

HOUSE BILL No. 4431

March 23, 1999, Introduced by Rep. Kukuk and referred to the Committee on Conservation and Outdoor Recreation.

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 sections 1, 2, and 9 (MCL 28.421, 28.422, and 28.429), section 1 as amended by 1992 PA 219, section 2 as amended by 1994 PA 338, and section 9 as amended by 1996 PA 169.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (A) "ANTIQUE FIREARM" MEANS EITHER OF THE FOLLOWING:
- 3 (i) A FIREARM NOT DESIGNED OR REDESIGNED FOR USING RIMFIRE
- 4 OR CONVENTIONAL CENTER FIRE IGNITION WITH FIXED AMMUNITION AND
- 5 MANUFACTURED IN OR BEFORE 1898, INCLUDING A MATCHLOCK, FLINTLOCK,

1 PERCUSSION CAP, OR SIMILAR TYPE OF IGNITION SYSTEM OR A REPLICA
2 OF SUCH A FIREARM, WHETHER ACTUALLY MANUFACTURED BEFORE OR AFTER
3 THE YEAR 1898.

4 (ii) A FIREARM USING FIXED AMMUNITION MANUFACTURED IN OR
5 BEFORE 1898, FOR WHICH AMMUNITION IS NO LONGER MANUFACTURED IN
6 THE UNITED STATES AND IS NOT READILY AVAILABLE IN THE ORDINARY
7 CHANNELS OF COMMERCIAL TRADE.

8 (B) ~~(a)~~ "Firearm" means a weapon from which a dangerous
9 projectile may be propelled by an explosive, or by gas or air.
10 Firearm does not include a smooth bore rifle or handgun designed
11 and manufactured exclusively for propelling by a spring, or by
12 gas or air, BB's not exceeding .177 caliber.

13 (C) ~~(b)~~ "Pistol" means a loaded or unloaded firearm that
14 is 30 inches or less in length, or a loaded or unloaded firearm
15 that by its construction and appearance conceals it as a
16 firearm.

17 (D) ~~(c)~~ "Purchaser" means a person who receives a pistol
18 from another person by purchase, gift, or loan.

19 (E) ~~(d)~~ "Seller" means a person who sells, furnishes,
20 loans, or gives a pistol to another person.

21 Sec. 2. (1) Except as provided in ~~subsection~~ SUBSECTIONS
22 (2) AND (3), a person shall not purchase, carry, or transport a
23 pistol in this state without first having obtained a license for
24 the pistol as prescribed in this section.

25 (2) A person who brings a pistol into this state who is on
26 leave from active duty with the armed forces of the United States
27 or who has been discharged from active duty with the armed forces

1 of the United States shall obtain a license for the pistol within
2 30 days after his or her arrival in this state.

3 (3) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS BUYING,
4 IS SELLING, OR COMES INTO POSSESSION OF A PISTOL THAT IS AN
5 ANTIQUE FIREARM UNLESS THAT PERSON IS PROHIBITED FROM POSSESSING
6 A FIREARM BY ANY OTHER LAW.

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

22 (a) The person is not subject to an order or disposition for
23 which he or she has received notice and an opportunity for a
24 hearing, and which was entered into the law enforcement informa-
25 tion network pursuant to any of the following:

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

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

7 (iii) Section ~~2950(9)~~ 2950 of the revised judicature act
8 of 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~
9 ~~600.2950 of the Michigan Compiled Laws~~ 1961 PA 236, MCL
10 600.2950.

11 (iv) Section ~~2950a(7)~~ 2950A of ~~Act No. 236 of the Public~~
12 ~~Acts of 1961, being section 600.2950a of the Michigan Compiled~~
13 ~~Laws~~ THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
14 600.2950A.

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

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

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

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

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

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

8 (e) The person is not prohibited from possessing, using,
9 transporting, selling, purchasing, carrying, shipping, receiving,
10 or distributing a firearm under section 224f of the Michigan
11 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
12 ~~tion 750.224f of the Michigan Compiled Laws~~ 1931 PA 328, MCL
13 750.224F.

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

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

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

24 (i) The person correctly answers 70% or more of the ques-
25 tions on a basic pistol safety review questionnaire approved by
26 the basic pistol safety review board and provided to the
27 individual free of charge by the licensing authority. If the

1 person fails to correctly answer 70% or more of the questions on
2 the basic pistol safety review questionnaire, the licensing
3 authority shall inform the person of the questions he or she
4 answered incorrectly and allow the person to attempt to complete
5 another basic pistol safety review questionnaire. The person
6 shall not be allowed to attempt to complete more than 2 basic
7 pistol safety review questionnaires on any single day. The
8 licensing authority shall allow the person to attempt to complete
9 the questionnaire during normal business hours on the day the
10 person applies for his or her license.

11 (5) ~~-(4)-~~ Applications for licenses under this section shall
12 be signed by the applicant under oath upon forms provided by the
13 director of the department of state police. Licenses to pur-
14 chase, carry, or transport pistols shall be executed in tripli-
15 cate upon forms provided by the director of the department of
16 state police and shall be signed by the licensing authority.
17 Three copies of the license shall be delivered to the applicant
18 by the licensing authority.

19 (6) ~~-(5)-~~ Upon the sale of the pistol, the seller shall fill
20 out the license forms describing the pistol sold, together with
21 the date of sale, and sign his or her name in ink indicating that
22 the pistol was sold to the licensee. The licensee shall also
23 sign his or her name in ink indicating the purchase of the pistol
24 from the seller. The seller may retain a copy of the license as
25 a record of the sale of the pistol. The licensee shall return
26 2 copies of the license to the licensing authority within 10 days
27 following the purchase of the pistol.

1 (7) ~~-(6)-~~ One copy of the license shall be retained by the
2 licensing authority as an official record for a period of
3 6 years. The other copy of the license shall be forwarded by the
4 licensing authority within 48 hours to the director of the
5 department of state police. A license is void unless used within
6 10 days after the date of its issue.

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

17 (9) ~~-(8)-~~ The licensing authority shall provide a basic
18 pistol safety brochure to each applicant for a license under this
19 section before the applicant answers the basic pistol safety
20 review questionnaire. A basic pistol safety brochure shall con-
21 tain, but is not limited to providing, information on all of the
22 following subjects:

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

24 (b) Safe storage of pistols.

25 (c) Nomenclature and description of various types of
26 pistols.

(d) The responsibilities of owning a pistol.

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

(11) ~~-(10)-~~ The basic pistol safety brochure required in subsection ~~-(8)-~~ (9) shall be produced by a national nonprofit membership organization that provides voluntary pistol safety programs that include training individuals in the safe handling and use of pistols.

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

(13) ~~-(12)-~~ A licensing authority shall implement this section during all of the licensing authority's normal business hours and shall set hours for implementation that allow an applicant to use the license within the time period set forth in subsection ~~-(6)-~~ (7).

Sec. 9. (1) ~~A-~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A person within the state who owns or comes into possession of a pistol shall, if he or she resides in a city, township, or village having an organized police department, present the pistol for safety inspection to the commissioner or chief of police of the city, township, or village police department or to a duly authorized deputy of the commissioner or chief of police. If that person resides in a part of the county not included within a city, township, or village having an organized police department,

1 he or she shall present the pistol for safety inspection to the
2 sheriff of the county or to a duly authorized deputy of the
3 sheriff. If the person presenting the pistol is eligible to pos-
4 sess a pistol under section 2(1), a certificate of inspection
5 shall be issued in triplicate on a form provided by the director
6 of the department of state police, containing the name, age,
7 address, description, and signature of the person presenting the
8 pistol for inspection, together with a full description of the
9 pistol. The original of the certificate shall be delivered to
10 the registrant. The duplicate of the certificate shall be mailed
11 within 48 hours to the director of the department of state police
12 and filed and indexed by the department and kept as a permanent
13 official record. The triplicate of the certificate shall be
14 retained and filed in the office of the sheriff, commissioner, or
15 chief of police. This section does not apply to a wholesale or
16 retail dealer in firearms who regularly engages in the business
17 of selling pistols at retail, or to a person who holds a collec-
18 tion of pistols kept solely for the purpose of display as relics,
19 curios, or antiques, and that are not made for modern ammunition
20 or are permanently deactivated.

21 (2) A person who presents a pistol for a safety inspection
22 under subsection (1) shall ensure that the pistol is unloaded and
23 that the pistol is equipped with a trigger lock or other dis-
24 abling mechanism or encased when the pistol is presented for
25 inspection. A person who violates this subsection is responsible
26 for a state civil infraction and may be ordered to pay a civil
27 fine of not more than \$50.00.

1 (3) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS BUYING,
2 IS SELLING, OR COMES INTO POSSESSION OF A PISTOL THAT IS AN
3 ANTIQUE FIREARM UNLESS THAT PERSON IS PROHIBITED FROM POSSESSING
4 A FIREARM BY ANY OTHER LAW.