

SENATE BILL NO. 492

May 27, 2021, Introduced by Senators THEIS, BUMSTEAD, VICTORY, NESBITT, BARRETT, ZORN and DALEY and referred to the Committee on Government Operations.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 227, 227b, 230, and 237a (MCL 750.227, 750.227b, 750.230, and 750.237a), section 227 as amended by 1986 PA 8, section 227b as amended by 2015 PA 26, and section 237a as amended by 2017 PA 96; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 227. (1) A person shall not carry a dagger, dirk,
2 stiletto, a double-edged nonfolding stabbing instrument of any
3 length, or any other dangerous weapon ~~, except a hunting knife~~

1 ~~adapted and carried as such,~~ concealed on or about his or her
 2 person, or whether concealed or otherwise in any vehicle operated
 3 or occupied by the person, except in his or her dwelling house, **in**
 4 **his or her** place of business, or on other land possessed by the
 5 person.

6 **(2) Subsection (1) does not apply to either of the following:**

7 **(a) A pistol.**

8 **(b) A hunting knife adapted and carried as a hunting knife.**

9 **(3) ~~(2)~~—A person who is prohibited by state or federal law**
 10 **from possessing a firearm** shall not carry a pistol concealed on or
 11 about his or her person, or, whether concealed or otherwise, in a
 12 vehicle operated or occupied by the person. ~~, except in his or her~~
 13 ~~dwelling house, place of business, or on other land possessed by~~
 14 ~~the person, without a license to carry the pistol as provided by~~
 15 ~~law and if licensed, shall not carry the pistol in a place or~~
 16 ~~manner inconsistent with any restrictions upon such license.~~

17 **(4) ~~(3)~~—A person who violates this section is guilty of a**
 18 **felony** ~~, punishable by imprisonment for not more than 5 years~~ ~~or~~
 19 ~~by a fine of not more than \$2,500.00.~~

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

28 (2) A person who carries or has in his or her possession a
 29 pneumatic gun and uses that pneumatic gun in furtherance of

1 committing or attempting to commit a felony, except a violation of
 2 section 223, 227, ~~227a,~~ or 230, is guilty of a felony and shall be
 3 punished by imprisonment for 2 years. Upon a second conviction
 4 under this subsection, the person shall be punished by imprisonment
 5 for 5 years. Upon a third or subsequent conviction under this
 6 subsection, the person shall be punished by imprisonment for 10
 7 years.

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

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

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

27 Sec. 230. A person who ~~shall wilfully alter, remove, or~~
 28 ~~obliterate~~ **willfully alters, removes, or obliterates** the name of
 29 the maker, model, manufacturer's number, or other mark of identity

1 of a pistol or other firearm, ~~shall be~~ **is** guilty of a felony ~~7~~
 2 punishable by imprisonment for not more than 2 years or fine of not
 3 more than \$1,000.00. Possession of a firearm upon which the number
 4 ~~shall have~~ **has** been altered, removed, or obliterated, other than an
 5 antique firearm as defined by section ~~231a(2)(a) or (b), shall be~~
 6 **237a, is** presumptive evidence that the possessor has altered,
 7 removed, or obliterated the same.

8 Sec. 237a. (1) An individual who engages in conduct proscribed
 9 under section 224, 224a, 224b, 224c, 224e, 226, 227, ~~227a, 227f,~~
 10 234a, 234b, or 234c, or who engages in conduct proscribed under
 11 section 223(2) for a second or subsequent time, in a weapon free
 12 school zone is guilty of a felony punishable by 1 or more of the
 13 following:

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

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

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

19 (2) An individual who engages in conduct proscribed under
 20 section 223(1), 224d, 227c, 227d, 231c, 232a(1) or (4), 233, 234,
 21 234e, 234f, 235, 236, or 237, or who engages in conduct proscribed
 22 under section 223(2) for the first time, in a weapon free school
 23 zone is guilty of a misdemeanor punishable by 1 or more of the
 24 following:

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

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

29 (c) A fine of not more than \$2,000.00 or the maximum fine

1 authorized for the section violated, whichever is greater.

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

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

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

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

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

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

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

16 (b) A peace officer.

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

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

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

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

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

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

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

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

23 (6) As used in this section:

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

25 (i) A firearm not designed or redesigned for using rimfire or
26 conventional center fire ignition with fixed ammunition and
27 manufactured in or before 1898, including a matchlock, flintlock,
28 percussion cap, or similar type of ignition system or a replica of
29 such a firearm, whether actually manufactured before or after the

1 year 1898.

2 (ii) A firearm using fixed ammunition manufactured in or before
3 1898, for which ammunition is no longer manufactured in the United
4 States and is not readily available in the ordinary channels of
5 commercial trade.

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

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

14 (d) "Weapon" includes, but is not limited to, a pneumatic gun.

15 (e) "Weapon free school zone" means school property and a
16 vehicle used by a school to transport students to or from school
17 property.

18 Enacting section 1. Sections 227a and 231a of the Michigan
19 penal code, 1931 PA 328, MCL 750.227a and 750.231a, are repealed.