

HOUSE BILL No. 4416

March 28, 2017, Introduced by Reps. Hoitenga, Runestad, Lower, Cole, Hornberger, Marino, Glenn, Lucido, Rendon, Hernandez, Barrett, Tedder, LaFave and Allor and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 227, 227b, 230, and 237a (MCL 750.227, 750.227b, 750.230, and 750.237a), section 227 as amended by 1986 PA 8 and sections 227b and 237a as amended by 2015 PA 26; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 227. (1) A person shall not carry a dagger, dirk,
2 stiletto, a double-edged nonfolding stabbing instrument of any
3 length, or any other dangerous weapon ~~, except a hunting knife~~
4 ~~adapted and carried as such,~~ concealed on or about his or her
5 person, or whether concealed or otherwise in any vehicle operated
6 or occupied by the person, except in his or her dwelling house, **IN**
7 **HIS OR HER** place of business, or on other land possessed by the
8 person.

1 (2) **SUBSECTION (1) DOES NOT APPLY TO EITHER OF THE FOLLOWING:**

2 **(A) A FIREARM.**

3 **(B) A HUNTING KNIFE ADAPTED AND CARRIED AS A HUNTING KNIFE.**

4 (3) ~~(2)~~—A person **WHO IS PROHIBITED BY STATE OR FEDERAL LAW**
5 **FROM POSSESSING A FIREARM** shall not carry a pistol concealed on or
6 about his or her person, or, whether concealed or otherwise, in a
7 vehicle operated or occupied by the person. ~~except in his or her~~
8 ~~dwelling house, place of business, or on other land possessed by~~
9 ~~the person, without a license to carry the pistol as provided by~~
10 ~~law and if licensed, shall not carry the pistol in a place or~~
11 ~~manner inconsistent with any restrictions upon such license.~~

12 (4) ~~(3)~~—A person who violates this section is guilty of a
13 felony ~~punishable by imprisonment for not more than 5 years or~~
14 ~~by a fine of not more than \$2,500.00.~~

15 Sec. 227b. (1) A person who carries or has in his or her
16 possession a firearm when he or she commits or attempts to commit a
17 felony, except a violation of section 223, 227, ~~227a,~~ or 230, is
18 guilty of a felony and shall be punished by imprisonment for 2
19 years. Upon a second conviction under this subsection, the person
20 shall be punished by imprisonment for 5 years. Upon a third or
21 subsequent conviction under this subsection, the person shall be
22 punished by imprisonment for 10 years.

23 (2) A person who carries or has in his or her possession a
24 pneumatic gun and uses that pneumatic gun in furtherance of
25 committing or attempting to commit a felony, except a violation of
26 section 223, 227, ~~227a,~~ or 230, is guilty of a felony and shall be
27 punished by imprisonment for 2 years. Upon a second conviction

1 under this subsection, the person shall be punished by imprisonment
2 for 5 years. Upon a third or subsequent conviction under this
3 subsection, the person shall be punished by imprisonment for 10
4 years.

5 (3) A term of imprisonment prescribed by this section is in
6 addition to the sentence imposed for the conviction of the felony
7 or the attempt to commit the felony and shall be served
8 consecutively with and preceding any term of imprisonment imposed
9 for the conviction of the felony or attempt to commit the felony.

10 (4) A term of imprisonment imposed under this section shall
11 not be suspended. The person subject to the sentence mandated by
12 this section is not eligible for parole or probation during the
13 mandatory term imposed under subsection (1) or (2).

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

24 Sec. 230. A person who shall ~~wilfully~~**WILLFULLY** alter, remove,
25 or obliterate the name of the maker, model, manufacturer's number,
26 or other mark of identity of a pistol or other firearm, ~~shall be~~**IS**
27 guilty of a felony ~~,~~ punishable by imprisonment for not more than 2

1 years or fine of not more than \$1,000.00. Possession of a firearm
2 upon which the number ~~shall have~~ **HAS** been altered, removed, or
3 obliterated, other than an antique firearm as defined by section
4 ~~231a(2)(a) or (b), shall be~~ **237A IS** presumptive evidence that the
5 possessor has altered, removed, or obliterated the same.

6 Sec. 237a. (1) An individual who engages in conduct proscribed
7 under section 224, 224a, 224b, 224c, 224e, 226, 227, ~~227a, 227f,~~
8 234a, 234b, or 234c, or who engages in conduct proscribed under
9 section 223(2) for a second or subsequent time, in a weapon free
10 school zone is guilty of a felony punishable by 1 or more of the
11 following:

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

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

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

17 (2) An individual who engages in conduct proscribed under
18 section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4), 233,
19 234, 234e, 234f, 235, 236, or 237, or who engages in conduct
20 proscribed under section 223(2) for the first time, in a weapon
21 free school zone is guilty of a misdemeanor punishable by 1 or more
22 of the following:

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

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

27 (c) A fine of not more than \$2,000.00 or the maximum fine

1 authorized for the section violated, whichever is greater.

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

6 (4) Except as provided in subsection (5), an individual who
7 possesses a weapon in a weapon free school zone is guilty of a
8 misdemeanor punishable by 1 or more of the following:

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

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

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

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

13 (a) An individual employed by or contracted by a school if the
14 possession of that weapon is to provide security services for the
15 school.

16 (b) A peace officer.

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

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

22 (e) An individual who possesses a firearm on school property
23 if that possession is with the permission of the school's principal
24 or an agent of the school designated by the school's principal or
25 the school board.

26 (f) An individual who is 18 years of age or older who is not a
27 student at the school and who possesses a firearm on school

1 property while transporting a student to or from the school if any
2 of the following apply:

3 (i) The individual is carrying an antique firearm, completely
4 unloaded, in a wrapper or container in the trunk of a vehicle while
5 en route to or from a hunting or target shooting area or function
6 involving the exhibition, demonstration, or sale of antique
7 firearms.

8 (ii) The individual is carrying a firearm unloaded in a
9 wrapper or container in the trunk of the ~~person's~~**INDIVIDUAL'S**
10 vehicle, while in possession of a valid Michigan hunting license or
11 proof of valid membership in an organization having shooting range
12 facilities, and while en route to or from a hunting or target
13 shooting area.

14 (iii) The ~~person~~**INDIVIDUAL** is carrying a firearm unloaded in
15 a wrapper or container in the trunk of the ~~person's~~**INDIVIDUAL'S**
16 vehicle from the place of purchase to his or her home or place of
17 business or to a place of repair or back to his or her home or
18 place of business, or in moving goods from one place of abode or
19 business to another place of abode or business.

20 (iv) The ~~person~~**INDIVIDUAL** is carrying an unloaded firearm in
21 the passenger compartment of a vehicle that does not have a trunk,
22 if the ~~person~~**INDIVIDUAL** is otherwise complying with the
23 requirements of subparagraph (ii) or (iii) and the wrapper or
24 container is not readily accessible to the occupants of the
25 vehicle.

26 (6) As used in this section:

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

1 (i) A firearm not designed or redesigned for using rimfire or
2 conventional center fire ignition with fixed ammunition and
3 manufactured in or before 1898, including a matchlock, flintlock,
4 percussion cap, or similar type of ignition system or a replica of
5 such a firearm, whether actually manufactured before or after the
6 year 1898.

7 (ii) A firearm using fixed ammunition manufactured in or
8 before 1898, for which ammunition is no longer manufactured in the
9 United States and is not readily available in the ordinary channels
10 of commercial trade.

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

14 (c) "School property" means a building, playing field, or
15 property used for school purposes to impart instruction to children
16 or used for functions and events sponsored by a school, except a
17 building used primarily for adult education or college extension
18 courses.

19 (d) "Weapon" includes, but is not limited to, a pneumatic gun.

20 (e) "Weapon free school zone" means school property and a
21 vehicle used by a school to transport students to or from school
22 property.

23 Enacting section 1. Sections 227a and 231a of the Michigan
24 penal code, 1931 PA 328, MCL 750.227a and 750.231a, are repealed.