

SENATE BILL NO. 971

March 3, 1998, Introduced by Senators EMMONS, BENNETT, JAYE and SHUGARS 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 4 and 6 (MCL 28.424 and 28.426), section 4 as added by 1992 PA 219 and section 6 as amended by 1994 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A person who is prohibited from possessing,
2 using, transporting, selling, purchasing, carrying, shipping,
3 receiving, or distributing a firearm under section 224f(2) of the
4 Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
5 ~~being section 750.224f of the Michigan Compiled Laws~~ 1931 PA
6 328, MCL 750.224F, apply to the concealed weapons licensing board

1 in the county in which he or she resides for restoration of those
2 rights.

3 (2) Not more than 1 application may be submitted under
4 subsection (1) in any calendar year. The concealed weapons
5 licensing board may charge a fee of not more than \$10.00 for the
6 actual and necessary expenses of each application.

7 (3) The concealed weapons licensing board shall, by written
8 order of the board, restore the rights of a person to possess,
9 use, transport, sell, purchase, carry, ship, receive, or distrib-
10 ute a firearm if the board determines, by clear and convincing
11 evidence, that all of the following circumstances exist:

12 (a) The person properly submitted an application for resto-
13 ration of those rights as provided under this section.

14 (b) The expiration of 5 years after all of the following
15 circumstances:

16 (i) The person has paid all fines imposed for the violation
17 resulting in the prohibition.

18 (ii) The person has served all terms of imprisonment imposed
19 for the violation resulting in the prohibition.

20 (iii) The person has successfully completed all conditions
21 of probation or parole imposed for the violation resulting in the
22 prohibition.

23 (c) The person's record and reputation are such that the
24 person is not likely to act in a manner dangerous to the safety
25 of other persons.

26 (4) If the concealed weapons licensing board pursuant to
27 subsection (3) refuses to restore a right under this section, the

1 person may petition the circuit court for review of that
2 decision.

3 (5) AN APPLICATION UNDER THIS SECTION, AND THE DATA OF A
4 CONCEALED WEAPONS LICENSING BOARD THAT RELATES TO THE STATUS OF
5 THAT APPLICATION, SHALL BE MADE AVAILABLE TO THE PUBLIC IN COM-
6 PLIANCE WITH THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
7 15.231 TO 15.246.

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

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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~~ 1974 PA 258, MCL 330.1464A.

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~~ 1978 PA 642, MCL 700.444A.

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

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~~ THE
15 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2950A.

16 (v) Section 14(7) of ~~chapter 84 of the Revised Statutes of~~
17 ~~1846, being section 552.14 of the Michigan Compiled Laws~~ 1846 RS
18 84, MCL 552.14.

19 (vi) Section 6b(5) of chapter V of the code of criminal pro-
20 cedure, ~~Act No. 175 of the Public Acts of 1927, being section~~
21 ~~765.6b of the Michigan Compiled Laws~~ 1927 PA 175, MCL 765.6B, if
22 the order has a condition imposed pursuant to section 6b(3) of
23 chapter V of ~~Act No. 175 of the Public Acts of 1927~~ THE CODE OF
24 CRIMINAL PROCEDURE, 1927 PA 175, MCL 765.6B.

25 (vii) Section 16b(1) of chapter IX of ~~Act No. 175 of the~~
26 ~~Public Acts of 1927, being section 769.16b of the Michigan~~

1 ~~Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
2 769.16B.

3 (b) The person has not been convicted of a felony or con-
4 fined for a felony conviction in this state or elsewhere during
5 the 8-year period immediately preceding the date of the applica-
6 tion, and a felony charge against the person is not pending at
7 the time he or she applies for a license described in this
8 section.

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

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

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

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

1 which shall not be less than 15 days after the receipt of the
2 fingerprint comparison report. The concealed weapon licensing
3 board shall determine at the hearing whether the applicant is
4 qualified to carry a concealed weapon pursuant to this section.
5 Notice of the hearing shall be mailed to the applicant and the
6 organized department of police not less than 10 days before the
7 scheduled hearing. The applicant shall deposit the sum of \$10.00
8 with the county clerk at the time the appeal is made. If, after
9 appeal, a license is not issued, the deposit shall be credited to
10 the general fund of the county. If a license is issued, the
11 deposit shall be processed as the license fee required under sub-
12 section (6).

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

1 next scheduled meeting, which shall not be less than 15 days
2 after the receipt of the fingerprint comparison report. The con-
3 cealed weapon licensing board shall determine at the hearing
4 whether the applicant is qualified to carry a concealed weapon
5 pursuant to this section. Notice of the hearing shall be mailed
6 to the applicant and the supervisor of the township not less than
7 10 days before the scheduled hearing. The applicant shall
8 deposit the sum of \$10.00 with the county clerk at the time the
9 appeal is made. If, after appeal, a license is not issued, the
10 deposit shall be credited to the general fund of the county. If
11 a license is issued, the deposit shall be processed as the
12 license fee required under subsection (6).

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 collect a licensing fee of \$10.00 from the applicant
18 for each license delivered to the applicant. One copy of the
19 license shall be delivered to the applicant, the duplicate shall
20 be retained by the county clerk as a permanent official record
21 for a period of 6 years, and the triplicate of the license shall
22 be forwarded within 48 hours to the director of the department of
23 state police who shall file and index each license received and
24 retain it as a permanent official record for a period of 6
25 years. A license is valid for a definite period of not more than
26 3 years, and that period shall be stated in the license. A
27 renewal of the license shall not be granted except upon the

1 filing of a new application. A license shall bear the imprint of
2 the right thumb of the licensee, or, if a right thumb imprint is
3 impossible to obtain, the license shall bear the imprint of the
4 left thumb or some other finger of the licensee. The licensee
5 shall carry the license upon his or her person when carrying a
6 pistol concealed upon his or her person, or when carrying the
7 pistol, whether or not concealed, in a vehicle occupied by the
8 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.

23 (9) AN APPLICATION FOR A LICENSE UNDER THIS SECTION, AND THE
24 DATA OF A CONCEALED WEAPONS LICENSING BOARD THAT RELATES TO THE
25 STATUS OF THAT APPLICATION, SHALL BE MADE AVAILABLE TO THE PUBLIC
26 IN COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
27 MCL 15.231 TO 15.246.