

HOUSE BILL No. 5755

February 19, 2008, Introduced by Reps. Rick Jones, Hansen, Meekhof, Stahl, Moss, Pastor, Brandenburg, Casperson, Brown, Walker, Steil, Opsommer, Hoogendyk, Booher, Ball, Robertson, Nofs, Elsenheimer, Schuitmaker, Green, Mayes, Meisner, Polidori, Proos, Acciavatti, Knollenberg, Agema, Garfield, Nitz, Pearce, LeBlanc, Huizenga, Stakoe, Emmons, Bieda, McDowell, David Law, Caswell, Shaffer, Gonzales, Espinoza, Virgil Smith, Wenke and Moolenaar and referred to the Committee on Judiciary.

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 or other authorization; to provide for the forfeiture of firearms 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 sections 5f, 5k, and 5o (MCL 28.425f, 28.425k, and 28.425o), sections 5f and 5o as amended by 2002 PA 719 and section 5k as added by 2000 PA 381.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5f. (1) An individual who is licensed under this act to
2 carry a concealed pistol shall have his or her license to carry
3 that pistol in his or her possession at all times he or she is

1 carrying a concealed pistol.

2 (2) An individual who is licensed under this act to carry a
3 concealed pistol and who is carrying a concealed pistol shall show
4 both of the following to a peace officer upon request by that peace
5 officer:

6 (a) His or her license to carry a concealed pistol.

7 (b) His or her driver license or Michigan personal
8 identification card.

9 (3) An individual licensed under this act to carry a concealed
10 pistol and who is carrying a concealed pistol and who is stopped by
11 a peace officer shall immediately disclose to the peace officer
12 that he or she is carrying a pistol concealed upon his or her
13 person or in his or her vehicle. **IF THE INDIVIDUAL ALSO IS CARRYING**
14 **ON HIS OR HER PERSON OR IN HIS OR HER VEHICLE A PORTABLE DEVICE**
15 **THAT USES ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY PURSUANT TO**
16 **SECTION 224A(2) (A) (xi) OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL**
17 **750.224A, HE OR SHE ALSO SHALL IMMEDIATELY DISCLOSE THAT FACT TO**
18 **THE PEACE OFFICER.**

19 (4) An individual who violates subsection (1) or (2) is
20 responsible for a state civil infraction and may be fined not more
21 than \$100.00.

22 (5) An individual who violates subsection (3) is responsible
23 for a state civil infraction and may be fined as follows:

24 (a) For a first offense, by a fine of not more than \$500.00 or
25 by the individual's license to carry a concealed pistol being
26 suspended for 6 months, or both.

27 (b) For a subsequent offense within 3 years of a prior

1 offense, by a fine of not more than \$1,000.00 and by the
2 individual's license to carry a concealed pistol being revoked.

3 (6) If an individual is found responsible for a state civil
4 infraction under this section, the court shall notify the
5 department of state police and the concealed weapon licensing board
6 that issued the license of that determination.

7 (7) A pistol carried in violation of this section is subject
8 to immediate seizure by a peace officer. If a peace officer seizes
9 a pistol under this subsection, the individual has 45 days in which
10 to display his or her license or documentation to an authorized
11 employee of the law enforcement entity that employs the peace
12 officer. If the individual displays his or her license or
13 documentation to an authorized employee of the law enforcement
14 entity that employs the peace officer within the 45-day period, the
15 authorized employee of that law enforcement entity shall return the
16 pistol to the individual unless the individual is prohibited by law
17 from possessing a firearm. If the individual does not display his
18 or her license or documentation within the 45-day period, the
19 pistol is subject to forfeiture as provided in section 5g. A pistol
20 is not subject to immediate seizure under this subsection if both
21 of the following circumstances exist:

22 (a) The individual has his or her driver license or Michigan
23 personal identification card in his or her possession when the
24 violation occurs.

25 (b) The peace officer verifies through the law enforcement
26 information network that the individual is licensed under this act
27 to carry a concealed pistol.

1 Sec. 5k. (1) Acceptance of a license issued under this act to
2 carry a concealed pistol constitutes implied consent to submit to a
3 chemical analysis under this section. This section also applies to
4 individuals listed in section 12a(a) to (f).

5 (2) An individual shall not carry a concealed pistol while he
6 or she is under the influence of alcoholic liquor or a controlled
7 substance or while having a bodily alcohol content prohibited under
8 this section. ~~A person~~ **AN INDIVIDUAL LICENSED UNDER THIS ACT TO**
9 **CARRY A CONCEALED PISTOL WHO, PURSUANT TO SECTION 224A(2) (A) (xi) OF**
10 **THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.224A, MAY CARRY A**
11 **PORTABLE DEVICE THAT USES ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY**
12 **SHALL NOT CARRY THAT PORTABLE DEVICE WHILE HAVING A BODILY ALCOHOL**
13 **CONTENT PROHIBITED UNDER THIS SECTION. AN INDIVIDUAL** who violates
14 this section is responsible for a state civil infraction or guilty
15 of a crime as follows:

16 (a) If the person was under the influence of alcoholic liquor
17 or a controlled substance or a combination of alcoholic liquor and
18 a controlled substance, or had a bodily alcohol content of .10 or
19 more grams per 100 milliliters of blood, per 210 liters of breath,
20 or per 67 milliliters of urine, the individual is guilty of a
21 misdemeanor punishable by imprisonment for not more than 93 days or
22 \$100.00, or both. The court shall order the concealed weapon
23 licensing board that issued the individual a license to carry a
24 concealed pistol to permanently revoke the license. The concealed
25 weapon licensing board shall permanently revoke the license as
26 ordered by the court.

27 (b) If the person had a bodily alcohol content of .08 or more

1 but less than .10 grams per 100 milliliters of blood, per 210
2 liters of breath, or per 67 milliliters of urine, the individual is
3 guilty of a misdemeanor punishable by imprisonment for not more
4 than 93 days or \$100.00, or both. The court may order the concealed
5 weapon licensing board that issued the individual a license to
6 carry a concealed pistol to revoke the license for not more than 3
7 years. The concealed weapon licensing board shall revoke the
8 license as ordered by the court.

9 (c) If the person had a bodily alcohol content of .02 or more
10 but less than .08 grams per 100 milliliters of blood, per 210
11 liters of breath, or per 67 milliliters of urine, the individual is
12 responsible for a state civil infraction and may be fined not more
13 than \$100.00. The court may order the concealed weapon licensing
14 board that issued the individual the license to revoke the license
15 for 1 year. The concealed weapon licensing board shall revoke the
16 license as ordered by the court. The court shall notify the
17 concealed weapon licensing board that issued the individual a
18 license to carry a concealed pistol if an individual is found
19 responsible for a subsequent violation of this subdivision.

20 (3) This section does not prohibit an individual licensed
21 under this act to carry a concealed pistol who has any bodily
22 alcohol content from ~~transporting~~ **DOING ANY OF THE FOLLOWING:**

23 **(A) TRANSPORTING** that pistol in the locked trunk of his or her
24 motor vehicle or another motor vehicle in which he or she is a
25 passenger or, if the vehicle does not have a trunk, from
26 transporting that pistol unloaded in a locked compartment or
27 container that is separated from the ammunition for that pistol. ~~or~~

1 **(B) TRANSPORTING THAT PISTOL** on a vessel if the pistol is
2 transported unloaded in a locked compartment or container that is
3 separated from the ammunition for that pistol.

4 **(C) TRANSPORTING A PORTABLE DEVICE USING ELECTRO-MUSCULAR**
5 **DISRUPTION TECHNOLOGY IN THE LOCKED TRUNK OF HIS OR HER MOTOR**
6 **VEHICLE OR ANOTHER MOTOR VEHICLE IN WHICH HE OR SHE IS A PASSENGER,**
7 **OR, IF THE VEHICLE DOES NOT HAVE A TRUNK, FROM TRANSPORTING THAT**
8 **PORTABLE DEVICE IN A LOCKED COMPARTMENT OR CONTAINER.**

9 (4) A peace officer who has probable cause to believe an
10 individual is carrying a concealed pistol **OR A PORTABLE DEVICE**
11 **USING ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY** in violation of this
12 section may require the individual to submit to a chemical analysis
13 of his or her breath, blood, or urine.

14 (5) Before an individual is required to submit to a chemical
15 analysis under subsection (4), the peace officer shall inform the
16 individual of all of the following:

17 (a) The individual may refuse to submit to the chemical
18 analysis, but if he or she chooses to do so, all of the following
19 apply:

20 (i) The officer may obtain a court order requiring the
21 individual to submit to a chemical analysis.

22 (ii) The refusal may result in his or her license to carry a
23 concealed pistol being suspended or revoked.

24 (b) If the individual submits to the chemical analysis, he or
25 she may obtain a chemical analysis described in subsection (4) from
26 a person of his or her own choosing.

27 (6) The collection and testing of breath, blood, and urine

1 specimens under this section shall be conducted in the same manner
2 that breath, blood, and urine specimens are collected and tested
3 for alcohol- and controlled-substance-related driving violations
4 under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

5 (7) If a person refuses to take a chemical test authorized
6 under this section, the peace officer shall promptly report the
7 refusal in writing to the concealed weapon licensing board that
8 issued the license to the individual to carry a concealed pistol.

9 (8) If a person takes a chemical test authorized under this
10 section and the test results indicate that the individual had any
11 bodily alcohol content while carrying a concealed pistol, the peace
12 officer shall promptly report the violation in writing to the
13 concealed weapon licensing board that issued the license to the
14 individual to carry a concealed pistol.

15 (9) As used in this section:

16 (a) "Alcoholic liquor" means that term as defined in section
17 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
18 436.1105.

19 (b) "Controlled substance" means that term as defined in
20 section 7104 of the public health code, 1978 PA 368, MCL 333.7401.

21 Sec. 5o. (1) Subject to subsection ~~(4)~~-(5), an individual
22 licensed under this act to carry a concealed pistol, or who is
23 exempt from licensure under section 12a(f), shall not carry a
24 concealed pistol on the premises of any of the following:

25 (a) A school or school property except that a parent or legal
26 guardian of a student of the school is not precluded from carrying
27 a concealed pistol while in a vehicle on school property, if he or

1 she is dropping the student off at the school or picking up the
2 child from the school. As used in this section, "school" and
3 "school property" mean those terms as defined in section 237a of
4 the Michigan penal code, 1931 PA 328, MCL 750.237a.

5 (b) A public or private child care center or day care center,
6 public or private child caring institution, or public or private
7 child placing agency.

8 (c) A sports arena or stadium.

9 (d) A bar or tavern licensed under the Michigan liquor control
10 code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the
11 primary source of income of the business is the sale of alcoholic
12 liquor by the glass and consumed on the premises. This subdivision
13 ~~shall~~**DOES** not apply to an owner or employee of the business. The
14 Michigan liquor control commission shall develop and make available
15 to holders of licenses under the Michigan liquor control code of
16 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign
17 stating that "This establishment prohibits patrons from carrying
18 concealed weapons". The owner or operator of an establishment
19 licensed under the Michigan liquor control code of 1998, 1998 PA
20 58, MCL 436.1101 to 436.2303, may, but shall not be required to,
21 post the sign developed under this subdivision. A record made
22 available by an establishment licensed under the Michigan liquor
23 control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303,
24 necessary to enforce this subdivision is exempt from disclosure
25 under the freedom of information act, 1976 PA 442, MCL 15.231 to
26 15.246.

27 (e) Any property or facility owned or operated by a church,

1 synagogue, mosque, temple, or other place of worship, unless the
2 presiding official or officials of the church, synagogue, mosque,
3 temple, or other place of worship permit the carrying of concealed
4 pistol on that property or facility.

5 (f) An entertainment facility with a seating capacity of 2,500
6 or more individuals that the individual knows or should know has a
7 seating capacity of 2,500 or more individuals or that has a sign
8 above each public entrance stating in letters not less than 1-inch
9 high a seating capacity of 2,500 or more individuals.

10 (g) A hospital.

11 (h) A dormitory or classroom of a community college, college,
12 or university.

13 **(2) SUBJECT TO SUBSECTION (5), AN INDIVIDUAL WHO IS LICENSED**
14 **UNDER THIS ACT TO CARRY A CONCEALED PISTOL AND WHO, PURSUANT TO**
15 **SECTION 224A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.224A,**
16 **ALSO CARRIES ON HIS OR HER PERSON OR IN HIS OR HER VEHICLE A**
17 **PORTABLE DEVICE THAT USES ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY,**
18 **SHALL NOT CARRY THAT PORTABLE DEVICE ON ANY OF THE PREMISES**
19 **DESCRIBED IN SUBSECTION (1).**

20 (3) ~~(2)~~—An individual licensed under this act to carry a
21 concealed pistol, or who is exempt from licensure under section
22 12a(f), shall not carry a concealed pistol in violation of R
23 432.1212 or a successor rule of the Michigan administrative code
24 promulgated pursuant to the Michigan gaming control and revenue
25 act, ~~the Initiated Law of 1996~~ **1996 IL 1**, MCL 432.201 to 432.226.

26 (4) ~~(3)~~—As used in subsection (1), "premises" does not include
27 parking areas of the places identified under subsection (1).

1 (5) ~~(4) Subsection (1) does~~ **SUBSECTIONS (1) AND (2) DO** not
2 apply to any of the following:

3 (a) An individual licensed under this act who is a retired
4 police officer or retired law enforcement officer. The concealed
5 weapon licensing board may require a letter from the law
6 enforcement agency stating that the retired police officer or law
7 enforcement officer retired in good standing.

8 (b) An individual who is licensed under this act and who is
9 employed or contracted by an entity described under subsection (1)
10 to provide security services and is required by his or her employer
11 or the terms of a contract to carry a concealed firearm on the
12 premises of the employing or contracting entity.

13 (c) An individual who is licensed as a private investigator or
14 private detective under the private detective license act, 1965 PA
15 285, MCL 338.821 to 338.851.

16 (d) Any of the following who is licensed under this act while
17 on duty and in the course of his or her employment:

18 (i) A corrections officer of a county sheriff's department.

19 (ii) A motor carrier officer or capitol security officer of the
20 department of state police.

21 (iii) A member of a sheriff's posse.

22 (iv) An auxiliary officer or reserve officer of a police or
23 sheriff's department.

24 (v) A parole or probation officer of the department of
25 corrections.

26 (6) ~~(5)~~ An individual who violates this section is responsible
27 for a state civil infraction or guilty of a crime as follows:

1 (a) Except as provided in subdivisions (b) and (c), the
2 individual is responsible for a state civil infraction and may be
3 fined not more than \$500.00. The court shall order the individual's
4 license to carry a concealed pistol suspended for 6 months.

5 (b) For a second violation, the individual is guilty of a
6 misdemeanor punishable by a fine of not more than \$1,000.00. The
7 court shall order the individual's license to carry a concealed
8 pistol revoked.

9 (c) For a third or subsequent violation, the individual is
10 guilty of a felony punishable by imprisonment for not more than 4
11 years or a fine of not more than \$5,000.00, or both. The court
12 shall order the individual's license to carry a concealed pistol
13 revoked.

14 Enacting section 1. This amendatory act does not take effect
15 unless Senate Bill No.____ or House Bill No. 5754(request no.
16 00169'07 *) of the 94th Legislature is enacted into law.