

SENATE BILL No. 935

April 12, 2018, Introduced by Senators HERTEL, ANANICH, KNEZEK, HOPGOOD, BIEDA, CONYERS, YOUNG, GREGORY, HOOD and WARREN and referred to the Committee on Government Operations.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 223, 232a, and 237a (MCL 750.223, 750.232a, and 750.237a), section 223 as amended by 2012 PA 242, section 232a as amended by 1990 PA 321, and section 237a as amended by 2017 PA 96.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 223. (1) A person who knowingly sells a ~~pistol~~**FIREARM**
2 without complying with section 2 of 1927 PA 372, MCL 28.422, is
3 guilty of a misdemeanor, punishable by imprisonment for not more
4 than 90 days, or a fine of not more than \$100.00, or both.

5 (2) A person who knowingly sells a firearm more than 26 inches
6 in length to a person under 18 years of age is guilty of a
7 misdemeanor, punishable by imprisonment for not more than 90 days,
8 or a fine of not more than \$500.00, or both. A second or subsequent

1 violation of this subsection is a felony punishable by imprisonment
2 for not more than 4 years, or a fine of not more than \$2,000.00, or
3 both. It is an affirmative defense to a prosecution under this
4 subsection that the person who sold the firearm asked to see and
5 was shown a driver's license or identification card issued by a
6 state that identified the purchaser as being 18 years of age or
7 older.

8 (3) A seller shall not sell a firearm or ammunition to a
9 person if the seller knows that either of the following
10 circumstances exists:

11 (a) The person is under indictment for a felony. As used in
12 this subdivision, "felony" means a violation of a law of this
13 state, or of another state, or of the United States that is
14 punishable by imprisonment for 4 years or more.

15 (b) The person is prohibited under section 224f from
16 possessing, using, transporting, selling, purchasing, carrying,
17 shipping, receiving, or distributing a firearm.

18 (4) A person who violates subsection (3) is guilty of a
19 felony, punishable by imprisonment for not more than 10 years, or
20 by a fine of not more than \$5,000.00, or both.

21 ~~— (5) As used in this section, "licensed dealer" means a person~~
22 ~~licensed under 18 USC 923 who regularly buys and sells firearms as~~
23 ~~a commercial activity with the principal objective of livelihood~~
24 ~~and profit.~~

25 Sec. 232a. (1) Except as provided in subsection (2), a person
26 who obtains a ~~pistol~~ **FIREARM** in violation of section 2 of ~~Act No.~~
27 ~~372 of the Public Acts of 1927, as amended, being section 28.422 of~~

1 ~~the Michigan Compiled Laws, 1927 PA 372, MCL 28.422,~~ is guilty of a
2 misdemeanor, punishable by imprisonment for not more than 90 days
3 or a fine of not more than \$100.00, or both.

4 (2) Subsection (1) does not apply to a person who obtained a
5 pistol in violation of section 2 of ~~Act No. 372 of the Public Acts~~
6 ~~of 1927-1927 PA 372, MCL 28.422,~~ before the effective date of the
7 ~~1990 amendatory act that added this subsection,~~ **MARCH 28, 1991,** who
8 has not been convicted of that violation, and who obtains a license
9 as required under section 2 of ~~Act No. 372 of the Public Acts of~~
10 ~~1927-1927 PA 372, MCL 28.422,~~ within 90 days after the effective
11 ~~date of the 1990 amendatory act that added this subsection.~~ **MARCH**
12 **28, 1991.**

13 (3) A person who intentionally makes a material false
14 statement on an application for a license to purchase a ~~pistol~~
15 **FIREARM** under section 2 of ~~Act No. 372 of the Public Acts of 1927,~~
16 ~~as amended, 1927 PA 372, MCL 28.422,~~ is guilty of a felony,
17 punishable by imprisonment for not more than 4 years, or a fine of
18 not more than \$2,000.00, or both.

19 (4) A person who uses or attempts to use false identification
20 or the identification of another person to purchase a firearm is
21 guilty of a misdemeanor, punishable by imprisonment for not more
22 than 90 days or a fine of not more than \$100.00, or both.

23 Sec. 237a. (1) An individual who engages in conduct proscribed
24 under section 224, 224a, 224b, 224c, 224e, 226, 227, 227a, 227f,
25 234a, 234b, or 234c, or who engages in conduct proscribed under
26 section 223(2) for a second or subsequent time, in a weapon free
27 school zone is guilty of a felony punishable by 1 or more of the

1 following:

2 (a) Imprisonment for not more than the maximum term of
3 imprisonment authorized for the section violated.

4 (b) Community service for not more than 150 hours.

5 (c) A fine of not more than 3 times the maximum fine
6 authorized for the section violated.

7 (2) An individual who engages in conduct proscribed under
8 section 223(1), 224d, 227c, 227d, 231c, 232a(1) or (4), 233, 234,
9 234e, 234f, 235, 236, or 237, or who engages in conduct proscribed
10 under section 223(2) for the first time, in a weapon free school
11 zone is guilty of a misdemeanor punishable by 1 or more of the
12 following:

13 (a) Imprisonment for not more than the maximum term of
14 imprisonment authorized for the section violated or 93 days,
15 whichever is greater.

16 (b) Community service for not more than 100 hours.

17 (c) A fine of not more than \$2,000.00 or the maximum fine
18 authorized for the section violated, whichever is greater.

19 (3) Subsections (1) and (2) do not apply to conduct proscribed
20 under a section enumerated in those subsections to the extent that
21 the proscribed conduct is otherwise exempted or authorized under
22 this chapter.

23 (4) Except as provided in subsection (5), an individual who
24 possesses a weapon in a weapon free school zone is guilty of a
25 misdemeanor punishable by 1 or more of the following:

26 (a) Imprisonment for not more than 93 days.

27 (b) Community service for not more than 100 hours.

1 (c) A fine of not more than \$2,000.00.

2 (5) Subsection (4) does not apply to any of the following:

3 (a) An individual employed by or contracted by a school if the
4 possession of that weapon is to provide security services for the
5 school.

6 (b) A peace officer.

7 ~~(c) An individual licensed by this state or another state to~~
8 ~~carry a concealed weapon.~~

9 (C) ~~(d)~~ An individual who possesses a weapon provided by a
10 school or a school's instructor on school property for purposes of
11 providing or receiving instruction in the use of that weapon.

12 (D) ~~(e)~~ An individual who possesses a firearm on school
13 property if that possession is with the permission of the school's
14 principal or an agent of the school designated by the school's
15 principal or the school board.

16 (E) ~~(f)~~ An individual who is 18 years of age or older who is
17 not a student at the school and who possesses a firearm on school
18 property while transporting a student to or from the school if any
19 of the following apply:

20 (i) The individual is carrying an antique firearm, completely
21 unloaded, in a wrapper or container in the trunk of a vehicle while
22 en route to or from a hunting or target shooting area or function
23 involving the exhibition, demonstration or sale of antique
24 firearms.

25 (ii) The individual is carrying a firearm unloaded in a
26 wrapper or container in the trunk of the person's vehicle, while in
27 possession of a valid Michigan hunting license or proof of valid

1 membership in an organization having shooting range facilities, and
2 while en route to or from a hunting or target shooting area.

3 (iii) The individual is carrying a firearm unloaded in a
4 wrapper or container in the trunk of the individual's vehicle from
5 the place of purchase to his or her home or place of business or to
6 a place of repair or back to his or her home or place of business,
7 or in moving goods from one place of abode or business to another
8 place of abode or business.

9 (iv) The individual is carrying an unloaded firearm in the
10 passenger compartment of a vehicle that does not have a trunk, if
11 the individual is otherwise complying with the requirements of
12 subparagraph (ii) or (iii) and the wrapper or container is not
13 readily accessible to the occupants of the vehicle.

14 (6) As used in this section:

15 (a) "Antique firearm" means either of the following:

16 (i) A firearm not designed or redesigned for using rimfire or
17 conventional center fire ignition with fixed ammunition and
18 manufactured in or before 1898, including a matchlock, flintlock,
19 percussion cap, or similar type of ignition system or a replica of
20 such a firearm, whether actually manufactured before or after the
21 year 1898.

22 (ii) A firearm using fixed ammunition manufactured in or
23 before 1898, for which ammunition is no longer manufactured in the
24 United States and is not readily available in the ordinary channels
25 of commercial trade.

26 (b) "School" means a public, private, denominational, or
27 parochial school offering developmental kindergarten, kindergarten,

1 or any grade from 1 through 12.

2 (c) "School property" means a building, playing field, or
3 property used for school purposes to impart instruction to children
4 or used for functions and events sponsored by a school, except a
5 building used primarily for adult education or college extension
6 courses.

7 (d) "Weapon" includes, but is not limited to, a pneumatic gun.

8 (e) "Weapon free school zone" means school property and a
9 vehicle used by a school to transport students to or from school
10 property.

11 Enacting section 1. This amendatory act does not take effect
12 unless Senate Bill No. 934

13 of the 99th Legislature is enacted into law.