

HOUSE BILL NO. 4204

March 07, 2023, Introduced by Reps. Tsernoglou, Wilson, Brabec, Scott, Rheingans, Hope, Byrnes, Hood, Price, Steckloff, Paiz, Grant, Tyrone Carter, Brixie, Arbit, O'Neal, Neeley, Young, Morse, Skaggs, Pohutsky, Farhat, Aiyash and Whitsett and referred to the Committee on Criminal Justice.

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 section 2 (MCL 28.422), as amended by 2015 PA 200.

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
4 prescribed in this section.

5 (2) ~~A person~~ **An individual** who brings a pistol into this state
6 who is on leave from active duty with the ~~armed forces~~ **Armed Forces**
7 of the United States or who has been discharged from active duty
8 with the ~~armed forces~~ **Armed Forces** of the United States shall
9 obtain a license for the pistol within 30 days after ~~his or her~~
10 ~~arrival~~ **the individual arrives** in this state.

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

26 (a) The ~~person~~ **individual** is not subject to an order or

1 disposition for which ~~he or she~~ **the individual** has received notice
2 and an opportunity for a hearing, and which was entered into the
3 law enforcement information network under any of the following:

4 (i) Section 464a of the mental health code, 1974 PA 258, MCL
5 330.1464a.

6 (ii) Section 5107 of the estates and protected individuals
7 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA
8 642.

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

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

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

14 (vi) Section 6b of chapter V of the code of criminal procedure,
15 1927 PA 175, MCL 765.6b, if the order has a condition imposed under
16 section 6b(3) of chapter V of the code of criminal procedure, 1927
17 PA 175, MCL 765.6b.

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

20 (b) The ~~person~~ **individual** is ~~18 years of age or older or, if~~
21 ~~the seller is licensed under 18 USC 923, is 21 years of age or~~
22 older.

23 (c) The ~~person~~ **individual** is a citizen of the United States or
24 an alien lawfully admitted into the United States and is a legal
25 resident of this state. For the purposes of this section, ~~a person~~
26 **an individual** is considered a legal resident of this state if any
27 of the following apply:

28 (i) The ~~person~~ **individual** has a valid, lawfully obtained
29 Michigan driver license issued under the Michigan vehicle code,

1 1949 PA 300, MCL 257.1 to 257.923, or an official state personal
2 identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

3 (ii) The ~~person~~**individual** is lawfully registered to vote in
4 this state.

5 (iii) The ~~person~~**individual** is on active duty status with the
6 **Armed Forces of the** United States ~~armed forces~~ and is stationed
7 outside of this state, but the ~~person's~~**individual's** home of record
8 is in this state.

9 (iv) The ~~person~~**individual** is on active duty status with the
10 **Armed Forces of the** United States ~~armed forces~~ and is permanently
11 stationed in this state, but the ~~person's~~**individual's** home of
12 record is in another state.

13 (d) A felony charge or a criminal charge listed in section 5b
14 against the ~~person~~**individual** is not pending at the time of
15 application.

16 (e) The ~~person~~**individual** is not prohibited from possessing,
17 using, transporting, selling, purchasing, carrying, shipping,
18 receiving, or distributing a firearm under section 224f of the
19 Michigan penal code, 1931 PA 328, MCL 750.224f.

20 (f) The ~~person~~**individual** has not been adjudged insane in this
21 state or elsewhere unless ~~he or she~~**the individual** has been
22 adjudged restored to sanity by court order.

23 (g) The ~~person~~**individual** is not under an order of involuntary
24 commitment in an inpatient or outpatient setting due to mental
25 illness.

26 (h) The ~~person~~**individual** has not been adjudged legally
27 incapacitated in this state or elsewhere. This subdivision does not
28 apply to a ~~person~~**an individual** who has had ~~his or her~~**the**
29 **individual's** legal capacity restored by order of the court.

1 (4) ~~Applications~~**An applicant shall sign an application** for
 2 ~~licenses~~**a license** under this section ~~and shall be signed by the~~
 3 ~~applicant~~**sign the application** under oath ~~upon forms on a form~~
 4 provided by the director of the department of state police.
 5 ~~Licenses~~**A licensing authority shall issue a license** to purchase,
 6 carry, possess, or transport pistols ~~shall be executed in~~
 7 triplicate ~~upon forms on a form~~ provided by the director of the
 8 department of state police. ~~and shall be signed by the~~**The**
 9 licensing authority **shall sign any license issued under this**
 10 **section.** ~~Three~~**The licensing authority shall deliver 3** copies of
 11 the license ~~shall be delivered to the applicant. by the licensing~~
 12 ~~authority.~~A license is void unless used within 30 days after the
 13 date it is issued.

14 (5) If an individual purchases or otherwise acquires a pistol,
 15 the seller shall fill out the license forms describing the pistol,
 16 together with the date of sale or acquisition, and sign ~~his or her~~
 17 **the seller's** name in ink indicating that the pistol was sold to or
 18 otherwise acquired by the purchaser. The purchaser shall also sign
 19 ~~his or her~~**the purchaser's** name in ink indicating the purchase or
 20 other acquisition of the pistol from the seller. The seller may
 21 retain a copy of the license as a record of the transaction. The
 22 purchaser ~~shall~~**must** receive 2 copies of the license. The purchaser
 23 shall return 1 copy of the license to the licensing authority
 24 within 10 days after the date the pistol is purchased or acquired.
 25 The **purchaser may** return ~~of~~ the copy to the licensing authority ~~may~~
 26 ~~be made~~ in person or ~~may be made~~ by first-class mail or certified
 27 mail sent within the 10-day period to the proper address of the
 28 licensing authority. A purchaser who fails to comply with the
 29 requirements of this subsection is responsible for a state civil

1 infraction and may be fined not more than \$250.00. If a purchaser
 2 is found responsible for a state civil infraction under this
 3 subsection, the court shall notify the department of state police
 4 of that determination.

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

1 transporting the pistol after this period.

2 (7) This section does not apply to the purchase of pistols
3 from wholesalers by dealers regularly engaged in the business of
4 selling pistols at retail, or to the sale, barter, or exchange of
5 pistols kept as relics or curios not made for modern ammunition or
6 permanently deactivated.

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

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

20 (a) "Devisee" means that term as defined in section 1103 of
21 the estates and protected individuals code, 1998 PA 386, MCL
22 700.1103.

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

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

28 (a) The individual is licensed in ~~his or her~~ **the individual's**
29 state of 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~~ **the**
4 **individual** 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 **Armed Forces of the**
15 United States ~~armed forces~~ to provide proof of 1 or both of the
16 following:

17 (a) The ~~person's~~ **individual's** home of record.

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

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

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

24 (b) The ~~person~~ **individual** is at a recognized target range.

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

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

29 (i) The ~~person's~~ **individual's** parent.

1 (ii) The ~~person's~~**individual's** guardian.

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

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

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

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

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

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

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

18 (14) A person who forges any matter on an application for a
19 license 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 \$2,000.00, or both.

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

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. ____ or House Bill No. 4203 (request no.
28 00648'23) of the 102nd Legislature is enacted into law.