

# HOUSE BILL No. 5508

January 28, 1998, Introduced by Reps. Anthony and Prusi 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 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 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 6 (MCL 28.426), as amended by 1994 PA 338.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 6. (1) The prosecuting attorney, the sheriff, and the  
2 director of the department of state police, or their respective  
3 authorized deputies, AND THE MEMBERS APPOINTED UNDER  
4 SUBSECTION (2) shall constitute CONCEALED WEAPON LICENSING boards  
5 exclusively authorized to issue a license to an applicant  
6 residing within their respective counties ~~—~~ to carry a pistol  
7 concealed on the person and to carry a pistol, whether concealed

1 or otherwise, in a vehicle operated or occupied by the  
2 applicant. The county clerk of each county shall be clerk of the  
3 COUNTY'S CONCEALED WEAPON licensing board. ~~, which board shall~~  
4 ~~be known as the concealed weapon licensing board.~~

5 (2) THE COUNTY BOARD OF COMMISSIONERS OF EACH COUNTY SHALL  
6 APPOINT 4 MEMBERS TO THE COUNTY'S CONCEALED WEAPON LICENSING  
7 BOARD. EACH MEMBER SHALL REPRESENT A FIREARMS SPORTING GROUP  
8 THAT IS ACTIVE WITHIN THE COUNTY. EACH MEMBER SHALL BE APPOINTED  
9 FOR A 2-YEAR TERM AND SHALL SERVE UNTIL HIS OR HER SUCCESSOR IS  
10 APPOINTED. THE COUNTY BOARD OF COMMISSIONERS MAY REMOVE ANY  
11 MEMBER APPOINTED UNDER THIS SUBSECTION FOR FAILURE TO ATTEND 2  
12 CONSECUTIVE MEETINGS OF THE CONCEALED WEAPON LICENSING BOARD.

13 (3) A CONCEALED WEAPON LICENSING BOARD SHALL NOT GRANT A  
14 license to carry a pistol concealed on the person or to carry a  
15 pistol, whether concealed or otherwise, in a vehicle operated or  
16 occupied by the person applying for the license ~~, shall not be~~  
17 ~~granted~~ to a person unless the person is 18 years of age or  
18 older, is a citizen of the United States, and has resided in this  
19 state 6 months or more. ~~A~~ THE BOARD SHALL NOT ISSUE A license  
20 ~~shall not be issued~~ unless it ~~appears~~ DETERMINES that the  
21 applicant has good reason to fear injury to his or her person or  
22 property, or has other proper reasons, and is a suitable person  
23 to be licensed. ~~A~~ THE BOARD SHALL NOT ISSUE A license ~~shall~~  
24 ~~not be issued~~ under this section unless all of the following  
25 circumstances exist:

1 (a) The person is not the subject of an order or disposition  
2 entered into the law enforcement information network ~~pursuant~~  
3 ~~to~~ UNDER any of the following:

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

7 (ii) Section 444a(1) of the revised probate code, ~~Act~~  
8 ~~No. 642 of the Public Acts of 1978, being section 700.444a of the~~  
9 ~~Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A.

10 (iii) Section ~~2950(9)~~ 2950(16) OR 2950A(13) of the revised  
11 judiciary act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~  
12 ~~being section 600.2950 of the Michigan Compiled Laws~~ 1961 PA  
13 236, MCL 600.2950 AND 600.2950A.

14 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~  
15 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

16 (v) ~~Section 14(7) of chapter 84 of the Revised Statutes of~~  
17 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

18 (iv) ~~(vi)~~ Section 6b(5) of chapter V of the code of crimi-  
19 nal procedure, ~~Act No. 175 of the Public Acts of 1927, being~~  
20 ~~section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175, MCL  
21 765.6B, if the order has a condition imposed ~~pursuant to~~ UNDER  
22 section 6b(3) of chapter V of ~~Act No. 175 of the Public Acts of~~  
23 ~~1927~~ THAT ACT.

24 (v) ~~(vii)~~ Section ~~16b(1)~~ 16B(2) of chapter IX of ~~Act~~  
25 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~  
26 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA  
27 175, MCL 769.16B.

1 (b) The person has not been convicted of a felony or  
2 confined for a felony conviction in this state or elsewhere  
3 during the 8-year period immediately preceding the date of the  
4 application ~~—,~~ and a felony charge against the person is not  
5 pending ~~at the time~~ WHEN he or she applies for a license  
6 described in this section.

7 (c) The person has not been adjudged insane unless the  
8 person has been adjudged restored to sanity by court order.

9 (d) The person is not under an order of involuntary commit-  
10 ment in an inpatient or outpatient setting due to mental  
11 illness.

12 (e) The person has not been adjudged legally incapacitated  
13 in this state or elsewhere. This subdivision does not apply to a  
14 person who has had his or her legal capacity restored by court  
15 order.

16 (4) ~~—(2) if—~~ THE CONCEALED WEAPON LICENSING BOARD SHALL NOT  
17 ISSUE A LICENSE TO an applicant WHO resides in a city, village,  
18 or township having an organized POLICE department ~~of police, a~~  
19 ~~license shall not be issued~~ unless the application is first  
20 approved in writing by the supervisor, commissioner or chief of  
21 police, or marshal of that city, village, or township. If an  
22 application is not approved in the manner prescribed by this sub-  
23 section, the applicant has 10 days to appeal ~~—,~~ in writing ~~—,~~  
24 to the concealed weapon licensing board in the county in which  
25 the applicant resides. Upon ~~receipt of~~ RECEIVING a written  
26 appeal, that concealed weapon licensing board shall schedule a  
27 hearing to be held at its next scheduled meeting. ~~—, which—~~ THE

1 MEETING shall BE HELD not ~~be~~ less than 15 days after ~~the~~  
2 ~~receipt of~~ the fingerprint comparison report IS RECEIVED. The  
3 concealed weapon licensing board shall determine at the hearing  
4 whether the applicant is qualified to carry a concealed weapon  
5 ~~pursuant to~~ UNDER this section. Notice of the hearing shall be  
6 mailed to the applicant and the organized POLICE department ~~of~~  
7 ~~police~~ not less than 10 days before the scheduled hearing. The  
8 applicant shall deposit ~~the sum of~~ \$10.00 with the county clerk  
9 ~~at the time~~ WHEN the appeal is made. If ~~, after appeal,~~ a  
10 license is not issued AFTER APPEAL, the deposit shall be credited  
11 to the COUNTY'S general fund. ~~of the county.~~ If a license is  
12 issued, the deposit shall be processed as the license fee  
13 required under subsection ~~(6)~~ (8).

14 (5) ~~(3) if~~ THE CONCEALED WEAPON LICENSING BOARD SHALL NOT  
15 ISSUE A LICENSE TO an applicant ~~does not reside~~ WHO RESIDES in  
16 a city, village, or township that ~~has~~ DOES NOT HAVE an orga-  
17 nized POLICE department ~~of police, a license shall not be~~  
18 ~~issued~~ unless the application is first submitted for approval or  
19 objection to the supervisor of the township in which the appli-  
20 cant resides. The supervisor shall indicate in writing on the  
21 application whether he or she objects to the license being  
22 issued. If action is not taken by a supervisor within 14 days  
23 after the application is submitted to the supervisor, the con-  
24 cealed weapon licensing board shall consider the application as  
25 if a statement of no objection had been included. If the super-  
26 visor objects to the application in writing, the applicant may  
27 appeal the objection to the concealed weapon licensing board of

1 the county in which the applicant resides within 10 days after  
2 the objection. Upon ~~receipt of~~ RECEIVING a written appeal,  
3 that concealed weapon licensing board shall schedule a hearing to  
4 be held at its next scheduled meeting. ~~, which~~ THE HEARING  
5 shall BE HELD not ~~be~~ less than 15 days after ~~the receipt of~~  
6 the fingerprint comparison report IS RECEIVED. The concealed  
7 weapon licensing board shall determine at the hearing whether the  
8 applicant is qualified to carry a concealed weapon ~~pursuant to~~  
9 UNDER this section. Notice of the hearing shall be mailed to the  
10 applicant and the supervisor of the township not less than 10  
11 days before the scheduled hearing. The applicant shall deposit  
12 ~~the sum of~~ \$10.00 with the county clerk ~~at the time~~ WHEN the  
13 appeal is made. If ~~, after appeal,~~ a license is not issued  
14 AFTER APPEAL, the deposit shall be credited to the COUNTY'S gen-  
15 eral fund. ~~of the county.~~ If a license is issued, the deposit  
16 shall be processed as the license fee required under subsection  
17 ~~(6)~~ (8).

18 (6) ~~(4)~~ An applicant shall have 2 sets of fingerprints  
19 taken by the sheriff ~~, or the sheriff's authorized~~  
20 ~~representative,~~ of the county in which the applicant resides ~~,~~  
21 OR THE SHERIFF'S AUTHORIZED REPRESENTATIVE if the applicant ~~does~~  
22 ~~not reside~~ RESIDES in a city, village, or township ~~having~~ THAT  
23 DOES NOT HAVE an organized POLICE department ~~of police,~~ or by  
24 the commissioner or chief of police ~~,~~ or marshal, or an autho-  
25 rized representative of the commissioner or chief of police or  
26 marshal, if the applicant resides ~~within~~ IN a city, village, or  
27 township having an organized POLICE department. ~~of police.~~ The

1 first set of fingerprints shall be taken on forms furnished by  
2 the department of state police ~~—,~~ and the second set on forms  
3 furnished by the federal bureau of investigation. The person  
4 taking the prints shall forward the first set of fingerprints to  
5 the department of state police and the second set to the federal  
6 bureau of investigation or other agency designated by the federal  
7 bureau of investigation. The director of the bureau of identifi-  
8 cation of the department of state police shall compare the fin-  
9 gerprints with those already on file in the bureau. A CONCEALED  
10 WEAPON LICENSING BOARD SHALL NOT ISSUE A license ~~shall not be~~  
11 ~~issued~~ unless ~~the report is received by~~ the clerk of the board  
12 RECEIVES REPORTS from the department of state police and the fed-  
13 eral bureau of investigation that the comparisons do not show  
14 ~~that~~ the applicant was convicted of or confined for a felony  
15 during the 8-year period. The CONCEALED WEAPON LICENSING board  
16 may grant a temporary permit in case of emergency pending the  
17 results of the comparisons. The temporary permit shall be issued  
18 for a period of not more than 30 days and shall expire automati-  
19 cally at the end of the period for which it was issued. Upon  
20 ~~receipt of~~ RECEIVING the comparison report from the federal  
21 bureau of investigation, the bureau of identification of the  
22 department of state police shall forward a report of both compar-  
23 isons to the officer taking the prints and also to the county  
24 clerk of the county in which the applicant resides. ~~—, who~~ THE  
25 COUNTY CLERK as clerk of the board shall keep a record of the  
26 report and shall report to the CONCEALED WEAPON LICENSING board.  
27 The fingerprints received under this section shall be filed in

1 the bureau of identification of the department of state police in  
2 the noncriminal section of the files.

3       (7) ~~-(5)-~~ The application for a license shall state each  
4 reason for the necessity or desirability of carrying a pistol  
5 concealed on the person or carrying a pistol, whether or not con-  
6 cealed, in a vehicle occupied by the person applying for the  
7 license. A license issued under this section shall limit the  
8 carrying of a pistol to the reason or reasons satisfactory to the  
9 board ~~—~~ and each restriction shall ~~appear~~ BE PLACED conspicu-  
10 ously on the face of the license. The license shall be an autho-  
11 rization to carry a pistol in compliance with this section only  
12 to the extent contained in the face of the license and the  
13 license shall be revoked by the CONCEALED WEAPON LICENSING board  
14 if the pistol is carried contrary to the authorization.

15       (8) ~~-(6)-~~ The prosecuting attorney ~~shall be~~ IS the chair-  
16 person of the CONCEALED WEAPON LICENSING board. ~~—, which~~ THE  
17 CONCEALED WEAPON LICENSING BOARD shall convene at least once in  
18 each calendar month and at other times as the board is called to  
19 convene by the chairperson. Each license shall be issued only  
20 upon written application signed by the applicant under oath and  
21 upon a form provided by the director of the department of state  
22 police. Each license shall be issued only with the approval of a  
23 majority of the BOARD members ~~of the board~~ and shall be exe-  
24 cuted in triplicate upon forms provided by the director of the  
25 department of state police. Each license shall be signed in the  
26 name of the concealed weapon licensing board by the county clerk  
27 with the seal of the circuit court affixed to the license. The



1 county clerk shall first collect a licensing fee of \$10.00 from  
2 the applicant for each license delivered to the applicant. One  
3 copy of the license shall be delivered to the applicant, the  
4 duplicate shall be retained by the county clerk as a permanent  
5 official record for ~~a period of~~ 6 years, and the triplicate of  
6 the license shall be forwarded within 48 hours to the director of  
7 the department of state police, who shall file and index each  
8 license received and retain it as ~~a permanent~~ AN official  
9 record for ~~a period of~~ 6 years. A license is valid for a defi-  
10 nite period of not more than 3 years ~~,~~ and that period shall be  
11 stated in the license. A renewal of the license shall not be  
12 granted except upon the filing of a new application. A license  
13 shall bear the imprint of the right thumb of the licensee ~~,~~ or,  
14 if a right thumb imprint is impossible to obtain, the license  
15 shall bear the imprint of the left thumb or some other finger of  
16 the licensee. The licensee shall carry the license upon his or  
17 her person when carrying a pistol concealed upon his or her  
18 person ~~,~~ or when carrying the pistol, whether or not concealed,  
19 in a vehicle occupied by the licensee. The licensee shall dis-  
20 play the license upon the request of a peace officer. On the  
21 first day of each month, the county clerk shall remit to the  
22 state treasurer \$2.00 for each license issued during the preced-  
23 ing month. On the first day of each month the county clerk shall  
24 pay into the COUNTY'S general fund ~~of the county~~ the remainder  
25 of each license fee for each license issued during the preceding  
26 month.

1           (9) ~~-(7)-~~ The county clerk may issue a copy of a license  
2 issued ~~pursuant to~~ UNDER this section for a fee of \$3.00, which  
3 ~~fee~~ shall be paid into the COUNTY'S general fund. ~~of the~~  
4 ~~county.~~

5           (10) ~~-(8)-~~ A charter county may impose by ordinance a dif-  
6 ferent amount for the concealed weapon licensing fee prescribed  
7 by subsection ~~-(6)-~~ (8). A charter county shall not impose a fee  
8 ~~which~~ THAT is greater than the cost of the service for which  
9 the fee is charged.