

FIREARMS (EXCERPT)

Act 372 of 1927

***** 28.422.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2023 REGULAR SESSION SINE DIE *****

28.422.amended License to purchase, carry, possess, or transport pistol or to purchase a firearm; issuance; qualifications; applications; sale of firearm; exemptions; transfer of ownership to heir or devisee; nonresident; active duty status; forging application as felony; implementation during business hours.

Sec. 2. (1) Except as otherwise provided in this act, a person shall not do either of the following:

(a) Purchase, carry, possess, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.

(b) Purchase a firearm that is not a pistol in this state without first having obtained a license for the firearm as prescribed in this section. This subdivision does not apply to the purchase or acquisition of a firearm that occurred before the effective date of the amendatory act that added this subdivision.

(2) An individual who brings a firearm into this state who is on leave from active duty with the Armed Forces of the United States or who has been discharged from active duty with the Armed Forces of the United States shall obtain a license for the firearm not later than 30 days after the individual arrives in this state.

(3) The commissioner or chief of police of a city, township, or village police department who issues licenses to purchase, carry, possess, or transport firearms, or the commissioner's or chief's duly authorized deputy, or the sheriff or the sheriff's duly authorized deputy, in the parts of a county not included in a city, township, or village having an organized police department, in discharging the duty to issue licenses shall with due speed and diligence issue licenses to purchase, carry, possess, or transport firearms to qualified applicants unless the individual has probable cause to believe that the applicant would be a threat to the applicant or to other individuals, or would commit an offense with the firearm that would violate a law of this or another state or of the United States. An applicant is qualified if all of the following circumstances exist:

(a) The individual is not subject to an order or disposition for which the individual has received notice and an opportunity for a hearing, and that was entered into the law enforcement information network under any of the following:

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

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

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

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

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

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

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

(viii) The extreme risk protection order act.

(b) The individual is 18 years of age or older or, if the firearm is a pistol and the seller is licensed under 18 USC 923, is 21 years of age or older.

(c) The individual is a citizen of the United States or an alien lawfully admitted into the United States and is a legal resident of this state. For the purposes of this section, an individual is considered a legal resident of this state if any of the following apply:

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

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

(iii) The individual is on active duty status with the Armed Forces of the United States and is stationed outside of this state, but the individual's home of record is in this state.

(iv) The individual is on active duty status with the Armed Forces of the United States and is permanently stationed in this state, but the individual's home of record is in another state.

(d) A felony charge or a criminal charge listed in section 5b against the individual is not pending at the time of application.

(e) The individual is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328,

MCL 750.224f.

(f) The individual has not been adjudged insane in this state or elsewhere unless the individual has been adjudged restored to sanity by court order.

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

(h) The individual has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to an individual who has had the individual's legal capacity restored by order of the court.

(4) An applicant for a license under this section shall sign the application under oath on a form provided by the director of the department of state police. A licensing authority shall issue a license to purchase, carry, possess, or transport firearms in triplicate on a form provided by the director of the department of state police. The licensing authority shall sign any license issued under this section. The licensing authority shall deliver 3 copies of the license to the applicant. A license is void unless used within 30 days after the date it is issued.

(5) If an individual purchases or otherwise acquires a firearm, the seller shall fill out the license forms describing the firearm, together with the date of sale or acquisition, and sign the seller's name in ink indicating that the firearm was sold to or otherwise acquired by the purchaser. The purchaser shall also sign the purchaser's name in ink indicating the purchase or other acquisition of the firearm from the seller. The seller may retain a copy of the license as a record of the transaction, shall provide a copy of the license to the purchaser, and, if the firearm is a pistol, shall return 1 copy of the license to the licensing authority not later than 10 days after the date the pistol is purchased or acquired. The seller shall return the copy to the licensing authority in person or by first-class mail or certified mail sent in the 10-day period to the proper address of the licensing authority. A seller who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined not more than \$250.00. If a seller is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police of that determination.

(6) Not later than 10 days after receiving the license copy for a pistol returned under subsection (5), the licensing authority shall electronically enter the information into the pistol entry database as required by the department of state police if the licensing authority has the ability to electronically enter that information. If the licensing authority does not have that ability, the licensing authority shall provide that information to the department of state police in a manner otherwise required by the department of state police. Any licensing authority that provided pistol descriptions to the department of state police under former section 9 of this act shall continue to provide pistol descriptions to the department of state police under this subsection. Not later than 48 hours after entering or otherwise providing the information on the license copy returned under subsection (5) to the department of state police, the licensing authority shall forward the copy of the license to the department of state police. The purchaser may obtain a copy of the information placed in the pistol entry database under this subsection to verify the accuracy of that information. The licensing authority may charge a fee not to exceed \$1.00 for the cost of providing the copy. The licensee may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while the licensee is in possession of a copy of the license. However, the licensee is not required to have the license in the licensee's possession while carrying, using, possessing, or transporting the pistol after this period.

(7) This section does not apply to the purchase of firearms from wholesalers by dealers regularly engaged in the business of selling firearms at retail, or to the sale, barter, or exchange of firearms kept as relics or curios not made for modern ammunition or permanently deactivated.

(8) This section does not prevent the transfer of ownership of pistols to an heir or devisee, whether by testamentary bequest or by the laws of intestacy regardless of whether the pistol is entered into the pistol entry database. An individual who has inherited a firearm shall obtain a license as required in this section not later than 30 days after taking physical possession of the firearm. The license may be signed by a next of kin of the decedent or the person authorized to dispose of property under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, including when the next of kin is the individual inheriting the firearm. If the heir or devisee is not qualified for a license under this section, the heir or devisee may direct the next of kin or person authorized to dispose of property under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, to dispose of the firearm in any manner that is lawful and the heir or devisee considers appropriate. The person authorized to dispose of property under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, is not required to obtain a license under this section if the person takes temporary lawful possession of the firearm in the process of disposing of the firearm pursuant to the decedent's testamentary bequest or the laws of intestacy. A law enforcement agency may not seize or confiscate a firearm being transferred by testamentary bequest or the laws of intestacy unless the heir or devisee does not qualify for obtaining a license under this section and the next of kin or person authorized to dispose of property under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, is unable to retain temporary possession of the firearm or find alternative lawful

storage. If a law enforcement agency seizes or confiscates a firearm under this subsection, the heir or devisee who is not qualified to obtain a license under this section retains ownership interest in the firearm and, not later than 30 days after being notified of the seizure or confiscation, may file with a court of competent jurisdiction to direct the law enforcement agency to lawfully transfer or otherwise dispose of the firearm. The seizing entity or its agents shall not destroy, sell, or use a firearm seized under this subsection until 30 days have passed since the heir or devisee has been notified of the seizure and no legal action regarding the lawful possession or ownership of the seized firearm has been filed in any court and is pending. As used in this subsection:

(a) "Devisee" means that term as defined in section 1103 of the estates and protected individuals code, 1998 PA 386, MCL 700.1103.

(b) "Heir" means that term as defined in section 1104 of the estates and protected individuals code, 1998 PA 386, MCL 700.1104.

(9) An individual who is not a resident of this state is not required to obtain a license under this section if all of the following conditions apply:

(a) The individual is licensed in the individual's state of residence to purchase, carry, or transport a pistol.

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

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

(d) The individual possesses the pistol for a lawful purpose.

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

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

(11) The licensing authority may require an individual claiming active duty status with the Armed Forces of the United States to provide proof of 1 or both of the following:

(a) The individual's home of record.

(b) Permanent active duty assignment in this state.

(12) This section does not apply to an individual who is younger than the age required under subsection (3)(b) and who possesses a pistol if 1 of the following conditions applies:

(a) The individual is not otherwise prohibited from possessing that pistol and all of the following apply:

(i) The individual is at a recognized target range.

(ii) The individual possesses the pistol for the purpose of target practice or instruction in the safe use of a pistol.

(iii) The individual is in the physical presence and under the direct supervision of any of the following:

(A) The individual's parent.

(B) The individual's guardian.

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

(iv) The owner of the pistol is physically present.

(b) The individual is not otherwise prohibited from possessing that pistol, the individual possesses the pistol for the purpose of hunting, and the individual is in compliance with all applicable hunting laws.

(13) This section does not apply to an individual who possesses a pistol if all of the following conditions apply:

(a) The individual is not otherwise prohibited from possessing a pistol.

(b) The individual is at a recognized target range or shooting facility.

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

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

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

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

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16750;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—Am. 1941, Act 112, Imd. Eff. May 21, 1941;—Am. 1943, Act 51, Imd. Eff. Mar. 30, 1943;—CL 1948, 28.422;—Am. 1949, Act 170, Eff. Sept. 23, 1949;—Am. 1957, Act 259, Eff. Sept. 27, 1957;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1967, Act 158, Eff. Nov. 2, 1967;—Am. 1968, Act 301, Eff. Nov. 15, 1968;—Am. 1972, Act 15, Imd. Eff. Feb. 19, 1972;—Am. 1986, Act 161, Eff. Aug. 1, 1986;—Am. 1990, Act 320, Rendered Monday, November 20, 2023

Eff. Mar. 28, 1991;—Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992;—Am. 1992, Act 220, Imd. Eff. Oct. 13, 1992;—Am. 1994, Act 338, Eff. Apr. 1, 1996;—Am. 2004, Act 101, Imd. Eff. May 13, 2004;—Am. 2008, Act 195, Eff. Jan. 7, 2009;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009;—Am. 2010, Act 20, Imd. Eff. Mar. 25, 2010;—Am. 2012, Act 377, Imd. Eff. Dec. 18, 2012;—Am. 2014, Act 201, Imd. Eff. June 24, 2014;—Am. 2015, Act 37, Imd. Eff. May 21, 2015;—Am. 2015, Act 200, Eff. Feb. 22, 2016;—Am. 2023, Act 19, Eff. (sine die);—Am. 2023, Act 37, Eff. (sine die).

Constitutionality: The Michigan Court of Appeals held in *Chan v City of Troy*, 220 Mich App 376; 559 NW2d 374 (1997), that the citizen requirement, now MCL 28.422(3)(c), for a permit to purchase a pistol contained in MCL 28.422(3)(b) violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and is unconstitutional.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: CPL

Popular name: Right to Carry

Popular name: Shall Issue