12 the licensing authority shall electronically enter the information
13 into the pistol entry database as required by the department of
14 state police if it has the ability to electronically enter that
15 information. If the licensing authority does not have that ability,
16 the licensing authority shall provide that information to the
17 department of state police in a manner otherwise required by the
18 department of state police. Any licensing authority that provided
19 pistol descriptions to the department of state police under former
20 section 9 of this act shall continue to provide pistol descriptions
21 to the department of state police under this subsection. The
22 purchaser has the right to obtain a copy of the information placed
23 in the pistol entry database under this subsection to verify the
24 accuracy of that information. The licensing authority may charge a
25 fee not to exceed \$1.00 for the cost of providing the copy. The
26 licensee may carry, use, possess, and transport the pistol for 30
27 days beginning on the date of purchase or acquisition only while he

1 or she is in possession of his or her copy of the license. However,
2 the person is not required to have the license in his or her
3 possession while carrying, using, possessing, or transporting the
4 pistol after this period.

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

15 (8) An individual who is not a resident of this state is not
16 required to obtain a license under this section if all of the
17 following conditions apply:

18 (a) The individual is licensed in his or her state of
19 residence to purchase, carry, or transport a pistol.

20 (b) The individual is in possession of the license described
21 in subdivision (a).

22 (c) The individual is the owner of the pistol he or she
23 possesses, carries, or transports.

24 (d) The individual possesses the pistol for a lawful purpose
25 as that term is defined in section 231a of the Michigan penal code,
26 1931 PA 328, MCL 750.231a.

27 (e) The individual is in this state for a period of 180 days

1 or less and does not intend to establish residency in this state.

2 (9) An individual who is a nonresident of this state shall
3 present the license described in subsection (8)(a) upon the demand
4 of a police officer. An individual who violates this subsection is
5 guilty of a misdemeanor punishable by imprisonment for not more
6 than 90 days or a fine of not more than \$100.00, or both.

7 (10) The licensing authority may require a person claiming
8 active duty status with the United States armed forces to provide
9 proof of 1 or both of the following:

10 (a) The person's home of record.

11 (b) Permanent active duty assignment in this state.

12 (11) This section does not apply to a person who is younger
13 than the age required under subsection (3)(b) and who possesses a
14 pistol if all of the following conditions apply:

15 (a) The person is not otherwise prohibited from possessing
16 that pistol.

17 (b) The person is at a recognized target range.

18 (c) The person possesses the pistol for the purpose of target
19 practice or instruction in the safe use of a pistol.

20 (d) The person's parent or guardian is physically present and
21 supervising the person.

22 (e) The owner of the pistol is physically present.

23 (12) This section does not apply to a person who possesses a
24 pistol if all of the following conditions apply:

25 (a) The person is not otherwise prohibited from possessing a
26 pistol.

27 (b) The person is at a recognized target range or shooting

1 facility.

2 (c) The person possesses the pistol for the purpose of target
3 practice or instruction in the safe use of a pistol.

4 (d) The owner of the pistol is physically present and
5 supervising the use of the pistol.

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

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

13 (b) Safe storage of pistols.

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

15 (d) The responsibilities of owning a pistol.

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

18 (15) The basic pistol safety brochure required in subsection
19 (13) shall be produced by a national nonprofit membership
20 organization that provides voluntary pistol safety programs that
21 include training individuals in the safe handling and use of
22 pistols.

23 (16) A person who forges any matter on an application for a
24 license under this section is guilty of a felony, punishable by
25 imprisonment for not more than 4 years or a fine of not more than
26 \$2,000.00, or both.

27 (17) A licensing authority shall implement this section during

1 all of the licensing authority's normal business hours and shall
2 set hours for implementation that allow an applicant to use the
3 license within the time period set forth in subsection (4).

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No. ____ or House Bill No. 4222(request no.
6 00472'09) of the 95th Legislature is enacted into law.