

**SENATE BILL NO. 970**

March 3, 1998, Introduced by Senator CHERRY and referred to the Committee on Hunting, Fishing and Forestry.

A bill to amend 1927 PA 372, entitled

"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,"

by amending sections 2, 3, and 6 (MCL 28.422, 28.423, and 28.426), sections 2 and 6 as amended by 1994 PA 338 and section 3 as added by 1991 PA 130.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

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

21 (a) The person is not subject to an order or disposition for  
22 which he or she has received notice and an opportunity for a  
23 hearing, and which was entered into the law enforcement informa-  
24 tion network pursuant to any of the following:

25 (i) Section ~~464a(1)~~ 464A of the mental health code, ~~Act~~  
26 ~~No. 258 of the Public Acts of 1974, being section 330.1464a of~~  
27 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1464A.

1           (ii) Section ~~444a(1)~~ 444A of the revised probate code,  
2 ~~Act No. 642 of the Public Acts of 1978, being section 700.444a~~  
3 ~~of the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A.

4           (iii) Section ~~2950(9)~~ 2950 of the revised judicature act  
5 of 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~  
6 ~~600.2950 of the Michigan Compiled Laws~~ 1961 PA 236, MCL  
7 600.2950.

8           (iv) Section ~~2950a(7)~~ of Act No. ~~236 of the Public Acts of~~  
9 ~~1961, being section 600.2950a of the Michigan Compiled Laws~~  
10 2950A OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL  
11 600.2950A.

12           ~~(v) Section 14(7) of chapter 84 of the Revised Statutes of~~  
13 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

14           (v) ~~(vi)~~ Section ~~6b(5)~~ 6B of chapter V of the code of  
15 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~  
16 ~~being section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175,  
17 MCL 765.6B, if the order has a condition imposed ~~pursuant to~~  
18 ~~section 6b(3) of chapter V of Act No. 175 of the Public Acts of~~  
19 ~~1927~~ UNDER THAT SECTION THAT PROHIBITS THE PURCHASE OR POSSES-  
20 SION OF A FIREARM.

21           (vi) ~~(vii)~~ Section ~~16b(1)~~ 16B of chapter IX of ~~Act~~  
22 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~  
23 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA  
24 175, MCL 769.16B.

25           (b) The person is 18 years of age or older or, if the seller  
26 is licensed pursuant to section 923 of title 18 of the United  
27 States Code, 18 U.S.C. 923, is 21 years of age or older.

1 (c) The person is a citizen of the United States and is a  
2 legal resident of this state.

3 (d) A felony charge against the person is not pending at the  
4 time of application.

5 (e) The person is not prohibited from possessing, using,  
6 transporting, selling, purchasing, carrying, shipping, receiving,  
7 or distributing a firearm under section 224f of the Michigan  
8 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~  
9 ~~tion 750.224f of the Michigan Compiled Laws~~ 1931 PA 328, MCL  
10 750.224F.

11 (f) The person has not been adjudged insane in this state or  
12 elsewhere unless he or she has been adjudged restored to sanity  
13 by court order.

14 (g) The person is not under an order of involuntary commit-  
15 ment in an inpatient or outpatient setting due to mental  
16 illness.

17 (h) The person has not been adjudged legally incapacitated  
18 in this state or elsewhere. This subdivision does not apply to a  
19 person who has had his or her legal capacity restored by order of  
20 the court.

21 (i) The person correctly answers 70% or more of the ques-  
22 tions on a basic pistol safety review questionnaire approved by  
23 the basic pistol safety review board and provided to the individ-  
24 ual free of charge by the licensing authority. If the person  
25 fails to correctly answer 70% or more of the questions on the  
26 basic pistol safety review questionnaire, the licensing authority  
27 shall inform the person of the questions he or she answered

1 incorrectly and allow the person to attempt to complete another  
2 basic pistol safety review questionnaire. The person shall not  
3 be allowed to attempt to complete more than 2 basic pistol safety  
4 review questionnaires on any single day. The licensing authority  
5 shall allow the person to attempt to complete the questionnaire  
6 during normal business hours on the day the person applies for  
7 his or her license.

8 (4) Applications for licenses under this section shall be  
9 signed by the applicant under oath upon forms provided by the  
10 director of the department of state police. Licenses to pur-  
11 chase, carry, or transport pistols shall be executed in tripli-  
12 cate upon forms provided by the director of the department of  
13 state police and shall be signed by the licensing authority.  
14 Three copies of the license shall be delivered to the applicant  
15 by the licensing authority.

16 (5) Upon the sale of the pistol, the seller shall fill out  
17 the license forms describing the pistol sold, together with the  
18 date of sale, and sign his or her name in ink indicating that the  
19 pistol was sold to the licensee. The licensee shall also sign  
20 his or her name in ink indicating the purchase of the pistol from  
21 the seller. The seller may retain a copy of the license as a  
22 record of the sale of the pistol. The licensee shall return  
23 2 copies of the license to the licensing authority within 10 days  
24 following the purchase of the pistol.

25 (6) One copy of the license shall be retained by the licens-  
26 ing authority as an official record for a period of 6 years. The  
27 other copy of the license shall be forwarded by the licensing

1 authority within 48 hours to the director of the department of  
2 state police. A license is void unless used within 10 days after  
3 the date of its issue.

4 (7) This section does not apply to the purchase of pistols  
5 from wholesalers by dealers regularly engaged in the business of  
6 selling pistols at retail, or to the sale, barter, or exchange of  
7 pistols kept solely as relics, curios, or antiques not made for  
8 modern ammunition or permanently deactivated. This section does  
9 not prevent the transfer of ownership of pistols that are inher-  
10 ited if the license to purchase is approved by the commissioner  
11 or chief of police, sheriff, or their authorized deputies, and  
12 signed by the personal representative of the estate or by the  
13 next of kin having authority to dispose of the pistol.

14 (8) The licensing authority shall provide a basic pistol  
15 safety brochure to each applicant for a license under this sec-  
16 tion before the applicant answers the basic pistol safety review  
17 questionnaire. A basic pistol safety brochure shall contain, but  
18 is not limited to providing, information on all of the following  
19 subjects:

20 (a) Rules for safe handling and use of pistols.

21 (b) Safe storage of pistols.

22 (c) Nomenclature and description of various types of  
23 pistols.

24 (d) The responsibilities of owning a pistol.

25 (9) The basic pistol safety brochure shall be supplied in  
26 addition to the safety pamphlet required by section 9b.

1 (10) The basic pistol safety brochure required in subsection  
2 (8) shall be produced by a national nonprofit membership  
3 organization that provides voluntary pistol safety programs that  
4 include training individuals in the safe handling and use of  
5 pistols.

6 (11) A person who forges any matter on an application for a  
7 license under this section is guilty of a felony, punishable by  
8 imprisonment for not more than 4 years or a fine of not more than  
9 \$2,000.00, or both.

10 (12) A licensing authority shall implement this section  
11 during all of the licensing authority's normal business hours and  
12 shall set hours for implementation that allow an applicant to use  
13 the license within the time period set forth in subsection (6).

14 Sec. 3. (1) A local unit of government may charge an appli-  
15 cant a fee of not more than \$5.00 for the actual and necessary  
16 expenses of a license to purchase, carry, or transport a pistol  
17 issued under section 2 OR SECTION 6.

18 (2) THE LOCAL UNIT OF GOVERNMENT SHALL PROCESS THE APPLICA-  
19 TION AND FINGERPRINT FORMS IN NOT MORE THAN 5 BUSINESS DAYS AFTER  
20 RECEIPT OF THE APPLICATION. AN EXTENSION OF AN ADDITIONAL PERIOD  
21 OF NOT MORE THAN 5 BUSINESS DAYS IS AUTHORIZED IF AN UNFORESEE-  
22 ABLE CIRCUMSTANCE PREVENTS PROCESSING WITHIN THE FIRST 5 BUSINESS  
23 DAYS.

24 (3) IF THE LOCAL UNIT OF GOVERNMENT FAILS TO PROCESS THE  
25 FINGERPRINT CARDS AND THE APPLICATION PURSUANT TO SUBSECTION (2),  
26 THE LOCAL UNIT OF GOVERNMENT SHALL PAY A CIVIL FINE OF \$10.00 TO

1 THE APPLICANT FOR EACH DAY AFTER THE EXTENSION PERIOD UNTIL THE  
2 FINGERPRINT CARDS AND THE APPLICATION ARE PROCESSED.

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

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

1 (i) Section ~~464a(1)~~ 464A of the mental health code, ~~Act~~  
2 ~~No. 258 of the Public Acts of 1974, being section 330.1464a of~~  
3 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1464A.

4 (ii) Section ~~444a(1)~~ 444A of the revised probate code,  
5 ~~Act No. 642 of the Public Acts of 1978, being section 700.444a~~  
6 ~~of the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A.

7 (iii) Section ~~2950(9)~~ 2950 of the revised judicature act  
8 of 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~  
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12 1961, ~~being section 600.2950a of the Michigan Compiled Laws~~  
13 2950A OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL  
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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 (v) ~~(vi)~~ Section ~~6b(5)~~ 6B of chapter V of the code of  
18 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~  
19 ~~being section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175,  
20 MCL 765.6B, if the order has a condition imposed ~~pursuant to~~  
21 ~~section 6b(3) of chapter V of Act No. 175 of the Public Acts of~~  
22 ~~1927~~ UNDER THAT SECTION THAT PROHIBITS THE PURCHASE OR POSSES-  
23 SION OF A FIREARM.

24 (vi) ~~(vii)~~ Section ~~16b(1)~~ 16B of chapter IX of ~~Act~~  
25 ~~No. 175 of the Public Acts of 1927, being section 769.16b of the~~  
26 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA  
27 175, MCL 769.16B.

1 (b) The person has not been convicted of a felony or  
2 confined for a felony conviction in this state or elsewhere  
3 during the 8-year period immediately preceding the date of the  
4 application, and a felony charge against the person is not pend-  
5 ing at the time he or she applies for a license described in this  
6 section.

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

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

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

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

1 board shall determine at the hearing whether the applicant is  
2 qualified to carry a concealed weapon pursuant to this section.  
3 Notice of the hearing shall be mailed to the applicant and the  
4 organized department of police not less than 10 days before the  
5 scheduled hearing. ~~The applicant shall deposit the sum of~~  
6 ~~\$10.00 with the county clerk at the time the appeal is made. If,~~  
7 ~~after appeal, a license is not issued, the deposit shall be cred-~~  
8 ~~ited to the general fund of the county. If a license is issued,~~  
9 ~~the deposit shall be processed as the license fee required under~~  
10 ~~subsection (6). A FEE SHALL NOT BE CHARGED TO PROCESS AN APPEAL~~  
11 UNDER THIS SUBSECTION.

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

1 after the receipt of the fingerprint comparison report. The  
2 concealed weapon licensing board shall determine at the hearing  
3 whether the applicant is qualified to carry a concealed weapon  
4 pursuant to this section. Notice of the hearing shall be mailed  
5 to the applicant and the supervisor of the township not less than  
6 10 days before the scheduled hearing. ~~The applicant shall~~  
7 ~~deposit the sum of \$10.00 with the county clerk at the time the~~  
8 ~~appeal is made. If, after appeal, a license is not issued, the~~  
9 ~~deposit shall be credited to the general fund of the county. If~~  
10 ~~a license is issued, the deposit shall be processed as the~~  
11 ~~license fee required under subsection (6).~~ A FEE SHALL NOT BE  
12 CHARGED TO PROCESS AN APPEAL UNDER THIS SUBSECTION.

13 (4) An applicant shall have 2 sets of fingerprints taken by  
14 the sheriff, or the sheriff's authorized representative, of the  
15 county in which the applicant resides, if the applicant does not  
16 reside in a city, village, or township having an organized  
17 department of police, or by the commissioner or chief of police,  
18 or marshal, or an authorized representative of the commissioner  
19 or chief of police or marshal, if the applicant resides within a  
20 city, village, or township having an organized department of  
21 police. The first set of fingerprints shall be taken on forms  
22 furnished by the department of state police, and the second set  
23 on forms furnished by the federal bureau of investigation. The  
24 person taking the prints shall forward the first set of finger-  
25 prints to the department of state police and the second set to  
26 the federal bureau of investigation or other agency designated by  
27 the federal bureau of investigation. The director of the bureau

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

21 (5) The application for a license shall state each reason  
22 for the necessity or desirability of carrying a pistol concealed  
23 on the person or carrying a pistol, whether or not concealed, in  
24 a vehicle occupied by the person applying for the license. A  
25 license issued under this section shall limit the carrying of a  
26 pistol to the reason or reasons satisfactory to the board, and  
27 each restriction shall appear conspicuously on the face of the

1 license. The license shall be an authorization to carry a pistol  
2 in compliance with this section only to the extent contained in  
3 the face of the license and the license shall be revoked by the  
4 board if the pistol is carried contrary to the authorization.

5 (6) The prosecuting attorney shall be the chairperson of the  
6 board, which shall convene at least once in each calendar month  
7 and at other times as the board is called to convene by the  
8 chairperson. Each license shall be issued only upon written  
9 application signed by the applicant under oath and upon a form  
10 provided by the director of the department of state police. Each  
11 license shall be issued only with the approval of a majority of  
12 the members of the board and shall be executed in triplicate upon  
13 forms provided by the director of the department of state  
14 police. Each license shall be signed in the name of the con-  
15 cealed weapon licensing board by the county clerk with the seal  
16 of the circuit court affixed to the license. The county clerk  
17 shall ~~first~~ NOT collect a licensing fee ~~of \$10.00~~ from the  
18 applicant. ~~for each license delivered to the applicant.~~ One  
19 copy of the license shall be delivered to the applicant, the  
20 duplicate shall be retained by the county clerk as a permanent  
21 official record for a period of 6 years, and the triplicate of  
22 the license shall be forwarded within 48 hours to the director of  
23 the department of state police who shall file and index each  
24 license received and retain it as a permanent official record for  
25 a period of 6 years. A license is valid for a definite period of  
26 not more than 3 years, and that period shall be stated in the  
27 license. A renewal of the license shall not be granted except

1 upon the filing of a new application. A license shall bear the  
2 imprint of the right thumb of the licensee, or, if a right thumb  
3 imprint is impossible to obtain, the license shall bear the  
4 imprint of the left thumb or some other finger of the licensee.  
5 The licensee shall carry the license upon his or her person when  
6 carrying a pistol concealed upon his or her person, or when car-  
7 rying the pistol, whether or not concealed, in a vehicle occupied  
8 by the licensee. The licensee shall display the license upon the  
9 request of a peace officer. ~~On the first day of each month the~~  
10 ~~county clerk shall remit to the state treasurer \$2.00 for each~~  
11 ~~license issued during the preceding month. On the first day of~~  
12 ~~each month the county clerk shall pay into the general fund of~~  
13 ~~the county the remainder of each license fee for each license~~  
14 ~~issued during the preceding month.~~

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

18 ~~-(8) A charter county may impose by ordinance a different~~  
19 ~~amount for the concealed weapon licensing fee prescribed by sub-~~  
20 ~~section (6). A charter county shall not impose a fee which is~~  
21 ~~greater than the cost of the service for which the fee is~~  
22 ~~charged.~~