



SENATE BILL No. 398

March 16, 1995, Introduced by Senator VAUGHN and referred to the Committee on Local, Urban and State Affairs.

A bill to amend sections 6, 6a, and 8 of Act No. 372 of the Public Acts of 1927, entitled as amended

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license; to provide for the forfeiture of firearms possessed in violation of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

section 6 as amended by Act No. 338 of the Public Acts of 1994 and section 6a as amended by Act No. 34 of the Public Acts of 1991, being sections 28.426, 28.426a, and 28.428 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 6, 6a, and 8 of Act No. 372 of the
2 Public Acts of 1927, section 6 as amended by Act No. 338 of the
3 Public Acts of 1994 and section 6a as amended by Act No. 34 of

1 the Public Acts of 1991, being sections 28.426, 28.426a, and
2 28.428 of the Michigan Compiled Laws, are amended to read as
3 follows:

4 Sec. 6. (1) The prosecuting attorney, the sheriff, and the
5 director of the department of state police, or their respective
6 authorized deputies, ~~shall~~ constitute boards exclusively autho-
7 rized to issue a license UNDER SECTION 6A to an applicant resid-
8 ing within their respective counties. ~~, to carry a pistol con-~~
9 ~~cealed on the person and to carry a pistol, whether concealed or~~
10 ~~otherwise, in a vehicle operated or occupied by the applicant.~~
11 The county clerk of each county shall be clerk of the licensing
12 board. ~~, which board shall be known as the concealed weapon~~
13 ~~licensing board. A license to carry a pistol concealed on the~~
14 ~~person or to carry a pistol, whether concealed or otherwise, in a~~
15 ~~vehicle operated or occupied by the person applying for the~~
16 ~~license, shall not be granted to a person unless the person is 18~~
17 ~~years of age or older, is a citizen of the United States, and has~~
18 ~~resided in this state 6 months or more.~~ A license shall not be
19 issued UNDER SECTION 6A unless ~~it appears that~~ THE BOARD
20 DETERMINES the applicant ~~has good reason to fear injury to his~~
21 ~~or her person or property, or has other proper reasons, and is a~~
22 ~~suitable person to be licensed.~~ MEETS THE REQUIREMENTS OF THIS
23 SECTION AND SECTION 6A AND THE RULES PROMULGATED UNDER SECTION
24 6A. A license shall not be issued under this section unless all
25 of the following circumstances exist:

1 (a) The person is not the subject of an order or disposition
2 entered into the law enforcement information network pursuant to
3 any of the following:

4 (i) Section 464a(1) of the mental health code, Act No. 258
5 of the Public Acts of 1974, being section 330.1464a of the
6 Michigan Compiled Laws.

7 (ii) Section 444a(1) of the revised probate code, Act
8 No. 642 of the Public Acts of 1978, being section 700.444a of the
9 Michigan Compiled Laws.

10 ~~(iii) Section 2950(9) of the revised judicature act of~~
11 ~~1961, Act No. 236 of the Public Acts of 1961, being section~~
12 ~~600.2950 of the Michigan Compiled Laws.~~

13 ~~(iv) Section 2950a(7) of Act No. 236 of the Public Acts of~~
14 ~~1961, being section 600.2950a of the Michigan Compiled Laws.~~

15 ~~(v) Section 14(7) of chapter 84 of the Revised Statutes of~~
16 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

17 (iii) ~~(vi)~~ Section 6b(5) of chapter V of the code of crim-
18 inal procedure, Act No. 175 of the Public Acts of 1927, being
19 section 765.6b of the Michigan Compiled Laws, if the order has a
20 condition imposed pursuant to section 6b(3) of chapter V of Act
21 No. 175 of the Public Acts of 1927.

22 (iv) ~~(vii)~~ Section 16b(1) of chapter IX of Act No. 175 of
23 the Public Acts of 1927, being section 769.16b of the Michigan
24 Compiled Laws.

25 (b) The person has not been convicted of a felony or con-
26 fined for a felony conviction in this state or elsewhere during
27 the 8-year period immediately preceding the date of the

1 application, and a felony charge against the person is not
2 pending at the time he or she applies for a license described in
3 this section.

4 (c) The person has not been adjudged insane unless the
5 person has been adjudged restored to sanity by court order.

6 (d) The person is not under an order of involuntary commit-
7 ment in an inpatient or outpatient setting due to mental
8 illness.

9 (e) The person has not been adjudged legally incapacitated
10 in this state or elsewhere. This subdivision does not apply to a
11 person who has had his or her legal capacity restored by court
12 order.

13 ~~(2) If an applicant resides in a city, village, or township~~
14 ~~having an organized department of police, a license shall not be~~
15 ~~issued unless the application is first approved in writing by the~~
16 ~~supervisor, commissioner or chief of police, or marshal of that~~
17 ~~city, village, or township. If an application is not approved in~~
18 ~~the manner prescribed by this subsection, the applicant has 10~~
19 ~~days to appeal, in writing, to the concealed weapon licensing~~
20 ~~board in the county in which the applicant resides. Upon receipt~~
21 ~~of a written appeal, that concealed weapon licensing board shall~~
22 ~~schedule a hearing to be held at its next scheduled meeting,~~
23 ~~which shall not be less than 15 days after the receipt of the~~
24 ~~fingerprint comparison report. The concealed weapon licensing~~
25 ~~board shall determine at the hearing whether the applicant is~~
26 ~~qualified to carry a concealed weapon pursuant to this section.~~
27 ~~Notice of the hearing shall be mailed to the applicant and the~~

~~1 organized department of police not less than 10 days before the
2 scheduled hearing. The applicant shall deposit the sum of \$10.00
3 with the county clerk at the time the appeal is made. If, after
4 appeal, a license is not issued, the deposit shall be credited to
5 the general fund of the county. If a license is issued, the
6 deposit shall be processed as the license fee required under sub-
7 section (6).~~

~~8 (3) If an applicant does not reside in a city, village, or
9 township that has an organized department of police, a license
10 shall not be issued unless the application is first submitted for
11 approval or objection to the supervisor of the township in which
12 the applicant resides. The supervisor shall indicate in writing
13 on the application whether he or she objects to the license being
14 issued. If action is not taken by a supervisor within 14 days
15 after the application is submitted to the supervisor, the con-
16 cealed weapon licensing board shall consider the application as
17 if a statement of no objection had been included. If the super-
18 visor objects to the application in writing, the applicant may
19 appeal the objection to the concealed weapon licensing board of
20 the county in which the applicant resides within 10 days after
21 the objection. Upon receipt of a written appeal, that concealed
22 weapon licensing board shall schedule a hearing to be held at its
23 next scheduled meeting, which shall not be less than 15 days
24 after the receipt of the fingerprint comparison report. The con-
25 cealed weapon licensing board shall determine at the hearing
26 whether the applicant is qualified to carry a concealed weapon
27 pursuant to this section. Notice of the hearing shall be mailed~~

~~1 to the applicant and the supervisor of the township not less than~~
~~2 10 days before the scheduled hearing. The applicant shall~~
~~3 deposit the sum of \$10.00 with the county clerk at the time the~~
~~4 appeal is made. If, after appeal, a license is not issued, the~~
~~5 deposit shall be credited to the general fund of the county. If~~
~~6 a license is issued, the deposit shall be processed as the~~
~~7 license fee required under subsection (6).~~

~~8 (4) An applicant shall have 2 sets of fingerprints taken by~~
~~9 the sheriff, or the sheriff's authorized representative, of the~~
~~10 county in which the applicant resides, if the applicant does not~~
~~11 reside in a city, village, or township having an organized~~
~~12 department of police, or by the commissioner or chief of police,~~
~~13 or marshal, or an authorized representative of the commissioner~~
~~14 or chief of police or marshal, if the applicant resides within a~~
~~15 city, village, or township having an organized department of~~
~~16 police. The first set of fingerprints shall be taken on forms~~
~~17 furnished by the department of state police, and the second set~~
~~18 on forms furnished by the federal bureau of investigation. The~~
~~19 person taking the prints shall forward the first set of finger~~
~~20 prints to the department of state police and the second set to~~
~~21 the federal bureau of investigation or other agency designated by~~
~~22 the federal bureau of investigation. The director of the bureau~~
~~23 of identification of the department of state police shall compare~~
~~24 the fingerprints with those already on file in the bureau. A~~
~~25 license shall not be issued unless the report is received by the~~
~~26 clerk of the board from the department of state police and the~~
~~27 federal bureau of investigation that the comparisons do not show~~

~~1 that the applicant was convicted of or confined for a felony~~
~~2 during the 8 year period. The board may grant a temporary permit~~
~~3 in case of emergency pending the results of the comparisons. The~~
~~4 temporary permit shall be issued for a period of not more than 30~~
~~5 days and shall expire automatically at the end of the period for~~
~~6 which it was issued. Upon receipt of the comparison report from~~
~~7 the federal bureau of investigation, the bureau of identification~~
~~8 of the department of state police shall forward a report of both~~
~~9 comparisons to the officer taking the prints and also to the~~
~~10 county clerk of the county in which the applicant resides, who as~~
~~11 clerk of the board shall keep a record of the report and shall~~
~~12 report to the board. The fingerprints received under this sec-~~
~~13 tion shall be filed in the bureau of identification of the~~
~~14 department of state police in the noncriminal section of the~~
~~15 files.~~

16 (2) ~~(5)~~ The application for a license shall state each
17 reason for the necessity or desirability of ~~carrying a pistol~~
18 ~~concealed on the person or carrying a pistol, whether or not con-~~
19 ~~cealed, in a vehicle occupied by the person applying for~~ HAVING
20 the license. A license issued under ~~this~~ section 6A shall
21 ~~limit the carrying of a pistol~~ BE LIMITED to the reason or rea-
22 sons satisfactory to the board, and each restriction shall appear
23 conspicuously on the face of the license. ~~The license shall be~~
24 ~~an authorization to carry a pistol in compliance with this sec-~~
25 ~~tion only to the extent contained in the face of the license and~~
26 ~~the~~ THE license shall be revoked by the board if the ~~pistol is~~

1 ~~carried contrary to the authorization~~ RESTRICTIONS ARE NOT
2 COMPILED WITH.

3 (3) ~~-(6)-~~ The prosecuting attorney shall be the chairperson
4 of the board. ~~, which~~ THE BOARD shall convene at least once in
5 each calendar month IN WHICH AN APPLICATION IS RECEIVED and at
6 other times as the board is called to convene by the
7 chairperson.

8 (4) Each license shall be issued only upon written applica-
9 tion signed by the applicant under oath and upon a form provided
10 by the director of the department of state police. Each license
11 shall be issued only with the approval of a majority of the mem-
12 bers of the LICENSING board and ~~shall be executed in triplicate~~
13 ~~upon forms provided by the director of the department of state~~
14 ~~police. Each license~~ shall be signed in the name of the
15 ~~concealed weapon~~ licensing board by the county clerk with the
16 seal of the circuit court affixed to the license. The county
17 clerk shall ~~first~~ collect a licensing fee of \$10.00 from the
18 applicant for each license ~~delivered~~ BEFORE DELIVERING THE
19 LICENSE to the applicant. ~~One copy of the license shall be~~
20 ~~delivered to the applicant, the duplicate shall be retained by~~
21 ~~the county clerk as a permanent official record for a period of 6~~
22 ~~years, and the triplicate of the license shall be forwarded~~
23 ~~within 48 hours to the director of the department of state police~~
24 ~~who shall file and index each license received and retain it as a~~
25 ~~permanent official record for a period of 6 years.~~ A license is
26 valid for a definite period of not more than 3 years, and that
27 period shall be stated in the license. A renewal of the license

1 shall not be granted except upon the filing of a new
2 application. ~~A license shall bear the imprint of the right~~
3 ~~thumb of the licensee, or, if a right thumb imprint is impossible~~
4 ~~to obtain, the license shall bear the imprint of the left thumb~~
5 ~~or some other finger of the licensee. The licensee shall carry~~
6 ~~the license upon his or her person when carrying a pistol con-~~
7 ~~cealed upon his or her person, or when carrying the pistol,~~
8 ~~whether or not concealed, in a vehicle occupied by the licensee.~~
9 The licensee shall display the license upon the request of a
10 peace officer.

11 (5) On the first day of each month the county clerk shall
12 remit to the state treasurer \$2.00 for each license issued during
13 the preceding month. On the first day of each month the county
14 clerk shall pay into the general fund of the county the remainder
15 of each license fee for each license issued during the preceding
16 month.

17 (6) ~~(7)~~ The county clerk may issue a copy of a license
18 issued pursuant to this section for a fee of \$3.00. ~~which~~ THE
19 fee shall be paid into the general fund of the county.

20 (7) ~~(8)~~ A charter county may impose by ordinance a differ-
21 ent amount for the ~~concealed weapon~~ licensing fee prescribed by
22 subsection ~~(6)~~ (4). A charter county shall not impose a fee
23 ~~which~~ THAT is greater than the cost of the service for which
24 the fee is charged.

25 Sec. 6a. (1) A ~~concealed weapons~~ licensing board may
26 issue to any bank, trust company, armored car company, railway
27 company, express company, or other company, institution,

1 ~~copartnership~~ PARTNERSHIP, or individual having ~~in its, their,~~
2 ~~or the individual's~~ possession OF large sums of money or other
3 valuables, a license authorizing the licensee to equip the
4 premises or vehicles under ~~its, their, or the individual's~~ THE
5 LICENSEE'S control with gas ejecting devices to be used solely
6 for ~~the purpose of~~ protecting those premises or vehicles and
7 the persons or property in the premises or vehicles from criminal
8 assaults.

9 (2) The director of the department of state police shall
10 promulgate rules to govern ~~the issuing of the license and the~~
11 ~~making of an application for the license~~ APPLICATIONS FOR
12 LICENSES AND ISSUING LICENSES. The rules shall be promulgated
13 pursuant to the administrative procedures act of 1969, Act
14 No. 306 of the Public Acts of 1969, as amended, being sections
15 24.201 to 24.328 of the Michigan Compiled Laws. The ~~concealed~~
16 ~~weapons~~ licensing board may issue to any ~~company,~~
17 ~~copartnership~~ CORPORATION, ASSOCIATION, PARTNERSHIP, or individ-
18 ual under the limitations and pursuant to the rules promulgated
19 by the director of the department of state police a license
20 authorizing the corporation, ~~copartnership~~ ASSOCIATION,
21 PARTNERSHIP, or individual to manufacture or sell ~~, or both,~~ a
22 gas ejecting or emitting weapon, cartridge, or device to ~~any~~ A
23 person authorized by law to possess the weapon, cartridge, or
24 device.

25 (3) ~~For purposes of~~ AS USED IN this section, "gas ejecting
26 device" means a device designed for the purpose of rendering a

1 person either temporarily or permanently disabled by the
2 ejection, release, or emission of a gas or other substance.

3 (4) A license ~~shall~~ IS not ~~be~~ required under this sec-
4 tion ~~for the sale~~ TO SELL, purchase, or ~~possession of~~ POSSESS
5 a self-defense spray device, as defined in section 224d of the
6 Michigan penal code, Act No. 328 of the Public Acts of 1931,
7 being section 750.224d of the Michigan Compiled Laws.

8 Sec. 8. The licensing board ~~herein~~ created by section 6
9 may revoke any license issued by it upon receiving a certificate
10 of ~~any~~ A magistrate showing that ~~such~~ THE licensee has been
11 convicted of violating ~~any of the provisions of~~ this act ~~,~~ or
12 has been convicted of a felony. ~~Such~~ THE license may also be
13 revoked ~~whenever in the judgment of said~~ IF THE board
14 DETERMINES the reason for granting ~~such~~ THE license ~~shall~~
15 ~~have~~ HAS ceased to exist ~~,~~ or ~~whenever said~~ IF THE board
16 ~~shall~~ DETERMINES for any reasonable cause ~~determine said~~ THE
17 licensee ~~to be~~ IS an unfit person to ~~carry a pistol concealed~~
18 ~~upon his person~~ HOLD THE LICENSE. ~~No such~~ A license shall NOT
19 be revoked except upon written complaint and ~~then only~~ after a
20 hearing by ~~said~~ THE board. ~~, of which at~~ AT least 7 days'
21 notice OF THE HEARING shall be given to the licensee ~~either~~ by
22 personal service or by registered mail to ~~his~~ THE LICENSEE'S
23 last known address. The clerk of ~~said~~ THE licensing board ~~is~~
24 ~~hereby authorized to~~ MAY administer an oath to any person testi-
25 fying before ~~such~~ THE board at ~~any such~~ A hearing.

26 Section 2. Sections 1, 2, 2b, 3, 4, 7, 9, 9a, 9b, 9c, 9d,
27 10, 11, 12, 12a, 12b, 12c, 13, and 14 of Act No. 372 of the

1 Public Acts of 1927, being sections 28.421, 28.422, 28.422b,
2 28.423, 28.424, 28.427, 28.429, 28.429a, 28.429b, 28.429c,
3 28.429d, 28.430, 28.431, 28.432, 28.432a, 28.432b, 28.432c,
4 28.433, and 28.434 of the Michigan Compiled Laws, are repealed.

5 Section 3. This amendatory act shall take effect January 1,
6 1997.

7 Section 4. This amendatory act shall not take effect unless
8 Senate Bill No. _____ or House Bill No. _____ (request
9 no. 00750'95) of the 88th Legislature is enacted into law.