

# HOUSE BILL No. 4894

May 6, 2009, Introduced by Reps. Meltzer, Rick Jones, Espinoza, Bettie Scott, Lori, Horn, Sheltroun, Green, Tyler, Pearce, Agema, Haines, Stamas, Denby, Kowall, Walsh, Knollenberg and Genetski 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 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) of the mental health code, 1974 PA 258, MCL  
26 330.1464a.

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

1 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA  
2 642.

3 (iii) Section 2950(10) of the revised judicature act of 1961,  
4 1961 PA 236, MCL 600.2950.

5 (iv) Section 2950a(7) of the revised judicature act of 1961,  
6 1961 PA 236, MCL 600.2950a.

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

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

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

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

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

20 (i) The person has a valid, lawfully obtained Michigan driver  
21 license issued under the Michigan vehicle code, 1949 PA 300, MCL  
22 257.1 to 257.923, or an official state personal identification card  
23 issued under 1972 PA 222, MCL 28.291 to 28.300.

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

25 (iii) The person is on active duty status with the United States  
26 armed forces and is stationed outside of this state, but the  
27 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 REQUIREMENTS OF THIS SECTION FOR OBTAINING A LICENSE  
7 TO PURCHASE, CARRY, POSSESS, OR TRANSPORT A PISTOL DO NOT APPLY TO  
8 AN INDIVIDUAL WHO IS A FULL- OR PART-TIME PEACE OFFICER, INCLUDING  
9 A VOLUNTEER OR RESERVE PEACE OFFICER, WHO OTHERWISE MEETS THE  
10 REQUIREMENTS OF SUBSECTION (3) (A) TO (H). HOWEVER, THE INDIVIDUAL  
11 SHALL COMPLETE AND FILE COPIES OF A FORM PROVIDED BY THE DEPARTMENT  
12 OF STATE POLICE FOR PURPOSES OF REPORTING THE TRANSACTION UNDER  
13 SUBSECTION (5). THE DEPARTMENT OF STATE POLICE SHALL PROVIDE FORMS  
14 TO LICENSING AUTHORITIES FOR PURPOSES OF THIS SUBSECTION. THE  
15 DEPARTMENT OF STATE POLICE SHALL NOT CHARGE A FEE FOR THE FORM. A  
16 LICENSING AUTHORITY SHALL NOT CHARGE A FEE FOR PROVIDING A FORM  
17 UNDER THIS SUBSECTION OR FOR FILING THE FORM UNDER SUBSECTION (5).

18 (14) ~~(13)~~—The licensing authority shall provide a basic pistol  
19 safety brochure to each applicant for a license under this section  
20 before the applicant answers the basic pistol safety review  
21 questionnaire. A basic pistol safety brochure shall contain, but is  
22 not limited to providing, information on all of the following  
23 subjects:

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

25 (b) Safe storage of pistols.

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

27 (d) The responsibilities of owning a pistol.

1           (15) ~~(14)~~—The basic pistol safety brochure shall be supplied  
2 in addition to the safety pamphlet required by section 9b.

3           (16) ~~(15)~~—The basic pistol safety brochure required in  
4 subsection ~~(13)~~—(14) shall be produced by a national nonprofit  
5 membership organization that provides voluntary pistol safety  
6 programs that include training individuals in the safe handling and  
7 use of pistols.

8           (17) ~~(16)~~—A person who forges any matter on an application for  
9 a license under this section **OR A FORM PROVIDED UNDER SUBSECTION**  
10 (13) is guilty of a felony —punishable by imprisonment for not  
11 more than 4 years or a fine of not more than \$2,000.00, or both.

12           (18) ~~(17)~~—A licensing authority shall implement this section  
13 during all of the licensing authority's normal business hours and  
14 shall set hours for implementation that allow an applicant to use  
15 the license within the time period set forth in subsection (4).