

HOUSE BILL NO. 4501

April 25, 2019, Introduced by Rep. Lilly 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



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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 5k (MCL 28.425k), as amended by 2015 PA 3.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5k. (1) Acceptance of a license issued under this act to
2 carry a concealed pistol constitutes implied consent to submit to a
3 chemical analysis under this section. This section also applies to
4 individuals listed in section 12a.

5 (2) An individual shall not carry a concealed pistol or
6 portable device that uses electro-muscular disruption technology
7 while he or she is under the influence of alcoholic liquor or a
8 controlled substance or while having a bodily alcohol content **or**
9 **tetrahydrocannabinol content** prohibited under this section. An
10 individual who violates this section is responsible for a state
11 civil infraction or guilty of a crime as follows:

12 (a) If the person was under the influence of alcoholic liquor
13 or a controlled substance or a combination of alcoholic liquor and
14 a controlled substance, **had a tetrahydrocannabinol content of 2**
15 **nanograms or more per milliliter of blood**, or had a bodily alcohol
16 content of .10 or more grams per 100 milliliters of blood, per 210
17 liters of breath, or per 67 milliliters of urine, the individual is
18 guilty of a misdemeanor punishable by imprisonment for not more
19 than 93 days or \$100.00, or both. The court shall order the county
20 clerk in the county in which the individual was issued a license to
21 carry a concealed pistol to revoke the license. The county clerk
22 shall notify the department of state police of the revocation in a
23 manner prescribed by the department of state police. The department
24 of state police shall immediately enter that revocation into the
25 law enforcement information network.



1 (b) If the person had a bodily alcohol content of .08 or more
2 but less than .10 grams per 100 milliliters of blood, per 210
3 liters of breath, or per 67 milliliters of urine, the individual is
4 guilty of a misdemeanor punishable by imprisonment for not more
5 than 93 days or \$100.00, or both. The court shall order the county
6 clerk in the county in which the individual was issued a license to
7 carry a concealed pistol to suspend the license for 3 years. The
8 county clerk shall notify the department of state police of that
9 suspension in a manner prescribed by the department of state
10 police. The department of state police shall immediately enter that
11 suspension into the law enforcement information network.

12 (c) If the person had a bodily alcohol content of .02 or more
13 but less than .08 grams per 100 milliliters of blood, per 210
14 liters of breath, or per 67 milliliters of urine, the individual is
15 responsible for a state civil infraction and shall be fined
16 \$100.00. The peace officer shall notify the department of state
17 police of a civil infraction under this subdivision. The department
18 of state police shall notify the county clerk in the county in
19 which the individual was issued the license, who shall suspend the
20 license for 1 year. The department of state police shall
21 immediately enter that suspension into the law enforcement
22 information network.

23 (3) This section does not prohibit an individual licensed
24 under this act to carry a concealed pistol who has any bodily
25 alcohol content **or tetrahydrocannabinol content** from doing any of
26 the following:

27 (a) Transporting that pistol in the locked trunk of his or her
28 motor vehicle or another motor vehicle in which he or she is a
29 passenger or, if the vehicle does not have a trunk, from



1 transporting that pistol unloaded in a locked compartment or
2 container that is separated from the ammunition for that pistol.

3 (b) Transporting that pistol on a vessel if the pistol is
4 transported unloaded in a locked compartment or container that is
5 separated from the ammunition for that pistol.

6 (c) Transporting a portable device using electro-muscular
7 disruption technology in the locked trunk of his or her motor
8 vehicle or another motor vehicle in which he or she is a passenger,
9 or, if the vehicle does not have a trunk, from transporting that
10 portable device in a locked compartment or container.

11 (d) Transporting a portable device using electro-muscular
12 disruption technology on a vessel if the portable device is
13 transported in a locked compartment or container.

14 (4) A peace officer who has probable cause to believe an
15 individual is carrying a concealed pistol or a portable device
16 using electro-muscular disruption technology in violation of this
17 section may require the individual to submit to a chemical analysis
18 of his or her breath, blood, or urine.

19 (5) Before an individual is required to submit to a chemical
20 analysis under subsection (4), the peace officer shall inform the
21 individual of all of the following:

22 (a) The individual may refuse to submit to the chemical
23 analysis, but if he or she chooses to do so, all of the following
24 apply:

25 (i) The officer may obtain a court order requiring the
26 individual to submit to a chemical analysis.

27 (ii) The refusal shall result in his or her license to carry a
28 concealed pistol being suspended for 6 months.

29 (b) If the individual submits to the chemical analysis, he or



1 she may obtain a chemical analysis described in subsection (4) from
2 a person of his or her own choosing.

3 (6) The collection and testing of breath, blood, and urine
4 specimens under this section ~~shall~~**must** be conducted in the same
5 manner that breath, blood, and urine specimens are collected and
6 tested for alcohol- and controlled-substance-related driving
7 violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1
8 to 257.923.

9 (7) If a person refuses to take a chemical test authorized
10 under this section, the person is responsible for a state civil
11 infraction and shall be fined \$100.00. A peace officer shall
12 promptly report the refusal in writing to the department of state
13 police. The department of state police shall notify the county
14 clerk in the county in which the license was issued, who shall
15 suspend the license for 6 months. The department of state police
16 shall immediately enter that suspension into the law enforcement
17 information network.

18 (8) As used in this section:

19 (a) "Alcoholic liquor" means that term as defined in section
20 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
21 436.1105.

22 (b) "Controlled substance" means that term as defined in
23 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

24 (c) "Under the influence of alcoholic liquor or a controlled
25 substance" means that the individual's ability to properly handle a
26 pistol or to exercise clear judgment regarding the use of that
27 pistol was substantially and materially affected by the consumption
28 of alcoholic liquor or a controlled substance.

29 Enacting section 1. This amendatory act does not take effect



1 unless all of the following bills of the 100th Legislature are
2 enacted into law:

3 (a) Senate Bill No. _____ or House Bill No. 4502 (request no.
4 02174'19 a).

5 (b) Senate Bill No. _____ or House Bill No. 4503 (request no.
6 02174'19 b).

7 (c) Senate Bill No. _____ or House Bill No. 4504 (request no.
8 02174'19 c).

