

**SUBSTITUTE FOR
SENATE BILL NO. 212**

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 or other authorization; to provide for the forfeiture of firearms 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 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 14 (MCL 28.434), as amended by 2000 PA 381, and by adding section 14a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14. (1) Subject to ~~section~~**SECTIONS 5g AND 14A**, all

1 pistols, weapons, or devices carried or possessed contrary to this
2 act are declared forfeited to the state, and shall be turned over
3 to the director of the department of state police or his or her
4 designated representative, for disposal under this section.

5 (2) The director of the department of state police shall
6 dispose of firearms under this section by 1 of the following
7 methods:

8 (a) By conducting a public auction in which firearms received
9 under this section may be purchased at a sale conducted in
10 compliance with section 4708 of the revised judicature act of 1961,
11 1961 PA 236, MCL 600.4708, by individuals authorized by law to
12 possess those firearms.

13 (b) By destroying them.

14 (c) By any other lawful manner prescribed by the director of
15 the department of state police.

16 (3) Before disposing of a firearm under this section, the
17 director of the department of state police shall do both of the
18 following:

19 (a) Determine through the law enforcement information network
20 whether the firearm has been reported lost or stolen. If the
21 firearm has been reported lost or stolen and the name and address
22 of the owner can be determined, the director of the department of
23 state police shall provide 30 days' written notice of his or her
24 intent to dispose of the firearm under this section to the owner,
25 and allow the owner to claim the firearm within that 30-day period
26 if he or she is authorized to possess the firearm.

27 (b) Provide 30 days' notice to the public on the department of

1 state police website of his or her intent to dispose of the firearm
2 under this section. The notice shall include a description of the
3 firearm and shall state the firearm's serial number, if the serial
4 number can be determined. The department of state police shall
5 allow the owner of the firearm to claim the firearm within that 30-
6 day period if he or she is authorized to possess the firearm. The
7 30-day period required under this subdivision is in addition to the
8 30-day period required under subdivision (a).

9 (4) The department of state police is immune from civil
10 liability for disposing of a firearm in compliance with this
11 section.

12 **SEC. 14A. (1) A LAW ENFORCEMENT AGENCY THAT SEIZES OR**
13 **OTHERWISE COMES INTO POSSESSION OF A FIREARM OR A PART OF A FIREARM**
14 **SUBJECT TO DISPOSAL UNDER SECTION 14 MAY, INSTEAD OF FORWARDING THE**
15 **FIREARM OR PART OF A FIREARM TO THE DIRECTOR OF THE DEPARTMENT OF**
16 **STATE POLICE OR HIS OR HER DESIGNATED REPRESENTATIVE FOR DISPOSAL**
17 **UNDER THAT SECTION, RETAIN THAT FIREARM OR PART OF A FIREARM FOR**
18 **THE FOLLOWING PURPOSES:**

19 (A) FOR LEGAL SALE OR TRADE TO A FEDERALLY LICENSED FIREARM
20 DEALER. THE PROCEEDS FROM ANY SALE OR TRADE UNDER THIS SUBDIVISION
21 SHALL BE USED BY THE LAW ENFORCEMENT AGENCY ONLY FOR LAW
22 ENFORCEMENT PURPOSES. THE LAW ENFORCEMENT AGENCY SHALL NOT SELL OR
23 TRADE A FIREARM OR PART OF A FIREARM UNDER THIS SUBDIVISION TO ANY
24 INDIVIDUAL WHO IS A MEMBER OF THAT LAW ENFORCEMENT AGENCY UNLESS
25 THE INDIVIDUAL IS A FEDERALLY LICENSED FIREARMS DEALER AND THE SALE
26 IS MADE PURSUANT TO A PUBLIC AUCTION.

27 (B) FOR OFFICIAL USE BY MEMBERS OF THE SEIZING LAW ENFORCEMENT

Senate Bill No. 212 (S-3) as amended December 2, 2010

1 AGENCY WHO ARE EMPLOYED AS PEACE OFFICERS. A FIREARM OR PART OF A
2 FIREARM SHALL NOT BE SOLD UNDER THIS SUBDIVISION.

3 (2) A LAW ENFORCEMENT AGENCY THAT SELLS OR TRADES ANY PISTOL
4 TO A LICENSED DEALER UNDER SUBSECTION (1) (A) OR RETAINS ANY PISTOL
5 UNDER SUBSECTION (1) (B) SHALL COMPLETE A RECORD OF THE TRANSACTION
6 UNDER SECTION 2 OR SECTION 2A, AS APPLICABLE.

7 (3) A LAW ENFORCEMENT AGENCY THAT SELLS OR TRADES A FIREARM OR
8 PART OF A FIREARM UNDER THIS SECTION SHALL RETAIN A RECEIPT OF THE
9 SALE OR TRADE FOR A PERIOD OF NOT LESS THAN 7 YEARS. THE LAW
10 ENFORCEMENT AGENCY SHALL MAKE ALL RECEIPTS RETAINED UNDER THIS
11 SUBSECTION AVAILABLE FOR INSPECTION BY THE DEPARTMENT OF STATE
12 POLICE UPON DEMAND AND FOR AUDITING PURPOSES BY THE STATE AND THE
13 LOCAL UNIT OF GOVERNMENT OF WHICH THE AGENCY IS A PART.

14 (4) BEFORE DISPOSING OF A FIREARM UNDER THIS SECTION, THE LAW
15 ENFORCEMENT AGENCY SHALL DO BOTH OF THE FOLLOWING:

16 (A) DETERMINE THROUGH THE LAW ENFORCEMENT INFORMATION NETWORK
17 WHETHER THE FIREARM HAS BEEN REPORTED LOST OR STOLEN. IF THE
18 FIREARM HAS BEEN REPORTED LOST OR STOLEN AND THE NAME AND ADDRESS
19 OF THE OWNER CAN BE DETERMINED, THE LAW ENFORCEMENT AGENCY SHALL
20 PROVIDE 30 DAYS' WRITTEN NOTICE OF ITS INTENT TO DISPOSE OF THE
21 FIREARM UNDER THIS SECTION TO THE OWNER, AND ALLOW THE OWNER TO
22 CLAIM THE FIREARM WITHIN THAT 30-DAY PERIOD IF HE OR SHE IS
23 AUTHORIZED TO POSSESS THE FIREARM. [IF THE POLICE AGENCY DETERMINES THAT
24 A SERIAL NUMBER HAS BEEN ALTERED OR HAS BEEN REMOVED OR OBLITERATED FROM
25 THE FIREARM, THE POLICE AGENCY SHALL SUBMIT THE FIREARM TO THE DEPARTMENT
26 OF STATE POLICE OR A FORENSIC LABORATORY FOR SERIAL NUMBER VERIFICATION
27 OR RESTORATION TO DETERMINE LEGAL OWNERSHIP.]

(B) PROVIDE 30 DAYS' NOTICE TO THE PUBLIC ON A WEBSITE
MAINTAINED BY THE LAW ENFORCEMENT AGENCY OF ITS INTENT TO DISPOSE
OF THE FIREARM UNDER THIS SECTION. THE NOTICE SHALL INCLUDE A
DESCRIPTION OF THE FIREARM AND SHALL STATE THE FIREARM'S SERIAL

1 NUMBER, IF THE SERIAL NUMBER CAN BE DETERMINED. THE LAW ENFORCEMENT
2 AGENCY SHALL ALLOW THE OWNER OF THE FIREARM TO CLAIM THE FIREARM
3 WITHIN THAT 30-DAY PERIOD IF HE OR SHE IS AUTHORIZED TO POSSESS THE
4 FIREARM. THE 30-DAY PERIOD REQUIRED UNDER THIS SUBDIVISION IS IN
5 ADDITION TO THE 30-DAY PERIOD REQUIRED UNDER SUBDIVISION (A).

6 (5) THE LAW ENFORCEMENT AGENCY IS IMMUNE FROM CIVIL LIABILITY
7 FOR DISPOSING OF A FIREARM IN COMPLIANCE WITH THIS SECTION.

8 (6) AS USED IN THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
9 ANY AGENCY THAT EMPLOYS PEACE OFFICERS.