

HOUSE BILL NO. 5318

January 09, 2020, Introduced by Reps. Hernandez, Steven Johnson, Maddock, Bellino, Hoitenga, O'Malley, Rendon, Meerman, Paquette, Hall, Green, Markkanen, LaFave, Hornberger, Sheppard, Allor, Eisen, Chirkun, Miller, Wozniak, Marino, Reilly, Lower, Wakeman and Bollin and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 223, 224b, 228, 231a, and 232a (MCL 750.223, 750.224b, 750.228, 750.231a, and 750.232a), section 223 as amended and section 228 as added by 2012 PA 242, section 224b as amended by 2014 PA 63, section 231a as amended by 2012 PA 427, and section 232a as amended by 1990 PA 321.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 223. ~~(1) A person who knowingly sells a pistol without~~
2 ~~complying with section 2 of 1927 PA 372, MCL 28.422, is guilty of a~~



1 ~~misdemeanor, punishable by imprisonment for not more than 90 days,~~
2 ~~or a fine of not more than \$100.00, or both.~~

3 (1) ~~(2)~~—A person who knowingly sells a firearm more than 26
4 inches in length to a person under 18 years of age is guilty of a
5 misdemeanor, punishable by imprisonment for not more than 90 days,
6 or a fine of not more than \$500.00, or both. A second or subsequent
7 violation of this subsection is a felony punishable by imprisonment
8 for not more than 4 years, or a fine of not more than \$2,000.00, or
9 both. It is an affirmative defense to a prosecution under this
10 subsection that the person who sold the firearm asked to see and
11 was shown a driver's license or identification card issued by a
12 state that identified the purchaser as being 18 years of age or
13 older.

14 (2) ~~(3)~~—A seller shall not sell a firearm or ammunition to a
15 person if the seller knows that either of the following
16 circumstances exists:

17 (a) The person is under indictment for a felony. As used in
18 this subdivision, "felony" means a violation of a law of this
19 state, or of another state, or of the United States that is
20 punishable by imprisonment for 4 years or more.

21 (b) The person is prohibited under section 224f from
22 possessing, using, transporting, selling, purchasing, carrying,
23 shipping, receiving, or distributing a firearm.

24 (3) ~~(4)~~—A person who violates subsection ~~(3)~~ **(2)** is guilty of
25 a felony ~~—~~ punishable by imprisonment for not more than 10 years ~~—~~
26 or ~~by~~ a fine of not more than \$5,000.00, or both.

27 ~~(5) As used in this section, "licensed dealer" means a person~~
28 ~~licensed under 18 USC 923 who regularly buys and sells firearms as~~
29 ~~a commercial activity with the principal objective of livelihood~~



1 and profit.

2 Sec. 224b. (1) A person shall not make, manufacture, transfer,
3 or possess a short-barreled shotgun or a short-barreled rifle.

4 (2) A person who violates subsection (1) is guilty of a felony
5 punishable by imprisonment for not more than 5 years or a fine of
6 not more than \$2,500.00, or both.

7 (3) Subsection (1) does not apply to a short-barreled shotgun
8 or short-barreled rifle that is lawfully made, manufactured,
9 transferred, or possessed under federal law.

10 ~~(4) A person, excluding a manufacturer, lawfully making,~~
11 ~~transferring, or possessing a short-barreled shotgun or short-~~
12 ~~barreled rifle that is 26 inches or less in length under this~~
13 ~~section shall comply with section 2 or 2a of 1927 PA 372, MCL~~
14 ~~28.422 and 28.422a.~~

15 (4) ~~(5)~~—A person who possesses a short-barreled shotgun or
16 short-barreled rifle that is greater than 26 inches in length under
17 this section shall possess a copy of the federal registration of
18 that short-barreled shotgun or short-barreled rifle while
19 transporting or using that short-barreled shotgun or short-barreled
20 rifle and shall present that federal registration to a peace
21 officer upon request by that peace officer.

22 (5) ~~(6)~~—A person who violates subsection ~~(5)~~—(4) is
23 responsible for a state civil infraction and may be fined not more
24 than \$100.00. A short-barreled shotgun or short-barreled rifle
25 carried in violation of subsection ~~(5)~~—(4) is subject to immediate
26 seizure by a peace officer. If a peace officer seizes a short-
27 barreled shotgun or short-barreled rifle under this subsection, the
28 person has 45 days in which to display the federal registration to
29 an authorized employee of the law enforcement entity that employs



1 the peace officer. If the person displays the federal registration
2 to an authorized employee of the law enforcement entity that
3 employs the peace officer within the 45-day period, the authorized
4 employee of that law enforcement entity shall return the short-
5 barreled shotgun or short-barreled rifle to the person unless the
6 person is prohibited by law from possessing a firearm. If the
7 person does not display the federal registration within the 45-day
8 period, the short-barreled shotgun or short-barreled rifle is
9 subject to seizure and forfeiture in the same manner that property
10 is subject to seizure and forfeiture under sections 4701 to 4709 of
11 the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to
12 600.4709.

13 ~~(6) (7)~~—Section 20 of chapter XVI of the code of criminal
14 procedure, 1927 PA 175, MCL 776.20, applies to subsection (3).

15 Sec. 228. (1) A person may lawfully own, possess, carry, or
16 transport as a pistol a firearm greater than 26 inches in length if
17 ~~all~~**both** of the following conditions apply:

18 (a) The person registered the firearm as a pistol under
19 section 2 ~~or 2a~~ of 1927 PA 372, MCL 28.422, and ~~28.422a~~, **or former**
20 **section 2a of 1927 PA 372**, before January 1, 2013.

21 ~~(b) The person who registered the firearm as described in~~
22 ~~subdivision (a) has maintained registration of the firearm since~~
23 ~~January 1, 2013 without lapse.~~

24 ~~(b) (c)~~—The person possesses a copy of the license or record
25 issued to him or her under section 2 ~~or 2a~~ of 1927 PA 372, MCL
26 28.422, and ~~28.422a~~. **or former section 2a of 1927 PA 372.**

27 (2) A person who satisfies ~~all~~**both** of the conditions listed
28 under subsection (1) nevertheless may elect to have the firearm not
29 be considered to be a pistol. A person who makes the election under



1 this subsection shall notify the department of state police of the
2 election in a manner prescribed by that department.

3 Sec. 231a. (1) Subsection (2) of section 227 does not apply to
4 any of the following:

5 (a) To a person holding a valid license to carry a pistol
6 concealed upon his or her person issued by his or her state of
7 residence except where the pistol is carried in nonconformance with
8 a restriction appearing on the license.

9 (b) To the regular and ordinary transportation of pistols as
10 merchandise by an authorized agent of a person licensed to
11 manufacture firearms.

12 (c) To a person carrying an antique firearm, completely
13 unloaded in a closed case or container designed for the storage of
14 firearms in the trunk of a vehicle.

15 (d) To a person while transporting a pistol for a lawful
16 purpose ~~that is licensed by the owner or occupant of the motor~~
17 ~~vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422,~~
18 ~~and-if~~ the pistol is unloaded in a closed case designed for the
19 storage of firearms in the trunk of the vehicle.

20 (e) To a person while transporting a pistol for a lawful
21 purpose ~~that is licensed by the owner or occupant of the motor~~
22 ~~vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422,~~
23 ~~and-if~~ the pistol is unloaded in a closed case designed for the
24 storage of firearms in a vehicle that does not have a trunk and is
25 not readily accessible to the occupants of the vehicle.

26 (2) As used in this section, "antique firearm" means either of
27 the following:

28 (a) ~~(i)~~ A firearm not designed or redesigned for using rimfire
29 or conventional center fire ignition with fixed ammunition and



1 manufactured in or before 1898, including a matchlock, flintlock,
2 percussion cap, or similar type of ignition system or replica of
3 such a firearm, whether actually manufactured before or after 1898.

4 ~~(b) (ii)~~—A firearm using fixed ammunition manufactured in or
5 before 1898, for which ammunition is no longer manufactured in the
6 United States and is not readily available in the ordinary channels
7 of commercial trade.

8 Sec. 232a. ~~(1) Except as provided in subsection (2), a person~~
9 ~~who obtains a pistol in violation of section 2 of Act No. 372 of~~
10 ~~the Public Acts of 1927, as amended, being section 28.422 of the~~
11 ~~Michigan Compiled Laws, is guilty of a misdemeanor, punishable by~~
12 ~~imprisonment for not more than 90 days or a fine of not more than~~
13 ~~\$100.00, or both.~~

14 ~~(2) Subsection (1) does not apply to a person who obtained a~~
15 ~~pistol in violation of section 2 of Act No. 372 of the Public Acts~~
16 ~~of 1927 before the effective date of the 1990 amendatory act that~~
17 ~~added this subsection, who has not been convicted of that~~
18 ~~violation, and who obtains a license as required under section 2 of~~
19 ~~Act No. 372 of the Public Acts of 1927 within 90 days after the~~
20 ~~effective date of the 1990 amendatory act that added this~~
21 ~~subsection.~~

22 ~~(3) A person who intentionally makes a material false~~
23 ~~statement on an application for a license to purchase a pistol~~
24 ~~under section 2 of Act No. 372 of the Public Acts of 1927, as~~
25 ~~amended, is guilty of a felony, punishable by imprisonment for not~~
26 ~~more than 4 years, or a fine of not more than \$2,000.00, or both.~~

27 ~~(4)~~—A person who uses or attempts to use false identification
28 or the identification of another person to purchase a firearm is
29 guilty of a misdemeanor ~~—~~punishable by imprisonment for not more



1 than 90 days or a fine of not more than \$100.00, or both.

2 Enacting section 1. This amendatory act does not take effect
3 unless Senate Bill No. _____ or House Bill No. 5317 (request no.
4 03109'19) of the 100th Legislature is enacted into law.

