

HOUSE BILL No. 5497

March 22, 2016, Introduced by Reps. Kesto and Tedder 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, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices 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 sections 1, 2a, and 12a (MCL 28.421, 28.422a and 28.432a), sections 1 and 12a as amended by 2015 PA 207 and section 2a as amended by 2016 PA 6.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) As used in this act:

2 (a) "Corrections officer of the department of corrections"
3 means a state correctional officer as that term is defined in
4 section 2 of the correctional officers' training act of 1982, 1982
5 PA 415, MCL 791.502.

6 (b) "Felony" means, except as otherwise provided in this
7 subdivision, that term as defined in section 1 of chapter I of the
8 code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation
9 of a law of the United States or another state that is designated
10 as a felony or that is punishable by death or by imprisonment for
11 more than 1 year. Felony does not include a violation of a penal
12 law of this state that is expressly designated as a misdemeanor.

13 (c) "Firearm" means any weapon which will, is designed to, or
14 may readily be converted to expel a projectile by action of an
15 explosive.

16 (d) "Firearms records" means any form, information, or record
17 required for submission to a government agency under sections 2,
18 2a, 2b, and 5b, or any form, permit, or license issued by a
19 government agency under this act.

20 (e) "Local corrections officer" means that term as defined in
21 section 2 of the local corrections officers training act, 2003 PA
22 125, MCL 791.532.

23 (f) "Misdemeanor" means a violation of a penal law of this
24 state or violation of a local ordinance substantially corresponding
25 to a violation of a penal law of this state that is not a felony or
26 a violation of an order, rule, or regulation of a state agency that
27 is punishable by imprisonment or a fine that is not a civil fine,

1 or both.

2 (g) "Parole or probation officer of the department of
3 corrections" means any individual employed by the department of
4 corrections to supervise felony probationers or parolees or that
5 individual's immediate supervisor.

6 (h) "Peace officer" means, except as otherwise provided in
7 this act, an individual who is employed as a law enforcement
8 officer, as that term is defined under section 2 of the commission
9 on law enforcement standards act, 1965 PA 203, MCL 28.602, by this
10 state or another state, a political subdivision of this state or
11 another state, or the United States, and who is required to carry a
12 firearm in the course of his or her duties as a law enforcement
13 officer.

14 (i) "Pistol" means a loaded or unloaded firearm that is 26
15 inches or less in length, or a loaded or unloaded firearm that by
16 its construction and appearance conceals it as a firearm.

17 (j) "Purchaser" means a person who receives a pistol from
18 another person by purchase or gift.

19 (k) "Reserve peace officer", "auxiliary officer", or "reserve
20 officer" means, except as otherwise provided in this act, an
21 individual authorized on a voluntary or irregular basis by a duly
22 authorized police agency of this state or a political subdivision
23 of this state to act as a law enforcement officer, who is
24 responsible for the preservation of the peace, the prevention and
25 detection of crime, and the enforcement of the general criminal
26 laws of this state, and who is otherwise eligible to possess a
27 firearm under this act.

1 (l) "Retired corrections officer of the department of
2 corrections" means an individual who was a corrections officer of
3 the department of corrections and who retired in good standing from
4 his or her employment as a corrections officer of the department of
5 corrections.

6 (m) "Retired federal law enforcement officer" means an
7 individual who was an officer or agent employed by a law
8 enforcement agency of the United States government whose primary
9 responsibility was enforcing laws of the United States, who was
10 required to carry a firearm in the course of his or her duties as a
11 law enforcement officer, and who retired in good standing from his
12 or her employment as a federal law enforcement officer.

13 (n) "Retired parole or probation officer of the department of
14 corrections" means an individual who was a parole or probation
15 officer of the department of corrections and who retired in good
16 standing from his or her employment as a parole or probation
17 officer of the department of corrections.

18 (o) "Retired police officer" or "retired law enforcement
19 officer" means an individual who was a police officer or law
20 enforcement officer who was **LICENSED OR** certified as described
21 ~~under section 9a of~~ **IN** the **MICHIGAN** commission on law enforcement
22 standards act, 1965 PA 203, MCL ~~28.609a,~~ **28.601 TO 28.615**, and
23 retired in good standing from his or her employment as a police
24 officer or law enforcement officer. A police officer or law
25 enforcement officer retired in good standing if he or she receives
26 a pension or other retirement benefit for his or her service as a
27 police officer or law enforcement officer or actively maintained a

1 Michigan commission on law enforcement standards or equivalent
2 state certification for 10 or more consecutive years.

3 (p) "Seller" means a person who sells or gives a pistol to
4 another person.

5 (q) "State court judge" means a judge of the district court,
6 circuit court, probate court, or court of appeals or justice of the
7 supreme court of this state who is serving either by election or
8 appointment.

9 (r) "State court retired judge" means a judge or justice
10 described in subdivision (q) who is retired, or a retired judge of
11 the recorders court.

12 (2) A person may lawfully own, possess, carry, or transport as
13 a pistol a firearm greater than 26 inches in length if all of the
14 following conditions apply:

15 (a) The person registered the firearm as a pistol under
16 section 2 or 2a before January 1, 2013.

17 (b) The person who registered the firearm as described in
18 subdivision (a) has maintained registration of the firearm since
19 January 1, 2013 without lapse.

20 (c) The person possesses a copy of the license or record
21 issued to him or her under section 2 or 2a.

22 (3) A person who satisfies all of the conditions listed under
23 subsection (2) nevertheless may elect to have the firearm not be
24 considered to be a pistol. A person who makes the election under
25 this subsection shall notify the department of state police of the
26 election in a manner prescribed by that department.

27 Sec. 2a. (1) The following individuals are not required to

1 obtain a license under section 2 to purchase, carry, possess, use,
2 or transport a pistol:

3 (a) An individual licensed under section 5b, except for an
4 individual who has an emergency license issued under section 5a(4)
5 or a receipt serving as a concealed pistol license under section
6 5b(9) or 5l(3).

7 (b) A federally licensed firearms dealer.

8 (c) An individual who purchases a pistol from a federally
9 licensed firearms dealer in compliance with 18 USC 922(t).

10 (d) An individual currently employed as a police officer ~~WHO~~
11 **IS LICENSED OR** certified under the commission on law enforcement
12 standards act, 1965 PA 203, MCL 28.601 to ~~28.616~~**28.615**.

13 (2) If an individual described in subsection (1) purchases or
14 otherwise acquires a pistol, the seller shall complete a record in
15 triplicate on a form provided by the department of state police.
16 The record shall include the purchaser's concealed weapon license
17 number, the number of the purchaser's **LICENSE OR** certificate issued
18 under the **MICHIGAN** commission on law enforcement standards act,
19 1965 PA 203, MCL 28.601 to ~~28.616~~**28.615**, or, if the purchaser is
20 a federally licensed firearms dealer, his or her dealer license
21 number. If the purchaser is not licensed under section 5b or does
22 not have a **LICENSE OR** certificate issued under the **MICHIGAN**
23 commission on law enforcement standards act, 1965 PA 203, MCL
24 28.601 to ~~28.616~~**28.615**, and is not a federally licensed firearms
25 dealer, the record shall include the dealer license number of the
26 federally licensed firearms dealer who is selling the pistol. The
27 purchaser shall sign the record. The seller may retain 1 copy of

1 the record. The purchaser shall receive 2 copies of the record and
2 forward 1 copy to the police department of the city, village, or
3 township in which the purchaser resides, or, if the purchaser does
4 not reside in a city, village, or township having a police
5 department, to the county sheriff, within 10 days following the
6 purchase or acquisition. The return of the copy to the police
7 department or county sheriff may be made in person or may be made
8 by first-class mail or certified mail sent within the 10-day period
9 to the proper address of the police department or county sheriff. A
10 purchaser who fails to comply with the requirements of this
11 subsection is responsible for a state civil infraction and may be
12 fined not more than \$250.00. If a purchaser is found responsible
13 for a state civil infraction under this subsection, the court shall
14 notify the department of state police. If the purchaser is licensed
15 under section 5b, the court shall notify the licensing authority of
16 that determination.

17 (3) Within 10 days after receiving the record copy returned
18 under subsection (2), the police department or county sheriff shall
19 electronically enter the information into the pistol entry database
20 as required by the department of state police if it has the ability
21 to electronically enter that information. If the police department
22 or county sheriff does not have that ability, the police department
23 or county sheriff shall provide that information to the department
24 of state police in a manner otherwise required by the department of
25 state police. Any police department or county sheriff that provided
26 pistol descriptions to the department of state police under former
27 section 9 of this act shall continue to provide pistol descriptions

1 to the department of state police under this subsection. Within 48
2 hours after entering or otherwise providing the information on the
3 record copy returned under subsection (2) to the department of
4 state police, the police department or county sheriff shall forward
5 the copy of the record to the department of state police. The
6 purchaser has the right to obtain a copy of the information placed
7 in the pistol entry database under this subsection to verify the
8 accuracy of that information. The police department or county
9 sheriff may charge a fee not to exceed \$1.00 for the cost of
10 providing the copy. The purchaser may carry, use, possess, and
11 transport the pistol for 30 days beginning on the date of purchase
12 or acquisition only while he or she is in possession of his or her
13 copy of the record. However, the person is not required to have the
14 record in his or her possession while carrying, using, possessing,
15 or transporting the pistol after this period.

16 (4) This section does not apply to a person or entity exempt
17 under section 2(7).

18 (5) An individual who makes a material false statement on a
19 sales record under this section is guilty of a felony punishable by
20 imprisonment for not more than 4 years or a fine of not more than
21 \$2,500.00, or both.

22 (6) The department of state police may promulgate rules to
23 implement this section.

24 (7) The Michigan commission on law enforcement standards shall
25 provide **LICENSE OR** certificate information, **AS APPLICABLE**, to the
26 department of state police to verify the requirements of this
27 section.

1 (8) As used in this section:

2 ~~—(a) Before December 18, 2012, "federally licensed firearms~~
3 ~~dealer" means an individual who holds a type 01 dealer license~~
4 ~~under 18 USC 923.~~

5 (A) ~~(b) Beginning December 18, 2012, "federally "~~**FEDERALLY**
6 licensed firearms dealer" means a person licensed to sell firearms
7 under 18 USC 923.

8 (B) ~~(c)~~"Person" means an individual, partnership,
9 corporation, association, or other legal entity.

10 Sec. 12a. The requirements of this act for obtaining a license
11 to carry a concealed pistol do not apply to any of the following:

12 (a) A peace officer of a duly authorized police agency of the
13 United States or of this state or a political subdivision of this
14 state, who is regularly employed and paid by the United States or
15 this state or a subdivision of this state, except a township
16 constable.

17 (b) A constable who is trained and **LICENSED OR** certified under
18 the **MICHIGAN** commission on law enforcement standards act, 1965 PA
19 203, MCL 28.601 to ~~28.616,~~**28.615**, while engaged in his or her
20 official duties or going to or coming from his or her official
21 duties, and who is regularly employed and paid by a political
22 subdivision of this state.

23 (c) An individual regularly employed by the department of
24 corrections and authorized in writing by the director of the
25 department of corrections to carry a concealed pistol during the
26 performance of his or her duties or while going to or returning
27 from his or her duties.

1 (d) An individual regularly employed as a local corrections
2 officer by a county sheriff, who is trained in the use of force and
3 is authorized in writing by the county sheriff to carry a concealed
4 pistol during the performance of his or her duties.

5 (e) An individual regularly employed in a city jail or lockup
6 who has custody of individuals detained or incarcerated in the jail
7 or lockup, is trained in the use of force, and is authorized in
8 writing by the chief of police or the county sheriff to carry a
9 concealed pistol during the performance of his or her duties.

10 (f) A member of the United States Army, Air Force, Navy, or
11 Marine Corps while carrying a concealed pistol in the line of duty.

12 (g) A member of the National Guard, armed forces reserves, or
13 other duly authorized military organization while on duty or drill
14 or while going to or returning from his or her place of assembly or
15 practice or while carrying a concealed pistol for purposes of that
16 military organization.

17 (h) A resident of another state who is licensed by that state
18 to carry a concealed pistol.

19 (i) The regular and ordinary transportation of a pistol as
20 merchandise by an authorized agent of a person licensed to
21 manufacture firearms.

22 (j) An individual while carrying a pistol unloaded in a
23 wrapper or container in the trunk of his or her vehicle or, if the
24 vehicle does not have a trunk, from transporting that pistol
25 unloaded in a locked compartment or container that is separated
26 from the ammunition for that pistol from the place of purchase to
27 his or her home or place of business or to a place of repair or

1 back to his or her home or place of business, or in moving goods
2 from 1 place of abode or business to another place of abode or
3 business.

4 (k) A peace officer or law enforcement officer from Canada.

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

7 Enacting section 2. This amendatory act does not take effect
8 unless Senate Bill No. 92 or House Bill No.____ (request no.
9 00913'15 *) of the 98th Legislature is enacted into law.