

HOUSE BILL No. 4155

February 5, 2015, Introduced by Reps. Cole, Kesto, Inman, Sheppard, Brett Roberts, Glenn, Lucido, Runestad, Franz, Iden, Maturen and Kivela and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 222, 226, 227b, 227c, 227d, 237a, and 528a (MCL 750.222, 750.226, 750.227b, 750.227c, 750.227d, 750.237a, and 750.528a), section 222 as amended by 2012 PA 242, section 227b as amended by 1990 PA 321, sections 227c and 227d as added by 1981 PA 103, section 237a as added by 1994 PA 158, and section 528a as added by 1986 PA 113.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 222. As used in this chapter:

2 (a) "Alcoholic liquor" means that term as defined in section
3 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
4 436.1105.

5 (b) "Barrel length" means the internal length of a firearm as

1 measured from the face of the closed breech of the firearm when it
2 is unloaded, to the forward face of the end of the barrel.

3 (c) "Controlled substance" means a controlled substance or
4 controlled substance analogue as those terms are defined in section
5 7104 of the public health code, 1978 PA 368, MCL 333.7104.

6 (d) "Firearm" means ~~a ANY weapon from which a dangerous WILL,~~
7 **IS DESIGNED TO, OR MAY READILY BE CONVERTED TO EXPEL A** projectile
8 ~~may be propelled by ACTION OF~~ an explosive. ~~, or by gas or air.~~
9 ~~Firearm does not include a smooth bore rifle or handgun designed~~
10 ~~and manufactured exclusively for propelling by a spring, or by gas~~
11 ~~or air, BBs not exceeding .177 caliber.~~

12 (e) "Pistol" means a loaded or unloaded firearm that is 26
13 inches or less in length, or a loaded or unloaded firearm that by
14 its construction and appearance conceals itself as a firearm.

15 (F) **"PNEUMATIC GUN" MEANS THAT TERM AS DEFINED IN SECTION 1 OF**
16 **1990 PA 319, MCL 123.1101.**

17 (G) ~~(f)~~-"Purchaser" means a person who receives a pistol from
18 another person by purchase, gift, or loan.

19 (H) **"RIFLE" MEANS A FIREARM DESIGNED OR REDESIGNED, MADE OR**
20 **REMADE, AND INTENDED TO BE FIRED FROM THE SHOULDER AND DESIGNED OR**
21 **REDESIGNED AND MADE OR REMADE TO USE THE ENERGY OF THE EXPLOSIVE IN**
22 **A FIXED METALLIC CARTRIDGE TO FIRE ONLY A SINGLE PROJECTILE THROUGH**
23 **A RIFLED BORE FOR EACH SINGLE PULL OF THE TRIGGER.**

24 (I) ~~(g)~~-"Seller" means a person who sells, furnishes, loans,
25 or gives a pistol to another person.

26 (J) **"SHORT-BARRELED RIFLE" MEANS A RIFLE HAVING 1 OR MORE**
27 **BARRELS LESS THAN 16 INCHES IN LENGTH OR A WEAPON MADE FROM A**

1 RIFLE, WHETHER BY ALTERATION, MODIFICATION, OR OTHERWISE, IF THE
2 WEAPON AS MODIFIED HAS AN OVERALL LENGTH OF LESS THAN 26 INCHES.

3 (K) "SHORT-BARRELED SHOTGUN" MEANS A SHOTGUN HAVING 1 OR MORE
4 BARRELS LESS THAN 18 INCHES IN LENGTH OR A WEAPON MADE FROM A
5 SHOTGUN, WHETHER BY ALTERATION, MODIFICATION, OR OTHERWISE, IF THE
6 WEAPON AS MODIFIED HAS AN OVERALL LENGTH OF LESS THAN 26 INCHES.

7 (l) ~~(h)~~ "Shotgun" means a firearm designed or redesigned, made
8 or remade, and intended to be fired from the shoulder and designed
9 or redesigned and made or remade to use the energy of the explosive
10 in a fixed shotgun shell to fire through a smooth bore either a
11 number of ball shot or a single projectile for each single function
12 of the trigger.

13 ~~—— (i) "Short barreled shotgun" means a shotgun having 1 or more~~
14 ~~barrels less than 18 inches in length or a weapon made from a~~
15 ~~shotgun, whether by alteration, modification, or otherwise, if the~~
16 ~~weapon as modified has an overall length of less than 26 inches.~~

17 ~~—— (j) "Rifle" means a firearm designed or redesigned, made or~~
18 ~~remade, and intended to be fired from the shoulder and designed or~~
19 ~~redesigned and made or remade to use the energy of the explosive in~~
20 ~~a fixed metallic cartridge to fire only a single projectile through~~
21 ~~a rifled bore for each single pull of the trigger.~~

22 ~~—— (k) "Short barreled rifle" means a rifle having 1 or more~~
23 ~~barrels less than 16 inches in length or a weapon made from a~~
24 ~~rifle, whether by alteration, modification, or otherwise, if the~~
25 ~~weapon as modified has an overall length of less than 26 inches.~~

26 Sec. 226. (1) ~~Carrying firearm or dangerous weapon with~~
27 ~~unlawful intent Any~~ **A** person who, **SHALL NOT**, with intent to use the

1 same unlawfully against the person of another, ~~goes~~ GO armed with a
 2 pistol or other firearm, or **A PNEUMATIC GUN**, dagger, dirk, razor,
 3 stiletto, or knife having a blade over 3 inches in length, or any
 4 other dangerous or deadly weapon or instrument. ~~shall be~~

5 **(2) A PERSON WHO VIOLATES THIS SECTION IS** guilty of a felony ~~and~~
 6 punishable by imprisonment ~~in the state prison~~ for not more than 5
 7 years or ~~by a fine of not more than 2,500 dollars.~~ **\$2,500.00.**

8 Sec. 227b. (1) A person who carries or has in his or her
 9 possession a firearm when he or she commits or attempts to commit a
 10 felony, except a violation of section 223, ~~section 227, 227a, or~~
 11 230, is guilty of a felony ~~and shall be imprisoned~~ **PUNISHED BY**
 12 **IMPRISONMENT** for 2 years. Upon a second conviction under this
 13 ~~section,~~ **SUBSECTION**, the person shall be ~~imprisoned~~ **PUNISHED BY**
 14 **IMPRISONMENT** for 5 years. Upon a third or subsequent conviction
 15 under this subsection, the person shall be ~~imprisoned~~ **PUNISHED BY**
 16 **IMPRISONMENT** for 10 years.

17 **(2) A PERSON WHO CARRIES OR HAS IN HIS OR HER POSSESSION A**
 18 **PNEUMATIC GUN AND USES THAT PNEUMATIC GUN IN FURTHERANCE OF**
 19 **COMMITTING OR ATTEMPTING TO COMMIT A FELONY, EXCEPT A VIOLATION OF**
 20 **SECTION 223, 227, 227A, OR 230, IS GUILTY OF A FELONY AND SHALL BE**
 21 **PUNISHED BY IMPRISONMENT FOR 2 YEARS. UPON A SECOND CONVICTION**
 22 **UNDER THIS SUBSECTION, THE PERSON SHALL BE PUNISHED BY IMPRISONMENT**
 23 **FOR 5 YEARS. UPON A THIRD OR SUBSEQUENT CONVICTION UNDER THIS**
 24 **SUBSECTION, THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR 10**
 25 **YEARS.**

26 **(3) ~~(2)~~** A term of imprisonment prescribed by this section is
 27 in addition to the sentence imposed for the conviction of the

1 felony or the attempt to commit the felony ~~and~~ and shall be served
2 consecutively with and preceding any term of imprisonment imposed
3 for the conviction of the felony or attempt to commit the felony.

4 (4) ~~(3)~~—A term of imprisonment imposed under this section
5 shall not be suspended. The person subject to the sentence mandated
6 by this section is not eligible for parole or probation during the
7 mandatory term imposed ~~pursuant to~~ **UNDER** subsection (1) **OR** (2).

8 (5) ~~(4)~~—This section does not apply to a law enforcement
9 officer who is authorized to carry a firearm while in the official
10 performance of his or her duties ~~and~~ and who is in the performance of
11 those duties. As used in this subsection, "law enforcement officer"
12 means a person who is regularly employed as a member of a duly
13 authorized police agency or other organization of the United
14 States, this state, or a city, county, township, or village of this
15 state ~~and~~ and who is responsible for the prevention and detection of
16 crime and the enforcement of the general criminal laws of this
17 state.

18 Sec. 227c. (1) Except as otherwise permitted by law, a person
19 shall not transport or possess in or upon a sailboat or a motor
20 vehicle, aircraft, motorboat, or any other vehicle propelled by
21 mechanical means ~~and~~ **EITHER OF THE FOLLOWING:**

22 (A) A firearm, other than a pistol, ~~which~~ **THAT** is loaded.

23 (B) **A PNEUMATIC GUN THAT IS LOADED AND THAT IS DESIGNED,**
24 **MANUFACTURED, AND INTENDED TO INFLICT DEATH OR SERIOUS BODILY**
25 **INJURY.**

26 (2) A person who violates this section is guilty of a
27 misdemeanor ~~and~~ punishable by imprisonment for not more than 2 years

1 ~~or a fine of not more than \$2,500.00, or both.~~

2 ~~— (3) This section does not apply to a person who violates~~
 3 ~~section 10(1)(g) of chapter II of Act No. 286 of the Public Acts of~~
 4 ~~1929, as amended, being section 312.10 of the Michigan Compiled~~
 5 ~~Laws.~~

6 Sec. 227d. (1) Except as otherwise permitted by law, a person
 7 shall not transport or possess in or upon a motor vehicle or any
 8 self-propelled vehicle designed for land travel ~~a~~ **EITHER OF THE**
 9 **FOLLOWING:**

10 (A) A firearm, other than a pistol, unless the firearm is
 11 unloaded and is 1 or more of the following:

12 (i) ~~(a)~~ Taken down.

13 (ii) ~~(b)~~ Enclosed in a case.

14 (iii) ~~(c)~~ Carried in the trunk of the vehicle.

15 (iv) ~~(d)~~ Inaccessible from the interior of the vehicle.

16 (B) A PNEUMATIC GUN THAT IS DESIGNED, MANUFACTURED, AND
 17 INTENDED TO INFLICT DEATH OR SERIOUS BODILY INJURY UNLESS THE
 18 PNEUMATIC GUN IS UNLOADED AND IS 1 OR MORE OF THE FOLLOWING:

19 (i) TAKEN DOWN.

20 (ii) ENCLOSED IN A CASE.

21 (iii) CARRIED IN THE TRUNK OF THE VEHICLE.

22 (iv) INACCESSIBLE FROM THE INTERIOR OF THE VEHICLE.

23 (2) A person who violates this section is guilty of a
 24 misdemeanor ~~or~~ punishable by imprisonment for not more than 90 days
 25 ~~or~~ a fine of not more than \$100.00, or both.

26 Sec. 237a. (1) An individual who engages in conduct proscribed
 27 under section 224, 224a, 224b, 224c, 224e, 226, 227, 227a, 227f,

1 234a, 234b, or 234c, or who engages in conduct proscribed under
2 section 223(2) for a second or subsequent time, in a weapon free
3 school zone is guilty of a felony punishable by 1 or more of the
4 following:

5 (a) Imprisonment for not more than the maximum term of
6 imprisonment authorized for the section violated.

7 (b) Community service for not more than 150 hours.

8 (c) A fine of not more than 3 times the maximum fine
9 authorized for the section violated.

10 (2) An individual who engages in conduct proscribed under
11 section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4), 233,
12 234, 234e, 234f, 235, 236, or 237, or who engages in conduct
13 proscribed under section 223(2) for the first time, in a weapon
14 free school zone is guilty of a misdemeanor punishable by 1 or more
15 of the following:

16 (a) Imprisonment for not more than the maximum term of
17 imprisonment authorized for the section violated or 93 days,
18 whichever is greater.

19 (b) Community service for not more than 100 hours.

20 (c) A fine of not more than \$2,000.00 or the maximum fine
21 authorized for the section violated, whichever is greater.

22 (3) Subsections (1) and (2) do not apply to conduct proscribed
23 under a section enumerated in those subsections to the extent that
24 the proscribed conduct is otherwise exempted or authorized under
25 this chapter.

26 (4) Except as provided in subsection (5), an individual who
27 possesses a weapon in a weapon free school zone is guilty of a

1 misdemeanor punishable by 1 or more of the following:

2 (a) Imprisonment for not more than 93 days.

3 (b) Community service for not more than 100 hours.

4 (c) A fine of not more than \$2,000.00.

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

6 (a) An individual employed by or contracted by a school if the
7 possession of that weapon is to provide security services for the
8 school.

9 (b) A peace officer.

10 (c) An individual licensed by this state or another state to
11 carry a concealed weapon.

12 (d) An individual who possesses a weapon provided by a school
13 or a school's instructor on school property for purposes of
14 providing or receiving instruction in the use of that weapon.

15 (e) An individual who possesses a firearm on school property
16 if that possession is with the permission of the school's principal
17 or an agent of the school designated by the school's principal or
18 the school board.

19 (f) An individual who is 18 years of age or older who is not a
20 student at the school and who possesses a firearm on school
21 property while transporting a student to or from the school if any
22 of the following apply:

23 (i) The individual is carrying an antique firearm, completely
24 unloaded, in a wrapper or container in the trunk of a vehicle while
25 en route to or from a hunting or target shooting area or function
26 involving the exhibition, demonstration or sale of antique
27 firearms.

1 (ii) The individual is carrying a firearm unloaded in a wrapper
2 or container in the trunk of the person's vehicle, while in
3 possession of a valid Michigan hunting license or proof of valid
4 membership in an organization having shooting range facilities, and
5 while en route to or from a hunting or target shooting area.

6 (iii) The person is carrying a firearm unloaded in a wrapper or
7 container in the trunk of the person's vehicle from the place of
8 purchase to his or her home or place of business or to a place of
9 repair or back to his or her home or place of business, or in
10 moving goods from one place of abode or business to another place
11 of abode or business.

12 (iv) The person is carrying an unloaded firearm in the
13 passenger compartment of a vehicle that does not have a trunk, if
14 the person is otherwise complying with the requirements of
15 subparagraph (ii) or (iii) and the wrapper or container is not readily
16 accessible to the occupants of the vehicle.

17 (6) As used in this section:

18 (a) "Antique firearm" means either of the following:

19 (i) A firearm not designed or redesigned for using rimfire or
20 conventional center fire ignition with fixed ammunition and
21 manufactured in or before 1898, including a matchlock, flintlock,
22 percussion cap, or similar type of ignition system or a replica of
23 such a firearm, whether actually manufactured before or after the
24 year 1898.

25 (ii) A firearm using fixed ammunition manufactured in or before
26 1898, for which ammunition is no longer manufactured in the United
27 States and is not readily available in the ordinary channels of

1 commercial trade.

2 (b) "School" means a public, private, denominational, or
3 parochial school offering developmental kindergarten, kindergarten,
4 or any grade from 1 through 12.

5 (c) "School property" means a building, playing field, or
6 property used for school purposes to impart instruction to children
7 or used for functions and events sponsored by a school, except a
8 building used primarily for adult education or college extension
9 courses.

10 (D) **"WEAPON" INCLUDES, BUT IS NOT LIMITED TO, A PNEUMATIC GUN**
11 **DESIGNED, MANUFACTURED, AND INTENDED TO INFLICT DEATH OR SERIOUS**
12 **BODILY INJURY.**

13 (E) ~~(d)~~—"Weapon free school zone" means school property and a
14 vehicle used by a school to transport students to or from school
15 property.

16 Sec. 528a. (1) As used in this section:

17 (a) "Civil disorder" means any public disturbance involving
18 the use of any firearm, explosive, or incendiary device by 3 or
19 more assembled persons ~~which~~ **THAT** causes an immediate danger to, or
20 ~~which~~ **THAT** results in damage or injury to, any property or person.

21 (b) "Explosive or incendiary device" means:

22 (i) Dynamite, gunpowder, or other similarly explosive
23 substance.

24 (ii) Any bomb, grenade, missile, or similar device designed to
25 expand suddenly and release internal energy resulting in an
26 explosion.

27 (iii) Any incendiary bomb or grenade, fire bomb, or similar

1 device designed to ignite, including any device ~~which~~ **THAT** consists
2 of or includes a breakable container containing a flammable liquid
3 or compound and a wick composed of any material ~~which,~~ **THAT**, if
4 ignited, is capable of igniting the flammable liquid or compound;
5 and ~~which~~ **THAT** may be carried or thrown by a person.

6 (c) "Firearm" means any weapon ~~from which a dangerous~~ **WILL, IS**
7 **DESIGNED TO, OR MAY READILY BE CONVERTED TO EXPEL A** projectile ~~may~~
8 ~~be propelled by using explosives, gas, or air as a means of~~
9 ~~propulsion; any weapon which may be readily converted to expel any~~
10 ~~projectile by the action of an explosive, or the frame or receiver~~
11 ~~of such a firearm or weapon, except any smooth bore rifle or~~
12 ~~handgun designed and manufactured exclusively for propelling BB's~~
13 ~~not exceeding .177 caliber by means of spring, gas, or air.~~ **BY**
14 **ACTION OF AN EXPLOSIVE.**

15 (d) "Law enforcement officer" means any of the following:

16 (i) Every sheriff or sheriff's deputy; village marshal or
17 township constable; officer of the police department of any city,
18 village, or township; any officer of the Michigan state police; or
19 any peace officer who is trained and certified ~~pursuant to Act No.~~
20 ~~203 of the Public Acts of 1965, being sections 28.601 to 28.616 of~~
21 ~~the Michigan Compiled Laws.~~ **UNDER THE COMMISSION ON LAW ENFORCEMENT**
22 **STANDARDS ACT, 1965 PA 203, MCL 28.601 TO 28.616.**

23 (ii) Any officer or employee of the United States, its
24 possessions, or territories who is authorized to enforce the laws
25 of the United States, its possessions, or its territories.

26 (iii) Any member of the national guard, coast guard, military
27 reserve, or the armed forces of the United States when acting in

1 his or her official capacity.

2 (2) A person shall not teach or demonstrate to another person
3 the use, application, or construction of any firearm, or any
4 explosive or incendiary device, if that person knows, has reason to
5 know, or intends that what is taught or demonstrated will be used
6 in, or in furtherance of, a civil disorder.

7 (3) A person shall not assemble with 1 or more persons for the
8 purpose of training with, practicing with, or being instructed in
9 the use of any firearm, or any explosive or incendiary device, if
10 that person intends to use ~~such a~~ **THAT** firearm or device in, or in
11 furtherance of, a civil disorder.

12 (4) This section ~~shall~~ **DOES** not apply to any act of a law
13 enforcement officer ~~which~~ **THAT** is performed in the lawful
14 performance of his or her official duties as a law enforcement
15 officer, or any activity of any hunting club, rifle club, rifle
16 range, pistol range, shooting range, or other program or individual
17 instruction intended to teach the safe handling or use of firearms,
18 archery equipment, or other weapons or techniques employed in
19 connection with lawful sports, self-defense, or other lawful
20 activities.

21 (5) A person who violates this section is guilty of a felony.

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.

24 Enacting section 2. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. ____ (request no.
26 01271'15) of the 98th Legislature is enacted into law.