

# HOUSE BILL No. 5429

January 27, 2004, Introduced by Reps. Milosch, Acciavatti, Drolet, Amos, Sheltroun, Tabor, Taub, Nofs, Pappageorge, Casperson, DeRoche, Hune, Caswell, Bisbee, Nitz, Gaffney, Emmons, Bradstreet, Rocca, Farhat, Pastor, Stahl, DeRossett, Vander Veen, Voorhees and Spade and referred to the Committee on Conservation and Outdoor Recreation.

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 section 2 (MCL 28.422), as amended by 1994 PA 338.

**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.

5           (2) A person who brings a pistol into this state who is on

1 leave from active duty with the armed forces of the United States  
2 or who has been discharged from active duty with the armed forces  
3 of the United States shall obtain a license for the pistol within  
4 30 days after his or her arrival in this state.

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

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

24 (i) Section 464a(1) of the mental health code, ~~Act No. 258~~  
25 ~~of the Public Acts of 1974, being section 330.1464a of the~~  
26 ~~Michigan Compiled Laws— 1974 PA 258, MCL 330.1464a.~~

27 (ii) ~~Section 444a(1) of the revised probate code, Act~~

1 ~~No. 642 of the Public Acts of 1978, being section 700.444a of the~~  
2 ~~Michigan Compiled Laws. Section 5107 of the estates and~~  
3 ~~protected individuals code, 1998 PA 386, MCL 700.5107, or section~~  
4 ~~444a of former 1978 PA 642.~~

5 (iii) Section 2950(9) of the revised judicature act of 1961,  
6 ~~Act No. 236 of the Public Acts of 1961, being section 600.2950~~  
7 ~~of the Michigan Compiled Laws 1961 PA 236, MCL 600.2950.~~

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 1961~~  
10 ~~PA 236, MCL 600.2950a.~~

11 (v) ~~Section 14(7) of chapter 84 of the Revised Statutes of~~  
12 ~~1846, being section 552.14 of the Michigan Compiled Laws.~~  
13 **Section 14 of 1846 RS 84, MCL 552.14.**

14 (vi) Section 6b(5) of chapter V of the code of criminal  
15 procedure, ~~Act No. 175 of the Public Acts of 1927, being section~~  
16 ~~765.6b of the Michigan Compiled Laws 1927 PA 175, MCL 765.6b, if~~  
17 the order has a condition imposed pursuant to section 6b(3) of  
18 chapter V of ~~Act No. 175 of the Public Acts of 1927 1927 PA~~  
19 ~~175, MCL 765.6b.~~

20 (vii) Section 16b(1) of chapter IX of ~~Act No. 175 of the~~  
21 ~~Public Acts of 1927, being section 769.16b of the Michigan~~  
22 ~~Compiled Laws 1927 PA 175, MCL 769.16b.~~

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

27 (c) The person is a citizen of the United States and is a

1 legal resident of this state.

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

4 (e) The person is not prohibited from possessing, using,  
5 transporting, selling, purchasing, carrying, shipping, receiving,  
6 or distributing a firearm under section 224f of the Michigan  
7 penal code, ~~Act No. 328 of the Public Acts of 1931, being~~  
8 ~~section 750.224f of the Michigan Compiled Laws~~ **1931 PA 328, MCL**  
9 **750.224f.**

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

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

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

20 (i) The person correctly answers 70% or more of the questions  
21 on a basic pistol safety review questionnaire approved by the  
22 basic pistol safety review board and provided to the individual  
23 free of charge by the licensing authority. If the person fails  
24 to correctly answer 70% or more of the questions on the basic  
25 pistol safety review questionnaire, the licensing authority shall  
26 inform the person of the questions he or she answered incorrectly  
27 and allow the person to attempt to complete another basic pistol

1 safety review questionnaire. The person shall not be allowed to  
2 attempt to complete more than 2 basic pistol safety review  
3 questionnaires on any single day. The licensing authority shall  
4 allow the person to attempt to complete the questionnaire during  
5 normal business hours on the day the person applies for his or  
6 her license.

7 (4) Applications for licenses under this section shall be  
8 signed by the applicant under oath upon forms provided by the  
9 director of the department of state police. Licenses to  
10 purchase, carry, or transport pistols shall be executed in  
11 triplicate upon forms provided by the director of the department  
12 of state police and shall be signed by the licensing authority.  
13 Three copies of the license shall be delivered to the applicant  
14 by the licensing authority.

15 (5) Upon the sale of the pistol, the seller shall fill out  
16 the license forms describing the pistol sold, together with the  
17 date of sale, and sign his or her name in ink indicating that the  
18 pistol was sold to the licensee. The licensee shall also sign  
19 his or her name in ink indicating the purchase of the pistol from  
20 the seller. The seller may retain a copy of the license as a  
21 record of the sale of the pistol. The licensee shall return  
22 2 copies of the license to the licensing authority within 10 days  
23 following the purchase of the pistol.

24 (6) One copy of the license shall be retained by the  
25 licensing authority as an official record for a period of  
26 6 years. The other copy of the license shall be forwarded by the  
27 licensing authority within 48 hours to the director of the

1 department of state police. A license is void unless used within  
2 10 days after the date of its issue.

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

13 (8) The licensing authority shall provide a basic pistol  
14 safety brochure to each applicant for a license under this  
15 section before the applicant answers the basic pistol safety  
16 review questionnaire. A basic pistol safety brochure shall  
17 contain, but is not limited to providing, information on all of  
18 the following subjects:

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

20 (b) Safe storage of pistols.

21 (c) Nomenclature and description of various types of  
22 pistols.

23 (d) The responsibilities of owning a pistol.

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

26 (10) The basic pistol safety brochure required in subsection  
27 (8) shall be produced by a national nonprofit membership

1 organization that provides voluntary pistol safety programs that  
2 include training individuals in the safe handling and use of  
3 pistols.

4 (11) A person who forges any matter on an application for a  
5 license under this section is guilty of a felony, punishable by  
6 imprisonment for not more than 4 years or a fine of not more than  
7 \$2,000.00, or both.

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