

# HOUSE BILL No. 4184

February 9, 1999, Introduced by Reps. Scott, Hale, Garza, Brater, Thomas and Vaughn and referred to the Committee on Constitutional Law and Ethics.

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 and 9a (MCL 28.422 and 28.429a), section 2 as amended by 1994 PA 338 and section 9a as added by 1990 PA 320, and by adding section 2c.

## 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 issue  
13 licenses to purchase, carry, or transport pistols to qualified  
14 applicants residing within the city, village, township, or  
15 county, as applicable, unless he or she has probable cause to  
16 believe that the applicant would be a threat to himself or her-  
17 self or to other individuals —, or would commit an offense with  
18 the pistol that would violate a law of this or another state or  
19 of the United States. An applicant is qualified if all of the  
20 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~~ THAT was entered into the law enforcement  
24 information network ~~pursuant to~~ UNDER any of the following:

25       (i) Section 464a(1) of the mental health code, ~~Act No. 258~~  
26 ~~of the Public Acts of 1974, being section 330.1464a of the~~  
27 ~~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 OR 2950A of the revised judica-  
5 ture act of 1961, ~~Act No. 236 of the Public Acts of 1961, being~~  
6 ~~section 600.2950 of the Michigan Compiled Laws~~ 1961 PA 236,  
7 MCL 600.2950 AND 600.2950A.

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       ~~(v) Section 14(7) of chapter 84 of the Revised Statutes of~~  
11 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~

12       (iv) ~~(vi)~~ Section ~~6b(5)~~ 6B of chapter V of the code of  
13 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~  
14 ~~being section 765.6b of the Michigan Compiled Laws~~ 1927 PA 175,  
15 MCL 765.6B, if the order has a condition imposed pursuant to sec-  
16 tion 6b(3) of chapter V of ~~Act No. 175 of the Public Acts of~~  
17 ~~1927~~ THAT ACT.

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

22       (b) The person is 18 years of age or older or, if the seller  
23 is licensed ~~pursuant to~~ UNDER section 923 of title 18 of the  
24 United States Code, 18 U.S.C. 923, is 21 years of age or older.

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

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

3 (e) The person is not prohibited from possessing, using,  
4 transporting, selling, purchasing, carrying, shipping, receiving,  
5 or distributing a firearm under section 224f of the Michigan  
6 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~  
7 ~~tion 750.224f of the Michigan Compiled Laws~~ 1931 PA 328,  
8 MCL 750.224F. A LICENSE SHALL NOT BE ISSUED UNDER THIS SECTION  
9 UNTIL THE REQUIREMENT OF THIS SUBDIVISION IS VERIFIED BY A COM-  
10 PUTERIZED CRIMINAL HISTORY INVESTIGATION THROUGH THE LAW ENFORCE-  
11 MENT INFORMATION NETWORK.

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

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

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

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

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

9 (J) THE PERSON HAS SUCCESSFULLY COMPLETED A PISTOL SAFETY  
10 TRAINING PROGRAM AND PRESENTS A CERTIFICATE OF COMPLETION ISSUED  
11 UNDER SECTION 2C BY ANY SHERIFF'S DEPARTMENT OR POLICE DEPARTMENT  
12 IN THIS STATE.

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

21 (5) Upon the sale of the pistol, the seller shall fill out  
22 the license forms describing the pistol sold ~~—, together with—~~  
23 AND the date of sale ~~—,~~ and sign his or her name in ink indicat-  
24 ing that the pistol was sold to the licensee. The licensee shall  
25 also sign his or her name in ink indicating the purchase of the  
26 pistol from the seller. The seller may retain a copy of the  
27 license as a record of the sale of the pistol. The licensee

1 shall return 2 copies of the license to the licensing authority  
2 within 10 days following the purchase of the pistol.

3       (6) One copy of the license shall be retained by the licens-  
4 ing authority as an official record for ~~a period of~~ 6 years.  
5 The other copy of the license shall be forwarded by the licensing  
6 authority within 48 hours to the director of the department of  
7 state police. A license is void unless used within 10 days after  
8 the date of its issue.

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

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

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

26       (b) Safe storage of pistols.

1 (c) Nomenclature and description of various types of  
2 pistols.

3 (d) The responsibilities of owning a pistol.

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

6 (10) The basic pistol safety brochure required in subsection  
7 (8) shall be produced by a national nonprofit membership organi-  
8 zation that provides voluntary pistol safety programs that  
9 include training individuals in the safe handling and use of  
10 pistols.

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

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

19 SEC. 2C. (1) EACH SHERIFF'S DEPARTMENT IN THIS STATE SHALL,  
20 AND EACH POLICE DEPARTMENT IN THIS STATE MAY, PROVIDE A PISTOL  
21 SAFETY TRAINING PROGRAM DEVELOPED BY THE BASIC PISTOL SAFETY  
22 REVIEW BOARD UNDER SECTION 9A TO INDIVIDUALS WHO WISH TO APPLY  
23 FOR A LICENSE UNDER SECTION 2.

24 (2) EACH SHERIFF'S DEPARTMENT SHALL PROVIDE THE PROGRAM  
25 DESCRIBED IN SUBSECTION (1) AS OFTEN AS NECESSARY TO ENSURE THAT  
26 LICENSES ARE ISSUED UNDER SECTION 2 IN A TIMELY MANNER, BUT SHALL  
27 PROVIDE THAT PROGRAM AT LEAST ONCE A MONTH. A POLICE DEPARTMENT

1 MAY PROVIDE THE PROGRAM AS OFTEN AS DETERMINED APPROPRIATE BY  
2 THAT POLICE DEPARTMENT.

3 (3) THE SHERIFF'S DEPARTMENT OR POLICE DEPARTMENT THAT PRO-  
4 VIDES THE PROGRAM SHALL ISSUE A CERTIFICATE OF COMPLETION TO EACH  
5 INDIVIDUAL WHO SUCCESSFULLY COMPLETES THAT PROGRAM. THE CERTIFI-  
6 CATE OF COMPLETION SHALL BE ON A FORM PRESCRIBED BY THE BASIC  
7 PISTOL SAFETY REVIEW BOARD UNDER SECTION 9A.

8 (4) A TRAINING PROGRAM SHALL BE TAUGHT BY AN INSTRUCTOR CER-  
9 TIFIED BY THE NATIONAL RIFLE ASSOCIATION OR AN INDIVIDUAL HAVING  
10 SUBSTANTIALLY SIMILAR QUALIFICATIONS AS DETERMINED BY THE BASIC  
11 PISTOL SAFETY REVIEW BOARD.

12 (5) THE SHERIFF'S DEPARTMENT OR POLICE DEPARTMENT MAY CHARGE  
13 THE INDIVIDUAL A FEE THAT DOES NOT EXCEED THE ACTUAL AND NECES-  
14 SARY EXPENSE OF PROVIDING THE PROGRAM.

15 Sec. 9a. (1) The basic pistol safety review board is cre-  
16 ated in the department of state police. The board shall consist  
17 of the following members:

18 (a) The director of the department of state police or his or  
19 her representative.

20 (b) The director of the department of natural resources or  
21 his or her representative.

22 (c) One person appointed by the governor with the advice and  
23 consent of the senate representing the interests of organizations  
24 involved in shooting sports.

25 (d) One person appointed by the governor with the advice and  
26 consent of the senate representing the interests of a statewide  
27 conservation organization.



(e) One person appointed by the governor with the advice and consent of the senate representing the interests of the public.

(2) The director of the department of state police shall chair the basic pistol safety board.

(3) The basic pistol safety board shall do all of the following:

(a) Approve a pamphlet on basic pistol safety for distribution to entities authorized to issue licenses under section 2.

(b) Approve basic pistol safety questionnaires for distribution to entities authorized to issue licenses under section 2.

The board shall approve a questionnaire under this subdivision only if both of the following circumstances exist:

(i) The questionnaire only addresses material covered in the pamphlet approved ~~pursuant to~~ UNDER subdivision (a).

(ii) The questionnaire reasonably examines the knowledge of pistol safety of individuals who are required to answer questionnaires.

~~(c) Upon the expiration of 90 days after the effective date of the amendatory act that added this section, provide~~ PROVIDE the department of state police with master copies of the basic pistol safety pamphlet and basic pistol safety questionnaires for printing by the department of state police and for distribution by the department of state police to entities authorized to issue licenses under section 2.

(D) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION, DO ALL OF THE FOLLOWING:

1       (i) DEVELOP 1 OR MORE PROGRAMS TO PROVIDE PISTOL SAFETY  
2 TRAINING TO INDIVIDUALS WHO WISH TO APPLY FOR A LICENSE UNDER  
3 SECTION 2 AND DISTRIBUTE COPIES OF THOSE PROGRAM PLANS TO EACH  
4 SHERIFF'S DEPARTMENT AND POLICE DEPARTMENT IN THIS STATE. A  
5 TRAINING PROGRAM SHALL BE AT LEAST THE EQUIVALENT OF TRAINING  
6 REQUIRED FOR A CERTIFICATION OF COMPETENCY IN HUNTER SAFETY.  
7 EACH PROGRAM SHALL PROVIDE, AT A MINIMUM, INFORMATION ON THE  
8 SUBJECTS SET FORTH IN SECTION 2(8)(A) TO (D) AND SHALL REQUIRE  
9 THE INDIVIDUAL TO DISCHARGE A PISTOL ON A FIRING RANGE UNDER THE  
10 DIRECT SUPERVISION OF A FIREARMS INSTRUCTOR. EACH PROGRAM SHALL  
11 BE TAUGHT IN A SINGLE SESSION OF NOT LESS THAN 2 HOURS OR MORE  
12 THAN 6 HOURS.

13       (ii) PRESCRIBE A FORM FOR CERTIFICATES OF COMPLETION ISSUED  
14 UNDER SECTION 2C.

15       (iii) DETERMINE THE QUALIFICATIONS REQUIRED FOR A PISTOL  
16 SAFETY TRAINING PROGRAM INSTRUCTOR WHO IS NOT CERTIFIED BY THE  
17 NATIONAL RIFLE ASSOCIATION.