

SENATE BILL No. 266

February 28, 2001, Introduced by Senator JAYE and referred to the Committee on Hunting, Fishing and Forestry.

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license; to provide for the forfeiture of firearms possessed in violation of this act; to provide for penalties and remedies for violations of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

by amending section 2 (MCL 28.422), as amended by 1994 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as provided in subsection (2) AND
2 SECTION 5B, a person shall not purchase, carry, or transport a
3 pistol in this state without first having obtained a license for
4 the pistol as prescribed in this section.

5 (2) A person who brings a pistol into this state who is on
6 leave from active duty with the armed forces of the United States

1 or who has been discharged from active duty with the armed forces
2 of the United States shall obtain a license for the pistol within
3 30 days after his or her arrival in this state.

4 (3) The commissioner or chief of police of a city, township,
5 or village police department that issues licenses to purchase,
6 carry, or transport pistols, or his or her duly authorized
7 deputy, or the sheriff or his or her duly authorized deputy, in
8 the parts of a county not included within a city, township, or
9 village having an organized police department, in discharging the
10 duty to issue licenses shall with due speed and diligence issue
11 licenses to purchase, carry, or transport pistols to qualified
12 applicants residing within the city, village, township, or
13 county, as applicable unless he or she has probable cause to
14 believe that the applicant would be a threat to himself or her-
15 self or to other individuals, or would commit an offense with the
16 pistol that would violate a law of this or another state or of
17 the United States. An applicant is qualified if all of the fol-
18 lowing circumstances exist:

19 (a) The person is not subject to an order or disposition for
20 which he or she has received notice and an opportunity for a
21 hearing ~~—~~ and ~~which~~ THAT was entered into the law enforcement
22 information network ~~pursuant to~~ UNDER any of the following:

23 (i) Section ~~464a(1)~~ 464A of the mental health code, ~~Act~~
24 ~~No. 258 of the Public Acts of 1974, being section 330.1464a of~~
25 ~~the Michigan Compiled Laws 1974 PA 258, MCL 330.1464A.~~

26 (ii) ~~Section 444a(1)~~ FORMER SECTION 444A of the revised
27 probate code, ~~Act No. 642 of the Public Acts of 1978, being~~

1 ~~section 700.444a of the Michigan Compiled Laws 1978 PA 642, OR~~
2 SECTION 5107 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998
3 PA 386, MCL 700.5107.

4 (iii) ~~Section 2950(9) 2950 OR 2950A of the revised judica-~~
5 ~~ture act of 1961, Act No. 236 of the Public Acts of 1961, being~~
6 ~~section 600.2950 of the Michigan Compiled Laws 1961 PA 236, MCL~~
7 ~~600.2950 AND 600.2950A.~~

8 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
9 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

10 ~~(v) Section 14(7) of chapter 84 of the Revised Statutes of~~
11 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

12 (iv) ~~(vi) Section 6b(5) 6B of chapter V of the code of~~
13 ~~criminal procedure, Act No. 175 of the Public Acts of 1927,~~
14 ~~being section 765.6b of the Michigan Compiled Laws 1927 PA 175,~~
15 ~~MCL 765.6B, if the order has a condition imposed pursuant to~~
16 ~~UNDER section 6b(3) of chapter V of Act No. 175 of the Public~~
17 ~~Acts of 1927 THAT ACT.~~

18 (v) ~~(vii) Section 16b(1) 16B of chapter IX of Act~~
19 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~
20 ~~Michigan Compiled Laws THE CODE OF CRIMINAL PROCEDURE, 1927 PA~~
21 ~~175, MCL 769.16B.~~

22 (b) The person is 18 years of age or older or, if the seller
23 is licensed pursuant to section 923 of title 18 of the United
24 States Code, 18 U.S.C. 923, is 21 years of age or older.

25 (c) The person is a citizen of the United States and is a
26 legal resident of this state.

1 (d) A felony charge against the person is not pending at the
2 time of application.

3 (e) The person is not prohibited from possessing, using,
4 transporting, selling, purchasing, carrying, shipping, receiving,
5 or distributing a firearm under section 224f of the Michigan
6 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
7 ~~tion 750.224f of the Michigan Compiled Laws~~ 1931 PA 328, MCL
8 750.224F.

9 (f) The person has not been adjudged insane in this state or
10 elsewhere unless he or she has been adjudged restored to sanity
11 by court order.

12 (g) The person is not under an order of involuntary commit-
13 ment in an inpatient or outpatient setting due to mental
14 illness.

15 (h) The person has not been adjudged legally incapacitated
16 in this state or elsewhere. This subdivision does not apply to a
17 person who has had his or her legal capacity restored by order of
18 the court.

19 (i) The person correctly answers 70% or more of the ques-
20 tions on a basic pistol safety review questionnaire approved by
21 the basic pistol safety review board and provided to the individ-
22 ual free of charge by the licensing authority. If the person
23 fails to correctly answer 70% or more of the questions on the
24 basic pistol safety review questionnaire, the licensing authority
25 shall inform the person of the questions he or she answered
26 incorrectly and allow the person to attempt to complete another
27 basic pistol safety review questionnaire. The person shall not

1 be allowed to attempt to complete more than 2 basic pistol safety
2 review questionnaires on any single day. The licensing authority
3 shall allow the person to attempt to complete the questionnaire
4 during normal business hours on the day the person applies for
5 his or her license.

6 (4) Applications for licenses under this section shall be
7 signed by the applicant under oath upon forms provided by the
8 director of the department of state police. Licenses to pur-
9 chase, carry, or transport pistols shall be executed in tripli-
10 cate upon forms provided by the director of the department of
11 state police and shall be signed by the licensing authority.
12 Three copies of the license shall be delivered to the applicant
13 by the licensing authority.

14 (5) Upon the sale of the pistol, the seller shall fill out
15 the license forms describing the pistol sold, together with the
16 date of sale, and sign his or her name in ink indicating that the
17 pistol was sold to the licensee. The licensee shall also sign
18 his or her name in ink indicating the purchase of the pistol from
19 the seller. The seller may retain a copy of the license as a
20 record of the sale of the pistol. The licensee shall return
21 2 copies of the license to the licensing authority within 10 days
22 following the purchase of the pistol.

23 (6) One copy of the license shall be retained by the licens-
24 ing authority as an official record for a period of 6 years. The
25 other copy of the license shall be forwarded by the licensing
26 authority within 48 hours to the director of the department of

1 state police. A license is void unless used within ~~10~~ 30 days
2 after the date of ~~its~~ issue.

3 (7) This section does not apply to the purchase of pistols
4 from wholesalers by dealers regularly engaged in the business of
5 selling pistols at retail, or to the sale, barter, or exchange of
6 pistols kept solely as relics, curios, or antiques not made for
7 modern ammunition or permanently deactivated. This section does
8 not prevent the transfer of ownership of pistols that are inher-
9 ited if the license to purchase is approved by the commissioner
10 or chief of police, sheriff, or their authorized deputies, and
11 signed by the personal representative of the estate or by the
12 next of kin having authority to dispose of the pistol.

13 (8) The licensing authority shall provide a basic pistol
14 safety brochure to each applicant for a license under this sec-
15 tion before the applicant answers the basic pistol safety review
16 questionnaire. A basic pistol safety brochure shall contain, but
17 is not limited to providing, information on all of the following
18 subjects:

19 (a) Rules for safe handling and use of pistols.

20 (b) Safe storage of pistols.

21 (c) Nomenclature and description of various types of
22 pistols.

23 (d) The responsibilities of owning a pistol.

24 (9) The basic pistol safety brochure shall be supplied in
25 addition to the safety pamphlet required by section 9b.

26 (10) The basic pistol safety brochure required in subsection
27 (8) shall be produced by a national nonprofit membership

1 organization that provides voluntary pistol safety programs that
2 include training individuals in the safe handling and use of
3 pistols.

4 (11) A person who forges any matter on an application for a
5 license under this section is guilty of a felony, punishable by
6 imprisonment for not more than 4 years or a fine of not more than
7 \$2,000.00, or both.

8 (12) A licensing authority shall implement this section
9 during all of the licensing authority's normal business hours and
10 shall set hours for implementation that allow an applicant to use
11 the license within the time period set forth in subsection (6).