

HOUSE BILL No. 5443

March 9, 2016, Introduced by Reps. Wittenberg, Singh, Plawecki, Hoadley, Liberati, Schor, Moss, Guerra, Irwin, Townsend, Greig, Yanez, Pagan, Smiley, Chang, Faris, Gay-Dagnogo, Byrd, Darany, Geiss, Love and Zemke 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, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices 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 sections 2 and 2a (MCL 28.422 and 28.422a), section 2 as amended by 2015 PA 200 and section 2a as amended by 2015 PA 3.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as otherwise provided in this act, a person
2 shall not purchase, carry, possess, or transport a pistol in this
3 state without first having obtained a license for the pistol as

1 prescribed in this section.

2 (2) ~~A person~~ **AN INDIVIDUAL** who brings a pistol into this state
3 who is on leave from active duty with the armed forces of the
4 United States or who has been discharged from active duty with the
5 armed forces of the United States shall obtain a license for the
6 pistol within 30 days after his or her arrival in this state.

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

20 (a) The ~~person~~ **INDIVIDUAL** is not subject to an order or
21 disposition for which he or she has received notice and an
22 opportunity for a hearing, and which was entered into the law
23 enforcement information network under any of the following:

24 (i) Section 464a of the mental health code, 1974 PA 258, MCL
25 330.1464a.

26 (ii) Section 5107 of the estates and protected individuals
27 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA

1 642.

2 (iii) Section 2950 of the revised judicature act of 1961, 1961
3 PA 236, MCL 600.2950.

4 (iv) Section 2950a of the revised judicature act of 1961, 1961
5 PA 236, MCL 600.2950a.

6 (v) Section 14 of 1846 RS 84, MCL 552.14.

7 (vi) Section 6b of chapter V of the code of criminal
8 procedure, 1927 PA 175, MCL 765.6b, if the order has a condition
9 imposed under section 6b(3) of chapter V of the code of criminal
10 procedure, 1927 PA 175, MCL 765.6b.

11 (vii) Section 16b of chapter IX of the code of criminal
12 procedure, 1927 PA 175, MCL 769.16b.

13 (b) The ~~person~~-**INDIVIDUAL** is 18 years of age or older or, if
14 the seller is licensed under 18 USC 923, is 21 years of age or
15 older.

16 (c) The ~~person~~-**INDIVIDUAL** is a citizen of the United States or
17 an alien lawfully admitted into the United States and is a legal
18 resident of this state. For the purposes of this section, ~~a person~~
19 **AN INDIVIDUAL** is considered a legal resident of this state if any
20 of the following apply:

21 (i) The ~~person~~-**INDIVIDUAL** has a valid, lawfully obtained
22 Michigan driver license issued under the Michigan vehicle code,
23 1949 PA 300, MCL 257.1 to 257.923, or an official state personal
24 identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

25 (ii) The ~~person~~-**INDIVIDUAL** is lawfully registered to vote in
26 this state.

27 (iii) The ~~person~~-**INDIVIDUAL** is on active duty status with the

1 United States armed forces and is stationed outside of this state,
2 but the ~~person's~~ **INDIVIDUAL'S** home of record is in this state.

3 (iv) The ~~person~~ **INDIVIDUAL** is on active duty status with the
4 United States armed forces and is permanently stationed in this
5 state, but the ~~person's~~ **INDIVIDUAL'S** home of record is in another
6 state.

7 (d) A felony charge or a criminal charge listed in section 5b
8 against the ~~person~~ **INDIVIDUAL** is not pending at the time of
9 application.

10 (e) The ~~person~~ **INDIVIDUAL** is not prohibited from possessing,
11 using, transporting, selling, purchasing, carrying, shipping,
12 receiving, or distributing a firearm under section 224f of the
13 Michigan penal code, 1931 PA 328, MCL 750.224f.

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

17 (g) The ~~person~~ **INDIVIDUAL** is not under an order of involuntary
18 commitment in an inpatient or outpatient setting due to mental
19 illness.

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

24 **(I) THE INDIVIDUAL IS NOT LISTED ON THE CONSOLIDATED TERRORIST**
25 **WATCH LIST MAINTAINED BY THE TERRORIST SCREENING CENTER**
26 **ADMINISTERED BY THE FEDERAL BUREAU OF INVESTIGATION.**

27 (4) Applications for licenses under this section shall be

1 signed by the applicant under oath upon forms provided by the
2 director of the department of state police. Licenses to purchase,
3 carry, possess, or transport pistols shall be executed in
4 triplicate upon forms provided by the director of the department of
5 state police and shall be signed by the licensing authority. Three
6 copies of the license shall be delivered to the applicant by the
7 licensing authority. A license is void unless used within 30 days
8 after the date it is issued.

9 (5) If an individual purchases or otherwise acquires a pistol,
10 the seller shall fill out the license forms describing the pistol,
11 together with the date of sale or acquisition, and sign his or her
12 name in ink indicating that the pistol was sold to or otherwise
13 acquired by the purchaser. The purchaser shall also sign his or her
14 name in ink indicating the purchase or other acquisition of the
15 pistol from the seller. The seller may retain a copy of the license
16 as a record of the transaction. The purchaser shall receive 2
17 copies of the license. The purchaser shall return 1 copy of the
18 license to the licensing authority within 10 days after the date
19 the pistol is purchased or acquired. The return of the copy to the
20 licensing authority may be made in person or may be made by first-
21 class mail or certified mail sent within the 10-day period to the
22 proper address of the licensing authority. A purchaser who fails to
23 comply with the requirements of this subsection is responsible for
24 a state civil infraction and may be fined not more than \$250.00. If
25 a purchaser is found responsible for a state civil infraction under
26 this subsection, the court shall notify the department of state
27 police of that determination.

1 (6) Within 10 days after receiving the license copy returned
2 under subsection (5), the licensing authority shall electronically
3 enter the information into the pistol entry database as required by
4 the department of state police if it has the ability to
5 electronically enter that information. If the licensing authority
6 does not have that ability, the licensing authority shall provide
7 that information to the department of state police in a manner
8 otherwise required by the department of state police. Any licensing
9 authority that provided pistol descriptions to the department of
10 state police under former section 9 of this act shall continue to
11 provide pistol descriptions to the department of state police under
12 this subsection. Within 48 hours after entering or otherwise
13 providing the information on the license copy returned under
14 subsection (5) to the department of state police, the licensing
15 authority shall forward the copy of the license to the department
16 of state police. The purchaser has the right to obtain a copy of
17 the information placed in the pistol entry database under this
18 subsection to verify the accuracy of that information. The
19 licensing authority may charge a fee not to exceed \$1.00 for the
20 cost of providing the copy. The licensee may carry, use, possess,
21 and transport the pistol for 30 days beginning on the date of
22 purchase or acquisition only while he or she is in possession of
23 his or her copy of the license. However, the person is not required
24 to have the license in his or her possession while carrying, using,
25 possessing, or transporting the pistol after this period.

26 (7) This section does not apply to the purchase of pistols
27 from wholesalers by dealers regularly engaged in the business of

1 selling pistols at retail, or to the sale, barter, or exchange of
2 pistols kept as relics or curios not made for modern ammunition or
3 permanently deactivated.

4 (8) This section does not prevent the transfer of ownership of
5 pistols to an heir or devisee, whether by testamentary bequest or
6 by the laws of intestacy regardless of whether the pistol is
7 registered with this state. An individual who has inherited a
8 pistol shall obtain a license as required in this section within 30
9 days of taking physical possession of the pistol. The license may
10 be signed by a next of kin of the decedent or the person authorized
11 to dispose of property under the estates and protected individuals
12 code, 1998 PA 386, MCL 700.1101 to 700.8206, including when the
13 next of kin is the individual inheriting the pistol. If the heir or
14 devisee is not qualified for a license under this section, the heir
15 or devisee may direct the next of kin or person authorized to
16 dispose of property under the estates and protected individuals
17 code, 1998 PA 386, MCL 700.1101 to 700.8206, to dispose of the
18 pistol in any manner that is lawful and the heir or devisee
19 considers appropriate. The person authorized to dispose of property
20 under the estates and protected individuals code, 1998 PA 386, MCL
21 700.1101 to 700.8206, is not required to obtain a license under
22 this section if he or she takes temporary lawful possession of the
23 pistol in the process of disposing of the pistol pursuant to the
24 decedent's testamentary bequest or the laws of intestacy. A law
25 enforcement agency may not seize or confiscate a pistol being
26 transferred by testamentary bequest or the laws of intestacy unless
27 the heir or devisee does not qualify for obtaining a license under

1 this section and the next of kin or person authorized to dispose of
2 property under the estates and protected individuals code, 1998 PA
3 386, MCL 700.1101 to 700.8206, is unable to retain his or her
4 temporary possession of the pistol or find alternative lawful
5 storage. If a law enforcement agency seizes or confiscates a pistol
6 under this subsection, the heir or devisee who is not qualified to
7 obtain a license under this section retains ownership interest in
8 the pistol and, within 30 days of being notified of the seizure or
9 confiscation, may file with a court of competent jurisdiction to
10 direct the law enforcement agency to lawfully transfer or otherwise
11 dispose of the pistol. A pistol seized under this subsection shall
12 not be destroyed, sold, or used while in possession of the seizing
13 entity or its agents until 30 days have passed since the heir or
14 devisee has been notified of the seizure and no legal action
15 regarding the lawful possession or ownership of the seized pistol
16 has been filed in any court and is pending. As used in this
17 subsection:

18 (a) "Devisee" means that term as defined in section 1103 of
19 the estates and protected individuals code, 1998 PA 386, MCL
20 700.1103.

21 (b) "Heir" means that term as defined in section 1104 of the
22 estates and protected individuals code, 1998 PA 386, MCL 700.1104.

23 (9) An individual who is not a resident of this state is not
24 required to obtain a license under this section if all of the
25 following conditions apply:

26 (a) The individual is licensed in his or her state of
27 residence to purchase, carry, or transport a pistol.

1 (b) The individual is in possession of the license described
2 in subdivision (a).

3 (c) The individual is the owner of the pistol he or she
4 possesses, carries, or transports.

5 (d) The individual possesses the pistol for a lawful purpose.

6 (e) The individual is in this state for a period of 180 days
7 or less and does not intend to establish residency in this state.

8 (10) An individual who is a nonresident of this state shall
9 present the license described in subsection (9)(a) upon the demand
10 of a police officer. An individual who violates this subsection is
11 guilty of a misdemeanor punishable by imprisonment for not more
12 than 90 days or a fine of not more than \$100.00, or both.

13 (11) The licensing authority may require ~~a person~~ **AN**
14 **INDIVIDUAL** claiming active duty status with the United States armed
15 forces to provide proof of 1 or both of the following:

16 (a) The ~~person's~~ **INDIVIDUAL'S** home of record.

17 (b) Permanent active duty assignment in this state.

18 (12) This section does not apply to ~~a person~~ **AN INDIVIDUAL** who
19 is younger than the age required under subsection (3)(b) and who
20 possesses a pistol if all of the following conditions apply:

21 (a) The ~~person~~ **INDIVIDUAL** is not otherwise prohibited from
22 possessing that pistol.

23 (b) The ~~person~~ **INDIVIDUAL** is at a recognized target range.

24 (c) The ~~person~~ **INDIVIDUAL** possesses the pistol for the purpose
25 of target practice or instruction in the safe use of a pistol.

26 (d) The ~~person~~ **INDIVIDUAL** is in the physical presence and
27 under the direct supervision of any of the following:

1 (i) The ~~person's~~ **INDIVIDUAL'S** parent.

2 (ii) The ~~person's~~ **INDIVIDUAL'S** guardian.

3 (iii) An individual who is 21 years of age or older, who is
4 authorized by the ~~person's~~ **INDIVIDUAL'S** parent or guardian, and who
5 has successfully completed a pistol safety training course or class
6 that meets the requirements of section 5j(1)(a), (b), or (d), and
7 received a certificate of completion.

8 (e) The owner of the pistol is physically present.

9 (13) This section does not apply to a ~~person~~ **AN INDIVIDUAL** who
10 possesses a pistol if all of the following conditions apply:

11 (a) The ~~person~~ **INDIVIDUAL** is not otherwise prohibited from
12 possessing a pistol.

13 (b) The ~~person~~ **INDIVIDUAL** is at a recognized target range or
14 shooting facility.

15 (c) The ~~person~~ **INDIVIDUAL** possesses the pistol for the purpose
16 of target practice or instruction in the safe use of a pistol.

17 (d) The owner of the pistol is physically present and
18 supervising the use of the pistol.

19 (14) A person who forges any matter on an application for a
20 license under this section is guilty of a felony, punishable by
21 imprisonment for not more than 4 years or a fine of not more than
22 \$2,000.00, or both.

23 (15) A licensing authority shall implement this section during
24 all of the licensing authority's normal business hours and shall
25 set hours for implementation that allow an applicant to use the
26 license within the time period set forth in subsection (4).

27 Sec. 2a. (1) The following individuals are not required to

1 obtain a license under section 2 to purchase, carry, possess, use,
2 or transport a pistol:

3 (a) An individual licensed under section 5b, except for ~~an~~**ANY**
4 **OF THE FOLLOWING:**

5 (i) **AN** individual who has an emergency license issued under
6 section 5a(4). ~~or~~

7 (ii) **AN INDIVIDUAL WHO HAS** a receipt serving as a concealed
8 pistol license under section 5b(9) or 5l(3).

9 (iii) **AN INDIVIDUAL WHO IS LISTED ON THE CONSOLIDATED**
10 **TERRORIST WATCH LIST MAINTAINED BY THE TERRORIST SCREENING CENTER**
11 **ADMINISTERED BY THE FEDERAL BUREAU OF INVESTIGATION.**

12 (b) A federally licensed firearms dealer.

13 (c) An individual who purchases a pistol from a federally
14 licensed firearms dealer in compliance with 18 USC 922(t), **EXCEPT**
15 **FOR AN INDIVIDUAL WHO IS LISTED ON THE CONSOLIDATED TERRORIST WATCH**
16 **LIST MAINTAINED BY THE TERRORIST SCREENING CENTER ADMINISTERED BY**
17 **THE FEDERAL BUREAU OF INVESTIGATION.**

18 (2) If an individual described in subsection (1) purchases or
19 otherwise acquires a pistol, the seller shall complete a record in
20 triplicate on a form provided by the department of state police.
21 The record shall include the purchaser's concealed weapon license
22 number or, if the purchaser is a federally licensed firearms
23 dealer, his or her dealer license number. If the purchaser is not
24 licensed under section 5b and is not a federally licensed firearms
25 dealer, the record shall include the dealer license number of the
26 federally licensed firearms dealer who is selling the pistol. The
27 purchaser shall sign the record. The seller may retain 1 copy of

1 the record. The purchaser shall receive 2 copies of the record and
2 forward 1 copy to the police department of the city, village, or
3 township in which the purchaser resides, or, if the purchaser does
4 not reside in a city, village, or township having a police
5 department, to the county sheriff, within 10 days following the
6 purchase or acquisition. The return of the copy to the police
7 department or county sheriff may be made in person or may be made
8 by first-class mail or certified mail sent within the 10-day period
9 to the proper address of the police department or county sheriff. A
10 purchaser who fails to comply with the requirements of this
11 subsection is responsible for a state civil infraction and may be
12 fined not more than \$250.00. If a purchaser is found responsible
13 for a state civil infraction under this subsection, the court shall
14 notify the department of state police. If the purchaser is licensed
15 under section 5b, the court shall notify the licensing authority of
16 that determination.

17 (3) Within 10 days after receiving the record copy returned
18 under subsection (2), the police department or county sheriff shall
19 electronically enter the information into the pistol entry database
20 as required by the department of state police if it has the ability
21 to electronically enter that information. If the police department
22 or county sheriff does not have that ability, the police department
23 or county sheriff shall provide that information to the department
24 of state police in a manner otherwise required by the department of
25 state police. Any police department or county sheriff that provided
26 pistol descriptions to the department of state police under former
27 section 9 of this act shall continue to provide pistol descriptions

1 to the department of state police under this subsection. Within 48
2 hours after entering or otherwise providing the information on the
3 record copy returned under subsection (2) to the department of
4 state police, the police department or county sheriff shall forward
5 the copy of the record to the department of state police. The
6 purchaser has the right to obtain a copy of the information placed
7 in the pistol entry database under this subsection to verify the
8 accuracy of that information. The police department or county
9 sheriff may charge a fee not to exceed \$1.00 for the cost of
10 providing the copy. The purchaser may carry, use, possess, and
11 transport the pistol for 30 days beginning on the date of purchase
12 or acquisition only while he or she is in possession of his or her
13 copy of the record. However, the person is not required to have the
14 record in his or her possession while carrying, using, possessing,
15 or transporting the pistol after this period.

16 (4) This section does not apply to a person or entity exempt
17 under section 2(7).

18 (5) An individual who makes a material false statement on a
19 sales record under this section is guilty of a felony punishable by
20 imprisonment for not more than 4 years or a fine of not more than
21 \$2,500.00, or both.

22 (6) The department of state police may promulgate rules to
23 implement this section.

24 (7) As used in this section:

25 (a) Before December 18, 2012, "federally licensed firearms
26 dealer" means an individual who holds a type 01 dealer license
27 under 18 USC 923.

1 (b) Beginning December 18, 2012, "federally licensed firearms
2 dealer" means a person licensed to sell firearms under 18 USC 923.

3 (c) "Person" means an individual, partnership, corporation,
4 association, or other legal entity.