

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 965

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 222, 226, 227b, 227c, 227d, 237a, and 528a
(MCL 750.222, 750.226, 750.227b, 750.227c, 750.227d, 750.237a, and
750.528a), section 222 as amended by 2012 PA 242, section 227b as
amended by 1990 PA 321, sections 227c and 227d as added by 1981 PA
103, section 237a as added by 1994 PA 158, and section 528a as
added by 1986 PA 113.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 222. As used in this chapter:
2 (a) "Alcoholic liquor" means that term as defined in section
3 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
4 436.1105.

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1 (b) "Barrel length" means the internal length of a firearm as
 2 measured from the face of the closed breech of the firearm when it
 3 is unloaded, to the forward face of the end of the barrel.

4 **[(C) "BRANDISH" MEANS TO POINT, WAVE ABOUT, OR DISPLAY IN A
 THREATENING MANNER WITH THE INTENT TO INDUCE FEAR IN ANOTHER PERSON.]**

5 **(D)-(e)** "Controlled substance" means a controlled substance or
 6 controlled substance analogue as those terms are defined in section
 7104 of the public health code, 1978 PA 368, MCL 333.7104.

7 **[(E)-(d)]** "Firearm" means a ~~ANY~~ weapon from which a ~~dangerous~~ **WILL,**
 8 **IS DESIGNED TO, OR MAY READILY BE CONVERTED TO EXPEL A** projectile
 9 ~~may be propelled by~~ **ACTION OF** 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 gas~~
 12 ~~or air, BBs not exceeding .177 caliber.~~

13 **[(F)-(e)]** "Pistol" means a loaded or unloaded firearm that is 26
 14 inches or less in length, or a loaded or unloaded firearm that by
 15 its construction and appearance conceals itself as a firearm.

16 **[(G)]** "PNEUMATIC GUN" MEANS THAT TERM AS DEFINED IN SECTION 1 OF
 17 1990 PA 319, MCL 123.1101.

18 **[(H)]** ~~(f)~~ "Purchaser" means a person who receives a pistol from
 19 another person by purchase, gift, or loan.

20 **[(I)]** ~~(g)~~ "Seller" means a person who sells, furnishes, loans,
 21 or gives a pistol to another person.

22 **[(J)]** ~~(h)~~ "Shotgun" means a firearm designed or redesigned, made
 23 or remade, and intended to be fired from the shoulder and designed
 24 or redesigned and made or remade to use the energy of the explosive
 25 in a fixed shotgun shell to fire through a smooth bore either a
 26 number of ball shot or a single projectile for each single function
 27 of the trigger.

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1 [(K)] ~~(i)~~—"Short-barreled shotgun" means a shotgun having 1 or
2 more barrels less than 18 inches in length or a weapon made from a
3 shotgun, whether by alteration, modification, or otherwise, if the
4 weapon as modified has an overall length of less than 26 inches.

5 [(L)] ~~(j)~~—"Rifle" means a firearm designed or redesigned, made
6 or remade, and intended to be fired from the shoulder and designed
7 or redesigned and made or remade to use the energy of the explosive
8 in a fixed metallic cartridge to fire only a single projectile
9 through a rifled bore for each single pull of the trigger.

10 [(M)] ~~(k)~~—"Short-barreled rifle" means a rifle having 1 or more
11 barrels less than 16 inches in length or a weapon made from a
12 rifle, whether by alteration, modification, or otherwise, if the
13 weapon as modified has an overall length of less than 26 inches.

14 Sec. 226. (1) ~~Carrying firearm or dangerous weapon with~~
15 ~~unlawful intent~~ Any ~~A~~ person who, **SHALL NOT**, with intent to use the
16 same unlawfully against the person of another, ~~goes~~ **GO** armed with a
17 pistol or other firearm, or **A PNEUMATIC GUN**, dagger, dirk, razor,
18 stiletto, or knife having a blade over 3 inches in length, or any
19 other dangerous or deadly weapon or instrument. ~~, shall be~~

20 (2) **A PERSON WHO VIOLATES THIS SECTION IS** guilty of a felony ~~,~~
21 punishable by imprisonment ~~in the state prison~~ for not more than 5
22 years or ~~by a fine of not more than 2,500 dollars.~~ **\$2,500.00.**

23 Sec. 227b. (1) A person who carries or has in his or her
24 possession a firearm when he or she commits or attempts to commit a
25 felony, except a violation of section 223, ~~section 227, 227a, or~~
26 230, is guilty of a felony ~~, and shall be imprisoned~~ **PUNISHED BY**
27 **IMPRISONMENT** for 2 years. Upon a second conviction under this

1 ~~section, SUBSECTION~~, the person shall be ~~imprisoned~~ **PUNISHED BY**
2 **IMPRISONMENT** for 5 years. Upon a third or subsequent conviction
3 under this subsection, the person shall be ~~imprisoned~~ **PUNISHED BY**
4 **IMPRISONMENT** for 10 years.

5 (2) A PERSON WHO CARRIES OR HAS IN HIS OR HER POSSESSION A
6 PNEUMATIC GUN AND USES THAT PNEUMATIC GUN IN FURTHERANCE OF
7 COMMITTING OR ATTEMPTING TO COMMIT A FELONY, EXCEPT A VIOLATION OF
8 SECTION 223, 227, 227A, OR 230, IS GUILTY OF A FELONY AND SHALL BE
9 PUNISHED BY IMPRISONMENT FOR 2 YEARS. UPON A SECOND CONVICTION
10 UNDER THIS SUBSECTION, THE PERSON SHALL BE PUNISHED BY IMPRISONMENT
11 FOR 5 YEARS. UPON A THIRD OR SUBSEQUENT CONVICTION UNDER THIS
12 SUBSECTION, THE PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR 10
13 YEARS.

14 (3) ~~(2)~~—A term of imprisonment prescribed by this section is
15 in addition to the sentence imposed for the conviction of the
16 felony or the attempt to commit the felony ~~,~~ and shall be served
17 consecutively with and preceding any term of imprisonment imposed
18 for the conviction of the felony or attempt to commit the felony.

19 (4) ~~(3)~~—A term of imprisonment imposed under this section
20 shall not be suspended. The person subject to the sentence mandated
21 by this section is not eligible for parole or probation during the
22 mandatory term imposed ~~pursuant to~~ **UNDER** subsection (1) **OR (2)**.

23 (5) ~~(4)~~—This section does not apply to a law enforcement
24 officer who is authorized to carry a firearm while in the official
25 performance of his or her duties ~~,~~ and who is in the performance of
26 those duties. As used in this subsection, "law enforcement officer"
27 means a person who is regularly employed as a member of a duly

1 authorized police agency or other organization of the United
 2 States, this state, or a city, county, township, or village of this
 3 state ~~—~~and who is responsible for the prevention and detection of
 4 crime and the enforcement of the general criminal laws of this
 5 state.

6 Sec. 227c. (1) Except as otherwise permitted by law, a person
 7 shall not transport or possess in or upon a sailboat or a motor
 8 vehicle, aircraft, motorboat, or any other vehicle propelled by
 9 mechanical means ~~—a~~**EITHER OF THE FOLLOWING:**

10 (A) A firearm, other than a pistol, ~~which~~**THAT** is loaded.

11 (B) **A PNEUMATIC GUN THAT IS LOADED AND THAT IS DESIGNED,**
 12 **MANUFACTURED, AND INTENDED TO INFLICT DEATH OR SERIOUS BODILY**
 13 **INJURY.**

14 (2) A person who violates this section is guilty of a
 15 misdemeanor ~~—~~punishable by imprisonment for not more than 2 years
 16 ~~—~~or a fine of not more than \$2,500.00, or both.

17 ~~——(3) This section does not apply to a person who violates~~
 18 ~~section 10(1)(g) of chapter II of Act No. 286 of the Public Acts of~~
 19 ~~1929, as amended, being section 312.10 of the Michigan Compiled~~
 20 ~~Laws.~~

21 Sec. 227d. (1) Except as otherwise permitted by law, a person
 22 shall not transport or possess in or upon a motor vehicle or any
 23 self-propelled vehicle designed for land travel ~~a~~**EITHER OF THE**
 24 **FOLLOWING:**

25 (A) A firearm, other than a pistol, unless the firearm is
 26 unloaded and is 1 or more of the following:

27 (i) ~~(a)~~Taken down.

1 (ii) ~~(b)~~—Enclosed in a case.

2 (iii) ~~(c)~~—Carried in the trunk of the vehicle.

3 (iv) ~~(d)~~—Inaccessible from the interior of the vehicle.

4 **(B) A PNEUMATIC GUN THAT IS DESIGNED, MANUFACTURED, AND**
 5 **INTENDED TO INFLICT DEATH OR SERIOUS BODILY INJURY UNLESS THE**
 6 **PNEUMATIC GUN IS UNLOADED AND IS 1 OR MORE OF THE FOLLOWING:**

7 (i) **TAKEN DOWN.**

8 (ii) **ENCLOSED IN A CASE.**

9 (iii) **CARRIED IN THE TRUNK OF THE VEHICLE.**

10 (iv) **INACCESSIBLE FROM THE INTERIOR OF THE VEHICLE.**

11 (2) A person who violates this section is guilty of a
 12 misdemeanor ~~—~~punishable by imprisonment for not more than 90 days
 13 ~~—~~or a fine of not more than \$100.00, or both.

14 Sec. 237a. (1) An individual who engages in conduct proscribed
 15 under section 224, 224a, 224b, 224c, 224e, 226, 227, 227a, 227f,
 16 234a, 234b, or 234c, or who engages in conduct proscribed under
 17 section 223(2) for a second or subsequent time, in a weapon free
 18 school zone is guilty of a felony punishable by 1 or more of the
 19 following:

20 (a) Imprisonment for not more than the maximum term of
 21 imprisonment authorized for the section violated.

22 (b) Community service for not more than 150 hours.

23 (c) A fine of not more than 3 times the maximum fine
 24 authorized for the section violated.

25 (2) An individual who engages in conduct proscribed under
 26 section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4), 233,
 27 234, 234e, 234f, 235, 236, or 237, or who engages in conduct

1 proscribed under section 223(2) for the first time, in a weapon
2 free school zone is guilty of a misdemeanor punishable by 1 or more
3 of the following:

4 (a) Imprisonment for not more than the maximum term of
5 imprisonment authorized for the section violated or 93 days,
6 whichever is greater.

7 (b) Community service for not more than 100 hours.

8 (c) A fine of not more than \$2,000.00 or the maximum fine
9 authorized for the section violated, whichever is greater.

10 (3) Subsections (1) and (2) do not apply to conduct proscribed
11 under a section enumerated in those subsections to the extent that
12 the proscribed conduct is otherwise exempted or authorized under
13 this chapter.

14 (4) Except as provided in subsection (5), an individual who
15 possesses a weapon in a weapon free school zone is guilty of a
16 misdemeanor punishable by 1 or more of the following:

17 (a) Imprisonment for not more than 93 days.

18 (b) Community service for not more than 100 hours.

19 (c) A fine of not more than \$2,000.00.

20 (5) Subsection (4) does not apply to any of the following:

21 (a) An individual employed by or contracted by a school if the
22 possession of that weapon is to provide security services for the
23 school.

24 (b) A peace officer.

25 (c) An individual licensed by this state or another state to
26 carry a concealed weapon.

27 (d) An individual who possesses a weapon provided by a school

1 or a school's instructor on school property for purposes of
2 providing or receiving instruction in the use of that weapon.

3 (e) An individual who possesses a firearm on school property
4 if that possession is with the permission of the school's principal
5 or an agent of the school designated by the school's principal or
6 the school board.

7 (f) An individual who is 18 years of age or older who is not a
8 student at the school and who possesses a firearm on school
9 property while transporting a student to or from the school if any
10 of the following apply:

11 (i) The individual is carrying an antique firearm, completely
12 unloaded, in a wrapper or container in the trunk of a vehicle while
13 en route to or from a hunting or target shooting area or function
14 involving the exhibition, demonstration or sale of antique
15 firearms.

16 (ii) The individual is carrying a firearm unloaded in a wrapper
17 or container in the trunk of the person's vehicle, while in
18 possession of a valid Michigan hunting license or proof of valid
19 membership in an organization having shooting range facilities, and
20 while en route to or from a hunting or target shooting area.

21 (iii) The person is carrying a firearm unloaded in a wrapper or
22 container in the trunk of the person's vehicle from the place of
23 purchase to his or her home or place of business or to a place of
24 repair or back to his or her home or place of business, or in
25 moving goods from one place of abode or business to another place
26 of abode or business.

27 (iv) The person is carrying an unloaded firearm in the

1 passenger compartment of a vehicle that does not have a trunk, if
2 the person is otherwise complying with the requirements of
3 subparagraph (ii) or (iii) and the wrapper or container is not readily
4 accessible to the occupants of the vehicle.

5 (6) As used in this section:

6 (a) "Antique firearm" means either of the following:

7 (i) A firearm not designed or redesigned for using rimfire or
8 conventional center fire ignition with fixed ammunition and
9 manufactured in or before 1898, including a matchlock, flintlock,
10 percussion cap, or similar type of ignition system or a replica of
11 such a firearm, whether actually manufactured before or after the
12 year 1898.

13 (ii) A firearm using fixed ammunition manufactured in or before
14 1898, for which ammunition is no longer manufactured in the United
15 States and is not readily available in the ordinary channels of
16 commercial trade.

17 (b) "School" means a public, private, denominational, or
18 parochial school offering developmental kindergarten, kindergarten,
19 or any grade from 1 through 12.

20 (c) "School property" means a building, playing field, or
21 property used for school purposes to impart instruction to children
22 or used for functions and events sponsored by a school, except a
23 building used primarily for adult education or college extension
24 courses.

25 (D) **"WEAPON" INCLUDES, BUT IS NOT LIMITED TO, A PNEUMATIC GUN**
26 **DESIGNED, MANUFACTURED, AND INTENDED TO INFLICT DEATH OR SERIOUS**
27 **BODILY INJURY.**

1 (E) ~~(d)~~—"Weapon free school zone" means school property and a
2 vehicle used by a school to transport students to or from school
3 property.

4 Sec. 528a. (1) As used in this section:

5 (a) "Civil disorder" means any public disturbance involving
6 the use of any firearm, explosive, or incendiary device by 3 or
7 more assembled persons ~~which~~ **THAT** causes an immediate danger to, or
8 ~~which~~ **THAT** results in damage or injury to, any property or person.

9 (b) "Explosive or incendiary device" means:

10 (i) Dynamite, gunpowder, or other similarly explosive
11 substance.

12 (ii) Any bomb, grenade, missile, or similar device designed to
13 expand suddenly and release internal energy resulting in an
14 explosion.

15 (iii) Any incendiary bomb or grenade, fire bomb, or similar
16 device designed to ignite, including any device ~~which~~ **THAT** consists
17 of or includes a breakable container containing a flammable liquid
18 or compound and a wick composed of any material ~~which~~ **THAT**, if
19 ignited, is capable of igniting the flammable liquid or compound;
20 and ~~which~~ **THAT** may be carried or thrown by a person.

21 (c) "Firearm" means any weapon ~~from which a dangerous~~ **WILL, IS**
22 **DESIGNED TO, OR MAY READILY BE CONVERTED TO EXPEL A** projectile ~~may~~
23 ~~be propelled by using explosives, gas, or air as a means of~~
24 ~~propulsion; any weapon which may be readily converted to expel any~~
25 ~~projectile by the action of an explosive, or the frame or receiver~~
26 ~~of such a firearm or weapon, except any smooth bore rifle or~~
27 ~~handgun designed and manufactured exclusively for propelling BB's~~

1 ~~not exceeding .177 caliber by means of spring, gas, or air.~~**BY**

2 **ACTION OF AN EXPLOSIVE.**

3 (d) "Law enforcement officer" means any of the following:

4 (i) Every sheriff or sheriff's deputy; village marshal or
5 township constable; officer of the police department of any city,
6 village, or township; any officer of the Michigan state police; or
7 any peace officer who is trained and certified ~~pursuant to Act No.~~
8 ~~203 of the Public Acts of 1965, being sections 28.601 to 28.616 of~~
9 ~~the Michigan Compiled Laws.~~**UNDER THE COMMISSION ON LAW ENFORCEMENT**
10 **STANDARDS ACT, 1965 PA 203, MCL 28.601 TO 28.616.**

11 (ii) Any officer or employee of the United States, its
12 possessions, or territories who is authorized to enforce the laws
13 of the United States, its possessions, or its territories.

14 (iii) Any member of the national guard, coast guard, military
15 reserve, or the armed forces of the United States when acting in
16 his or her official capacity.

17 (2) A person shall not teach or demonstrate to another person
18 the use, application, or construction of any firearm, or any
19 explosive or incendiary device, if that person knows, has reason to
20 know, or intends that what is taught or demonstrated will be used
21 in, or in furtherance of, a civil disorder.

22 (3) A person shall not assemble with 1 or more persons for the
23 purpose of training with, practicing with, or being instructed in
24 the use of any firearm, or any explosive or incendiary device, if
25 that person intends to use ~~such a~~**THAT** firearm or device in, or in
26 furtherance of, a civil disorder.

27 (4) This section ~~shall~~**DOES** not apply to any act of a law

1 enforcement officer ~~which~~ **THAT** is performed in the lawful
2 performance of his or her official duties as a law enforcement
3 officer, or any activity of any hunting club, rifle club, rifle
4 range, pistol range, shooting range, or other program or individual
5 instruction intended to teach the safe handling or use of firearms,
6 archery equipment, or other weapons or techniques employed in
7 connection with lawful sports, self-defense, or other lawful
8 activities.

9 (5) A person who violates this section is guilty of a felony.

10 Enacting section 1. This amendatory act takes effect January
11 1, 2015.

12 Enacting section 2. This amendatory act does not take effect
13 unless Senate Bill No. 979 of the 97th Legislature is enacted into
14 law.