

Legislative Analysis



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ANTIQUÉ FIREARMS

House Bill 5427 as enrolled
Public Act 99 of 2004
Sponsor: Rep. Daniel Acciavatti

House Bill 5428 as enrolled
Public Act 100 of 2004
Sponsor: Rep. Fran Amos

House Bill 5429 as enrolled
Public Act 101 of 2004
Sponsor: Rep. Matt Milosch
House Committee: Conservation and Outdoor Recreation
Senate Committee: Judiciary

Second Analysis (12-29-04)

BRIEF SUMMARY: The bills would clarify that Sections 2 and 9 of Public Act 372 of 1927, the concealed weapons law, do not apply to antique firearms.

FISCAL IMPACT: The bill would have no fiscal impact on the state or local governmental units.

THE APPARENT PROBLEM:

Under Section 2 of Public Act 372 of 1927, the concealed weapons law, a person is prohibited from purchasing, carrying, or transporting a pistol in the state without first obtaining a concealed weapons permit. The act does, however, contain a number of exceptions to the permit requirement, including the sale, barter, or exchange of pistols kept solely as relics, curios, or antiques, permanently deactivated or not made for modern ammunition. Notwithstanding this provision, there is some confusion regarding the extent to which the concealed weapons permit applies to pistols kept as relics, curios, or antiques. The confusion stems from the fact that federal law excludes antique firearms in its definition of "firearm" for the purposes of licensing and regulation. State law, however, does not contain a similar exclusion. This can create problems for gun owners when purchasing antique firearms, particularly those that aren't kept *solely* as relics, curios, or antiques.

Confusion also stems from a 1967 Attorney General's Opinion. The opinion was prompted by the Kalamazoo County Prosecuting Attorney, who asked whether Section 2 of Public Act 372 required a license for the retail purchase of pistols of "ancient design" that are currently being manufactured, though not made for modern ammunition. The opinion notes that pistols that are relics, curios, or antiques that are not made for modern

ammunition do not have to be licensed if such pistols are “kept solely” as relics, curios, or antiques. If kept otherwise, licensing is required.

THE CONTENT OF THE BILL:

House Bill 5427 would amend Public Act 372 (MCL 28.432) to specify that purchasing, owning, carrying, possessing, using, or transporting an antique firearm would not be subject to the licensure requirements under Section 2 or the requirements that a pistol be subject to a safety inspection conducted by the local police department under Section 9. The bill would import the definition of “antique firearm” from Section 231a of the Michigan Penal Code. Under that act, “antique firearm” is defined to mean (1) a firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including a matchlock, flintlock, percussion cap, or similar type of ignition system or replica of such firearm, whether actually manufactured before or after 1898; or (2) a firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

The provisions added to the law by the bill would be known as the “Janet Kukuk Act”.

Sections 2 (MCL 28.422) and 9 (MCL 28.429) currently state that they do not apply to, among other things, *pistols* kept solely as relics, curios, or antiques permanently deactivated or not made for modern ammunition. House Bills 5429 and 5428 would amend these sections to delete the references to “antique” pistols and to delete the requirement that such pistols be kept “solely” for the stated purpose.

BACKGROUND INFORMATION:

Under federal law (18 USC 921), an antique firearm is defined to mean (1) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898; (2) a replica of such a firearm described above if the replica is not designed or redesigned for using rimfire or conventional centerfixed ammunition or uses rimfire or conventional centerfixed ammunition that is no longer manufactured in the U.S. and that is not readily available in the ordinary channels of commercial trade; or (3) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition.

ARGUMENTS:

For:

The bill attempts to bring into conformity state and federal firearms laws regarding “antique” firearms. These firearms are not subject to licensure and regulation under federal law or under the laws of most other states. However, Michigan law requires these firearms to be licensed unless they are kept *solely* as a relic, curio, or antique. Examples of these types of firearms include a muzzle loading rifle that uses black powder - the type

of firearm one is likely to see used in Civil War reenactments - or firearms used in a “cowboy action shooting” contest, which is a sport shooting game with shooting scenarios akin to the days of the “wild wild west.” Generally speaking, these firearms are not intended to be used as a form of protection, unlike other firearms that are required to be licensed. The mechanics of an antique firearm make it quite impractical to use for personal protection or in the commission of a crime. Also, the fact that these firearms are excluded from federal firearm laws clearly indicates that there is no need for these firearms to be licensed.

Against:

Not licensing these firearms will allow individuals who are prohibited from obtaining a CCW permit to possess a firearm. If a person is adjudged to be unfit to possess a firearm, whether due to previous criminal behavior or mental illness, that prohibition should apply across the board to all firearms.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.