

# HOUSE BILL No. 5748

September 9, 2014, Introduced by Reps. Rendon, Kurtz, Lauwers, Daley, Johnson, Pettalia, Franz, Goike, VerHeulen, Jenkins, Cotter, Potvin, LaFontaine and Santana 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, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices 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 section 2 (MCL 28.422), as amended by 2014 PA 201.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. (1) Except as otherwise provided in this act, a person  
2       shall not purchase, carry, possess, or transport a pistol in this  
3       state 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, possess, or transport pistols, or his or her duly authorized  
9 deputy, or the sheriff or his or her duly authorized deputy, in the  
10 parts of a county not included within a city, township, or village  
11 having an organized police department, in discharging the duty to  
12 issue licenses shall with due speed and diligence issue licenses to  
13 purchase, carry, possess, or transport pistols to qualified  
14 applicants unless he or she has probable cause to believe that the  
15 applicant would be a threat to himself or herself or to other  
16 individuals, or would commit an offense with the pistol that would  
17 violate a law of this or another state or of the United States. An  
18 applicant is qualified if all of the following circumstances exist:

19           (a) The person is not subject to an order or disposition for  
20 which he or she has received notice and an opportunity for a  
21 hearing, and which was entered into the law enforcement information  
22 network under any of the following:

23           (i) Section 464a of the mental health code, 1974 PA 258, MCL  
24 330.1464a.

25           (ii) Section 5107 of the estates and protected individuals  
26 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA  
27 642.

1 (iii) Section 2950 of the revised judicature act of 1961, 1961  
2 PA 236, MCL 600.2950.

3 (iv) Section 2950a of the revised judicature act of 1961, 1961  
4 PA 236, MCL 600.2950a.

5 (v) Section 14 of 1846 RS 84, MCL 552.14.

6 (vi) Section 6b of chapter V of the code of criminal procedure,  
7 1927 PA 175, MCL 765.6b, if the order has a condition imposed under  
8 section 6b(3) of chapter V of the code of criminal procedure, 1927  
9 PA 175, MCL 765.6b.

10 (vii) Section 16b of chapter IX of the code of criminal  
11 procedure, 1927 PA 175, MCL 769.16b.

12 (b) The person is 18 years of age or older or, if the seller  
13 is licensed under 18 USC 923, is 21 years of age or older.

14 (c) The person is a citizen of the United States or an alien  
15 lawfully admitted into the United States and is a legal resident of  
16 this state. For the purposes of this section, a person shall be  
17 considered a legal resident of this state if any of the following  
18 apply:

19 (i) The person has a valid, lawfully obtained Michigan driver  
20 license issued under the Michigan vehicle code, 1949 PA 300, MCL  
21 257.1 to 257.923, or an official state personal identification card  
22 issued under 1972 PA 222, MCL 28.291 to 28.300.

23 (ii) The person is lawfully registered to vote in this state.

24 (iii) The person is on active duty status with the United States  
25 armed forces and is stationed outside of this state, but the  
26 person's home of record is in this state.

27 (iv) The person is on active duty status with the United States

1 armed forces and is permanently stationed in this state, but the  
2 person's home of record is in another state.

3 (d) A felony charge or a criminal charge listed in section 5b  
4 against the person is not pending at the 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 penal  
8 code, 1931 PA 328, MCL 750.224f.

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

12 (g) The person is not under an order of involuntary commitment  
13 in an inpatient or outpatient setting due to mental illness.

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

18 (4) Applications for licenses under this section shall be  
19 signed by the applicant under oath upon forms provided by the  
20 director of the department of state police. Licenses to purchase,  
21 carry, possess, or transport pistols shall be executed in  
22 triplicate upon forms provided by the director of the department of  
23 state police and shall be signed by the licensing authority. Three  
24 copies of the license shall be delivered to the applicant by the  
25 licensing authority. A license is void unless used within 30 days  
26 after the date it is issued.

27 (5) If an individual purchases or otherwise acquires a pistol,

1 the seller shall fill out the license forms describing the pistol,  
2 together with the date of sale or acquisition, and sign his or her  
3 name in ink indicating that the pistol was sold to or otherwise  
4 acquired by the purchaser. The purchaser shall also sign his or her  
5 name in ink indicating the purchase or other acquisition of the  
6 pistol from the seller. The seller may retain a copy of the license  
7 as a record of the transaction. The purchaser shall receive 2  
8 copies of the license. The purchaser shall return 1 copy of the  
9 license to the licensing authority within 10 days after the date  
10 the pistol is purchased or acquired. The return of the copy to the  
11 licensing authority may be made in person or may be made by first-  
12 class mail or certified mail sent within the 10-day period to the  
13 proper address of the licensing authority. A purchaser who fails to  
14 comply with the requirements of this subsection is responsible for  
15 a state civil infraction and may be fined not more than \$250.00. If  
16 a purchaser is found responsible for a state civil infraction under  
17 this subsection, the court shall notify the department of state  
18 police of that determination.

19 (6) Within 10 days after receiving the license copy returned  
20 under subsection (5), the licensing authority shall electronically  
21 enter the information into the pistol entry database as required by  
22 the department of state police if it has the ability to  
23 electronically enter that information. If the licensing authority  
24 does not have that ability, the licensing authority shall provide  
25 that information to the department of state police in a manner  
26 otherwise required by the department of state police. Any licensing  
27 authority that provided pistol descriptions to the department of

1 state police under former section 9 of this act shall continue to  
2 provide pistol descriptions to the department of state police under  
3 this subsection. Within 48 hours after entering or otherwise  
4 providing the information on the license copy returned under  
5 subsection (5) to the department of state police, the licensing  
6 authority shall forward the copy of the license to the department  
7 of state police. The purchaser has the right to obtain a copy of  
8 the information placed in the pistol entry database under this  
9 subsection to verify the accuracy of that information. The  
10 licensing authority may charge a fee not to exceed \$1.00 for the  
11 cost of providing the copy. The licensee may carry, use, possess,  
12 and transport the pistol for 30 days beginning on the date of  
13 purchase or acquisition only while he or she is in possession of  
14 his or her copy of the license. However, the person is not required  
15 to have the license in his or her possession while carrying, using,  
16 possessing, or transporting the pistol after this period.

17 (7) This section does not apply to the purchase of pistols  
18 from wholesalers by dealers regularly engaged in the business of  
19 selling pistols at retail, or to the sale, barter, or exchange of  
20 pistols kept as relics or curios not made for modern ammunition or  
21 permanently deactivated. This section does not prevent the transfer  
22 of ownership of pistols that are inherited if the license to  
23 purchase is approved by the commissioner or chief of police,  
24 sheriff, or their authorized deputies, and signed by the personal  
25 representative of the estate or by the next of kin having authority  
26 to dispose of the pistol.

27 (8) An individual who is not a resident of this state is not

1 required to obtain a license under this section if all of the  
2 following conditions apply:

3 (a) The individual is licensed in his or her state of  
4 residence to purchase, carry, or transport a pistol.

5 (b) The individual is in possession of the license described  
6 in subdivision (a).

7 (c) The individual is the owner of the pistol he or she  
8 possesses, carries, or transports.

9 (d) The individual possesses the pistol for a lawful purpose.  
10 ~~as that term is defined in section 231a of the Michigan penal code,~~  
11 ~~1931 PA 328, MCL 750.231a.~~

12 (e) The individual is in this state for a period of 180 days  
13 or less and does not intend to establish residency in this state.

14 (9) An individual who is a nonresident of this state shall  
15 present the license described in subsection (8)(a) upon the demand  
16 of a police officer. An individual who violates this subsection is  
17 guilty of a misdemeanor punishable by imprisonment for not more  
18 than 90 days or a fine of not more than \$100.00, or both.

19 (10) The licensing authority may require a person claiming  
20 active duty status with the United States armed forces to provide  
21 proof of 1 or both of the following:

22 (a) The person's home of record.

23 (b) Permanent active duty assignment in this state.

24 (11) This section does not apply to a person who is younger  
25 than the age required under subsection (3)(b) and who possesses a  
26 pistol if all of the following conditions apply:

27 (a) The person is not otherwise prohibited from possessing

1 that pistol.

2 (b) The person is at a recognized target range.

3 (c) The person possesses the pistol for the purpose of target  
4 practice or instruction in the safe use of a pistol.

5 (d) The person is in the physical presence and under the  
6 direct supervision of any of the following:

7 (i) The person's parent.

8 (ii) The person's guardian.

9 (iii) An individual who is 21 years of age or older, who is  
10 authorized by the person's parent or guardian, and who has  
11 successfully completed a pistol safety training course or class  
12 that meets the requirements of section 5j(1)(a), (b), or (d), and  
13 received a certificate of completion.

14 (e) The owner of the pistol is physically present.

15 (12) This section does not apply to a person who possesses a  
16 pistol if all of the following conditions apply:

17 (a) The person is not otherwise prohibited from possessing a  
18 pistol.

19 (b) The person is at a recognized target range or shooting  
20 facility.

21 (c) The person possesses the pistol for the purpose of target  
22 practice or instruction in the safe use of a pistol.

23 (d) The owner of the pistol is physically present and  
24 supervising the use of the pistol.

25 (13) A person who forges any matter on an application for a  
26 license under this section is guilty of a felony, punishable by  
27 imprisonment for not more than 4 years or a fine of not more than

1 \$2,000.00, or both.

2 (14) A licensing authority shall implement this section during  
3 all of the licensing authority's normal business hours and shall  
4 set hours for implementation that allow an applicant to use the  
5 license within the time period set forth in subsection (4).