

**STATE OF MICHIGAN  
97TH LEGISLATURE  
REGULAR SESSION OF 2014**

Introduced by Senators Hune, Hildenbrand, Pavlov and Jones

# ENROLLED SENATE BILL No. 965

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” 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:*

Sec. 222. As used in this chapter:

(a) “Alcoholic liquor” means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

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

(c) “Brandish” means to point, wave about, or display in a threatening manner with the intent to induce fear in another person.

(d) “Controlled substance” means a controlled substance or controlled substance analogue as those terms are defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(e) “Firearm” means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

(f) “Pistol” means a loaded or unloaded firearm that is 26 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals itself as a firearm.

(g) “Pneumatic gun” means that term as defined in section 1 of 1990 PA 319, MCL 123.1101.

(h) “Purchaser” means a person who receives a pistol from another person by purchase, gift, or loan.

(i) "Seller" means a person who sells, furnishes, loans, or gives a pistol to another person.

(j) "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single function of the trigger.

(k) "Short-barreled shotgun" means a shotgun having 1 or more barrels less than 18 inches in length or a weapon made from a shotgun, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

(l) "Rifle" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(m) "Short-barreled rifle" means a rifle having 1 or more barrels less than 16 inches in length or a weapon made from a rifle, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

Sec. 226. (1) A person shall not, with intent to use the same unlawfully against the person of another, go armed with a pistol or other firearm, or a pneumatic gun, dagger, dirk, razor, stiletto, or knife having a blade over 3 inches in length, or any other dangerous or deadly weapon or instrument.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00.

Sec. 227b. (1) A person who carries or has in his or her possession a firearm when he or she commits or attempts to commit a felony, except a violation of section 223, 227, 227a, or 230, is guilty of a felony and shall be punished by imprisonment for 2 years. Upon a second conviction under this subsection, the person shall be punished by imprisonment for 5 years. Upon a third or subsequent conviction under this subsection, the person shall be punished by imprisonment for 10 years.

(2) A person who carries or has in his or her possession a pneumatic gun and uses that pneumatic gun in furtherance of committing or attempting to commit a felony, except a violation of section 223, 227, 227a, or 230, is guilty of a felony and shall be punished by imprisonment for 2 years. Upon a second conviction under this subsection, the person shall be punished by imprisonment for 5 years. Upon a third or subsequent conviction under this subsection, the person shall be punished by imprisonment for 10 years.

(3) A term of imprisonment prescribed by this section is in addition to the sentence imposed for the conviction of the felony or the attempt to commit the felony and shall be served consecutively with and preceding any term of imprisonment imposed for the conviction of the felony or attempt to commit the felony.

(4) A term of imprisonment imposed under this section shall not be suspended. The person subject to the sentence mandated by this section is not eligible for parole or probation during the mandatory term imposed under subsection (1) or (2).

(5) This section does not apply to a law enforcement officer who is authorized to carry a firearm while in the official performance of his or her duties and who is in the performance of those duties. As used in this subsection, "law enforcement officer" means a person who is regularly employed as a member of a duly authorized police agency or other organization of the United States, this state, or a city, county, township, or village of this state and who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state.

Sec. 227c. (1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a sailboat or a motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means either of the following:

(a) A firearm, other than a pistol, that is loaded.

(b) A pneumatic gun that is loaded and that is designed, manufactured, and intended to inflict death or serious bodily injury.

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

Sec. 227d. (1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a motor vehicle or any self-propelled vehicle designed for land travel either of the following:

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

(i) Taken down.

(ii) Enclosed in a case.

(iii) Carried in the trunk of the vehicle.

(iv) Inaccessible from the interior of the vehicle.

(b) A pneumatic gun that is designed, manufactured, and intended to inflict death or serious bodily injury unless the pneumatic gun is unloaded and is 1 or more of the following:

- (i) Taken down.
- (ii) Enclosed in a case.
- (iii) Carried in the trunk of the vehicle.
- (iv) Inaccessible from the interior of the vehicle.

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

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

- (a) Imprisonment for not more than the maximum term of imprisonment authorized for the section violated.
- (b) Community service for not more than 150 hours.
- (c) A fine of not more than 3 times the maximum fine authorized for the section violated.

(2) An individual who engages in conduct proscribed under section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4), 233, 234, 234e, 234f, 235, 236, or 237, or who engages in conduct proscribed under section 223(2) for the first time, in a weapon free school zone is guilty of a misdemeanor punishable by 1 or more of the following:

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

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

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

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

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

(a) Imprisonment for not more than 93 days.

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

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

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

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

(b) A peace officer.

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

(d) An individual who possesses a weapon provided by a school or a school's instructor on school property for purposes of providing or receiving instruction in the use of that weapon.

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

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

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

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

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

(iv) The person is carrying an unloaded firearm in the passenger compartment of a vehicle that does not have a trunk, if the person is otherwise complying with the requirements of subparagraph (ii) or (iii) and the wrapper or container is not readily accessible to the occupants of the vehicle.

(6) As used in this section:

(a) “Antique firearm” means either of the following:

(i) 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 a replica of such a firearm, whether actually manufactured before or after the year 1898.

(ii) 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.

(b) “School” means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.

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

(d) “Weapon” includes, but is not limited to, a pneumatic gun designed, manufactured, and intended to inflict death or serious bodily injury.

(e) “Weapon free school zone” means school property and a vehicle used by a school to transport students to or from school property.

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

(a) “Civil disorder” means any public disturbance involving the use of any firearm, explosive, or incendiary device by 3 or more assembled persons that causes an immediate danger to, or that results in damage or injury to, any property or person.

(b) “Explosive or incendiary device” means:

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

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

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

(c) “Firearm” means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

(d) “Law enforcement officer” means any of the following:

(i) Every sheriff or sheriff’s deputy; village marshal or township constable; officer of the police department of any city, village, or township; any officer of the Michigan state police; or any peace officer who is trained and certified under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

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

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

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

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

(4) This section does not apply to any act of a law enforcement officer that is performed in the lawful performance of his or her official duties as a law enforcement officer, or any activity of any hunting club, rifle club, rifle range, pistol range, shooting range, or other program or individual instruction intended to teach the safe handling or use of firearms, archery equipment, or other weapons or techniques employed in connection with lawful sports, self-defense, or other lawful activities.

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

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

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

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Gay E. Randall*

Clerk of the House of Representatives

Approved .....

.....  
Governor