

HOUSE BILL No. 5195

December 17, 2015, Introduced by Reps. Townsend, Hoadley, Liberati, Wittenberg, Cochran, Greig, Byrd, Irwin, Hovey-Wright, Sarah Roberts, Darany, Faris, Schor, Durhal, Rutledge, Phelps, Pagan, Guerra, Singh and Zemke and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 223 (MCL 750.223), as amended by 2012 PA 242, and by adding section 223a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 223. (1) A person who knowingly sells a pistol without
2 complying with section 2 of 1927 PA 372, MCL 28.422, is guilty of a
3 misdemeanor, punishable by imprisonment for not more than 90 days,
4 or a fine of not more than \$100.00, or both.

5 (2) A person who knowingly sells a firearm more than 26 inches
6 in length to a person under 18 years of age is guilty of a
7 misdemeanor, punishable by imprisonment for not more than 90 days,
8 or a fine of not more than \$500.00, or both. A second or subsequent
9 violation of this subsection is a felony punishable by imprisonment

1 for not more than 4 years, or a fine of not more than \$2,000.00, or
2 both. It is an affirmative defense to a prosecution under this
3 subsection that the person who sold the firearm asked to see and
4 was shown a driver's license or identification card issued by a
5 state that identified the purchaser as being 18 years of age or
6 older.

7 (3) A seller shall not sell a firearm or ammunition to a
8 person if the seller knows that either of the following
9 circumstances exists:

10 (a) The person is under indictment for a felony. As used in
11 this subdivision, "felony" means a violation of a law of this
12 state, or of another state, or of the United States that is
13 punishable by imprisonment for 4 years or more.

14 (b) The person is prohibited under section 224f from
15 possessing, using, transporting, selling, purchasing, carrying,
16 shipping, receiving, or distributing a firearm.

17 (4) A person who violates subsection (3) is guilty of a
18 felony, punishable by imprisonment for not more than 10 years, or
19 by a fine of not more than \$5,000.00, or both.

20 ~~—— (5) As used in this section, "licensed dealer" means a person~~
21 ~~licensed under 18 USC 923 who regularly buys and sells firearms as~~
22 ~~a commercial activity with the principal objective of livelihood~~
23 ~~and profit.~~

24 (5) UPON THE RETAIL SALE OR TRANSFER OF A FIREARM, THE SELLER
25 OF THAT FIREARM SHALL DELIVER A WRITTEN WARNING TO THE PURCHASER
26 INFORMING THE PURCHASER OF THE PENALTIES FOR FAILING TO STORE OR
27 LEAVE A FIREARM IN THE MANNER REQUIRED UNDER SECTION 223A, AND

1 CONSPICUOUSLY POST A WARNING AT EACH PURCHASE COUNTER INFORMING THE
2 READER THAT FAILING TO STORE OR LEAVE A FIREARM IN THE MANNER
3 REQUIRED UNDER SECTION 223A IS UNLAWFUL. A PERSON WHO VIOLATES THIS
4 SUBSECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
5 FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR
6 BOTH.

7 SEC. 223A. (1) A PERSON WHO STORES OR LEAVES A FIREARM ON
8 PREMISES UNDER HIS OR HER CONTROL, AND WHO KNOWS OR REASONABLY
9 SHOULD KNOW THAT THE FIREARM IS ACCESSIBLE TO A MINOR, SHALL DO 1
10 OR MORE OF THE FOLLOWING:

11 (A) KEEP THE FIREARM IN A SECURELY LOCKED BOX OR CONTAINER.

12 (B) KEEP THE FIREARM IN A LOCATION THAT A REASONABLE PERSON
13 WOULD BELIEVE IS SECURE.

14 (C) SECURELY LOCK THE FIREARM WITH A LOCKING DEVICE.

15 (2) IF A PERSON VIOLATES SUBSECTION (1) BY FAILING TO STORE OR
16 LEAVE A FIREARM IN THE REQUIRED MANNER AND AS A RESULT OF THE
17 VIOLATION A MINOR OBTAINS THE FIREARM AND USES IT TO INFLICT INJURY
18 OR DEATH UPON HIMSELF OR HERSELF OR ANY OTHER PERSON, THE PERSON
19 WHO STORES OR LEAVES THE FIREARM IS GUILTY OF A FELONY PUNISHABLE
20 BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE
21 THAN \$5,000.00, OR BOTH.

22 (3) A PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
23 IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN
24 \$500.00, OR BOTH, IF THE PERSON VIOLATES SUBSECTION (1) BY FAILING
25 TO STORE OR LEAVE A FIREARM IN THE REQUIRED MANNER AND AS A RESULT
26 OF THE VIOLATION BOTH OF THE FOLLOWING OCCUR:

27 (A) A MINOR OBTAINS THE FIREARM.

1 (B) THE MINOR DOES EITHER OF THE FOLLOWING:

2 (i) POSSESSES OR EXHIBITS THE FIREARM IN A PUBLIC PLACE.

3 (ii) POSSESSES OR EXHIBITS THE FIREARM IN THE PRESENCE OF
4 ANOTHER PERSON IN A CARELESS, RECKLESS, OR THREATENING MANNER.

5 (4) THIS SECTION DOES NOT APPLY UNDER ANY OF THE FOLLOWING
6 CIRCUMSTANCES:

7 (A) THE MINOR OBTAINS THE FIREARM WITH THE PERMISSION OF THE
8 MINOR'S PARENT OR GUARDIAN AND THE MINOR USES OR POSSESSES THE
9 FIREARM DURING ANY OF THE FOLLOWING:

10 (i) HIS OR HER EMPLOYMENT.

11 (ii) RANCHING OR FARMING.

12 (iii) TARGET PRACTICE, HUNTING, OR INSTRUCTION IN THE SAFE USE
13 OF A FIREARM.

14 (B) THE MINOR OBTAINS THE FIREARM THROUGH THE MINOR'S UNLAWFUL
15 ENTRY OF ANY PREMISES WHERE THE FIREARM HAS BEEN STORED OR THROUGH
16 THE MINOR'S ILLEGAL TAKING OF THE FIREARM FROM THE OWNER'S
17 PREMISES.

18 (C) THE MINOR OBTAINS THE FIREARM WHILE LAWFULLY ACTING IN
19 SELF-DEFENSE OR DEFENSE OF ANOTHER.

20 (5) AS USED IN THIS SECTION:

21 (A) "LOCKED BOX OR CONTAINER" MEANS A SECURE CONTAINER THAT IS
22 FULLY ENCLOSED AND LOCKED BY A PADLOCK, KEY LOCK, COMBINATION LOCK,
23 OR SIMILAR LOCKING DEVICE.

24 (B) "LOCKING DEVICE" MEANS A TRIGGER LOCK, CABLE LOCK, OR
25 SIMILAR LOCK THAT PREVENTS A FIREARM FROM DISCHARGING.

26 (C) "MINOR" MEANS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.