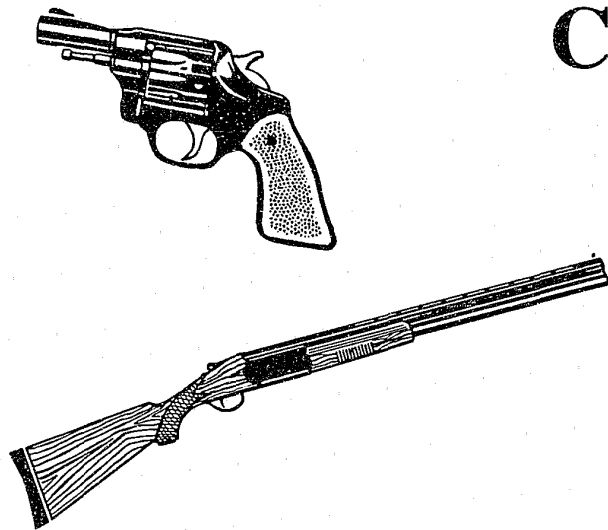


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# **CONCEALED WEAPONS and FIREARMS LAWS**

**NCJRS**

**SEP 27 1994**

**ACQUISITIONS**



**NOVEMBER 1993**

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# PREFACE

This booklet is published to provide information regarding the handling of weapons that come within the purview of the statutes dealing with Concealed Weapons, Dangerous Weapons, and Firearms in general.

Its purpose is to provide a condensed summary of proper procedures covering the purchasing and safety inspection (registration) of weapons and the functioning of the concealed weapons licensing boards, together with the requirements of the individual in obtaining a license to carry a concealed weapon.

Reference is made to the certification of records, various attorney general's opinions, the federal firearms license and its absence of effect on the state or other laws.

Material contained in this booklet is taken from the Michigan Compiled Laws and the Code of Federal Regulations and is subject to statutory amendments, court decisions, and attorney general opinions.

If there is a question concerning this, further information can be obtained by contacting your legal advisor or the local prosecuting attorney's office.

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## GENERAL INFORMATION PERTAINING TO FIREARMS IN MICHIGAN

This information is provided for firearms dealers or those persons interested in and concerned with the possession, sale, transportation, and use of firearms and certain other weapons under the Concealed Weapons Act in the State of Michigan.

In order to legally buy and sell firearms and transport them in interstate commerce one must be in possession of; 1) a Federal Firearms License obtained from the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, Arboretum Bldg., Suite 195, 34505 West 12 Mile Road, Farmington Hills, Michigan 48331; and 2) a Michigan Sales Tax License obtained from Michigan Department of Treasury, Bureau of Revenue, Sales, Use, and Withholding Taxes Division, Treasury Building, 430 West Allegan Street, Lansing, Michigan, 48922. No immunity to state law or other law is granted by virtue of the possession of a Federal Firearms License.

As far as the State of Michigan is concerned, there is no dealers licensing requirement. A dealer reverts to the same as "any person" under the Concealed Weapons Act and unless otherwise exempted, must execute a Dealer's License to Purchase for all pistols purchased from an individual or another dealer. A License to Purchase is not required on the purchase of pistols from wholesalers by dealers.

If a dealer desires to transport pistols in a motor vehicle for business purposes, i.e. to and from gun shows, an application for a Concealed Pistols License (obtained from the local jurisdiction) must be completed and presented to the local County Concealed Weapons Licensing Board. The board has the exclusive authority to determine the necessity of, and to issue the license.

A pistol is defined as "any firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded which by its construction and appearance conceals it as a firearm. This definition includes rifles and shotguns, generally equipped with pistol grips, with barrel lengths of at least 16 and 18 inches, respectively, whose overall lengths fall between 26 and 30 inches. The latter portion of the pistol definition, "construction and appearance" refers to those firearms designed to appear as a camera, cigarette lighter, pen or pencil, etc.

Whenever a pistol is purchased/obtained/received or presented for safety inspection (registration), the purchaser is required to pass a basic safety questionnaire and obtain a License to Purchase from their local police agency. The purchaser, along with the seller, must complete the license. The seller retains one copy of the license and the purchaser is required to return to their local police agency with the remaining two copies within 10 days of purchase to have a Safety Inspection Certificate issued. The seller would be: 1) a federally licensed firearms dealer; 2) a legal "registered" owner; 3) an administrator of the estate or next of kin having authority to dispose of such property, in the event the "registered owner" or dealer is deceased. In the absence of a seller's signature, the reason should be noted on the License to Purchase, i.e. "Moved from Virginia".

The preceding is the procedure required for importing, selling, and purchasing/ obtaining pistols in this state by dealers and individuals. Following are the exceptions to the statutes, particularly those pertaining to the handling of antique pistols

or replicas of antique pistols.

The License to Purchase Section: "This section does not apply to the sale, barter or exchange of pistols kept solely as relics, curios, or antiques not made for modern ammunition or permanently deactivated."

The Safety Inspection of Pistols Section: "The provisions of this section shall not apply to wholesale or retail dealers in firearms or to collections of pistols kept solely for the purpose of display, as relics, curios or antiques, not made for modern ammunition or permanently deactivated."

The wording in italics requires a License to Purchase and a Safety Inspection Certificate on relics and antiques unless they are purchased and kept solely for the purpose of display as relics, curios, or antiques, or are permanently deactivated.

Pellet guns are defined as firearms under Michigan statutes. This includes a pistol which fires either a BB, a dart or a pellet. A BB pistol not exceeding .177 caliber is not defined as a firearm. No person under the age of 18 shall use or possess a BB handgun off property owned by their parent or guardian unless accompanied by a person over 18 years of age. Blank cartridge pistols are not considered firearms, however, are controlled under the Fireworks Act. Blank cartridge pistols may be possessed and used only for theatrical purposes, training or exhibiting dogs, athletic events, railroad signal purposes, by the militia or any veterans organizations.

Residents of Michigan are generally required to obtain a Concealed Pistols License for carrying a concealed pistol on their person or for transporting a pistol, loaded or unloaded, in a motor vehicle. Again, applications for a Concealed Pistols License are obtained from the local jurisdiction, and submitted to the local County Concealed Weapons Licensing Board.

Without a Concealed Pistols License residents are limited to transporting a pistol unloaded, in a wrapper or container, in the trunk of a vehicle only in the following circumstances:

1. en route to or from a hunting or target shooting area, provided they are in possession of a valid Michigan hunting license or membership in an organization that has target shooting range facilities.
2. transporting from the place of purchase, to home, or place of business, or place of repair.
3. in moving goods from one place of abode or business to another place of abode or business.
4. to the local police agency, within 10 days of purchase, to obtain a Safety Inspection Certificate (registration).

NOTE - An Attorney General's Opinion states that a Concealed Pistols License restricted to hunting does not allow a hunter to transport a "loaded, accessible" weapon in a motor vehicle, it must be transported as stated previously in #1.

Residents carrying pistols with only hunting licenses and/or membership in pistol clubs must keep the pistol exposed at all times while in the field or on the target range. An Attorney General Opinion states a holster in plain view is not considered concealed.

With certain exceptions, it is unlawful to possess a firearm in a bank, church, school, daycare center, court, theatre, sports arena, hospital or any establishment licensed to sell alcoholic beverages.

Non-residents of Michigan may or may not transport pistols as follows:

1. A valid license to carry pistols issued by another state is honored by Michigan authorities providing the pistol is carried in compliance with such license. The same privileges are granted as in their state of residence.
2. Non-residents from states that do not issue a license to carry concealed pistols must abide by the same laws that prohibit Michigan residents from carrying and transporting pistols. There are no provisions to register pistols to persons who are not legal residents of the state or to issue a Concealed Pistols License to an individual until they have resided in this state for six months.

The sale of rifles and shotguns to persons under 18 years of age is prohibited. There are also restrictions that prohibit: 1) the sale of rifles and shotguns to anyone other than residents of this state or contiguous states, and 2) state residents from purchasing rifles and shotguns in any state other than this state and/or a contiguous state.

A rifle and/or shotgun cannot be transported loaded in a motor vehicle, motor boat or aircraft and must be either; 1) taken down, 2) enclosed in a case, 3) carried in the trunk, or 4) inaccessible from the interior of the vehicle. Further restrictions pertaining to the use and possession of rifles and shotguns in Michigan are found in the conservation laws and statutes pertaining to the improper use of dangerous weapons. Contact the Michigan Department of Natural Resources for information pertaining to the conservation laws.

There is no provision for the acquisition and possession of fully-automatic firearms/machine guns by a private citizen; except those persons licensed by the Secretary of the Treasury of the United States/Bureau of Alcohol, Tobacco and Firearms to manufacture, sell or possess fully-automatic firearms.

The sale, possession or use of portable electrical devices (weapons/guns) that direct/emit an electrical current, impulse, wave or beam, which is designed to incapacitate temporarily, injure, or kill, is prohibited.

The possession, sale or use by private individuals of "CN devices" or those that emit chloroacetophenone, commonly sold under the trade name "Mace" is prohibited. Self-defense sprays containing 35 grams or less of "orthochlorobenzalmalononitrile (CS)" ingredients and "oleoresin capsicum" sprays containing a solution of 2% or less are permitted, provided the device doesn't emit any other harmful gas or substance.

The preceding paragraphs are a brief summary of some of the Concealed Weapons Laws of the State of Michigan.

Michigan State Police  
Firearms Records Section, Central Records Division

# MICHIGAN CONCEALED WEAPONS AND FIREARMS STATUTES

## EXECUTIVE ORGANIZATION ACT OF 1965 (EXCERPTS)

### Act 380 of 1965

#### CHAPTER 7.

#### DEPARTMENT OF STATE POLICE

- 16.251 Head of department of state police.  
16.252 Director of department of state police; appointment.

## STATUTES (EXCERPT)

### R.S. 1846, Ch. 1

- 8.3t "Firearm" defined.

## FIREARMS (EXCERPTS)

### Act 372 of 1927

- 28.421 Firearms; definitions.  
28.422 License to purchase, carry, or transport pistol; issuance; qualifications; applications; sale of pistol; exemptions; basic pistol safety brochure; forging application; implementation during business hours.  
28.422a Basic pistol safety brochure; posting information on local voluntary pistol safety programs.  
28.423 Applicant fee.  
28.426 Concealed weapon licensing board; membership; authority to issue licenses; clerk; qualifications of licensee; approval of application; appeal; hearing; notice; deposit; fingerprints; temporary permit; report; record; contents of application for license; restrictions to appear on face of license; revocation of license; chairperson of board; meetings; requirements for issuance of license; licensing fee; filing and indexing license; permanent official record; duration and renewal of license; license to bear imprint of thumb or finger; carrying and display of license; disposition of fees; fee for copy of license; imposition of fee by certain charter counties.  
28.426a Licenses to equip premises or vehicles with gas ejecting devices; rules; license to manufacture or sell gas ejecting or emitting weapon, cartridge, or device; "gas ejecting device" defined; license not required for self-defense spray device.  
28.427 Concealed weapons licenses; expiration.  
28.428 Revocation of licenses; grounds, hearing.  
28.429 Pistols; safety inspection required; certificate of inspection; exemptions; requirements of pistol presented for inspection; violation as civil infraction; penalty.  
28.429a Basic pistol safety review board; creation; membership; chair; duties.  
28.429b Basic pistol safety pamphlet and questionnaires; printing and distribution.  
28.429c Distribution of basic pistol safety pamphlet.  
28.429d Forfeiture of firearm.  
28.430 Theft of firearm; report required; failure to report theft as civil violation; penalty.

- 28.431 Review of criminal histories; report; rules.  
28.432 Inapplicability of licensing and safety inspection section.  
28.432a Persons to whom § 28.426 inapplicable; exception as to township constable.  
28.432b Signaling devices to which §§ 28.422 and 28.429 inapplicable.  
28.433 Unlawful possession of weapon; complaint, search warrant, seizure.  
28.434 Unlawful possession; weapon forfeited to state.

## FIREARMS AND AMMUNITION (EXCERPTS)

### Act 319 of 1990

- 123.1101 Definitions.  
123.1102 Regulation of pistols or other firearms.  
123.1103 Permissible prohibitions or regulation.  
123.1104 Prohibiting discharge of pistol or other firearm.

## THE MICHIGAN PENAL CODE (EXCERPTS)

### Act 328 of 1931

#### CHAPTER XXXVII

#### FIREARMS

- 750.222 Definitions.  
750.223 Selling firearms and ammunition; violations; penalties; "licensed dealer" defined.  
750.224 Weapons; manufacture, sale, or possession as felony; exceptions; "muffler" or "silencer" defined.  
750.224a Portable device or weapon directing electrical current, impulse, wave, or beam; sale or possession prohibited; testing.  
750.224b Short-barreled shotgun or rifle; manufacture, sale, or possession as felony; penalty; exceptions; applicability of § 776.20.  
750.224c Armor piercing ammunition; manufacture, distribution, sale, or use prohibited; exceptions; violation as felony; penalty; definitions; exemption of projectile or projectile core; rule.  
750.224d Self-defense spray device.  
750.224e Conversion of semiautomatic firearm to fully automatic firearm; prohibited acts; penalty; applicability; "fully automatic firearm", "licensed collector", and "semiautomatic firearm" defined.  
750.224f Possession of firearm by person convicted of felony; circumstances; penalty; applicability of section to expunged or set aside conviction; "felony" and "specified felony" defined.  
750.225 Firearms from without state; printed matter to sell or deliver.  
750.226 Firearm or dangerous weapon; carrying with unlawful intent.  
750.226a Pocket knife opened by mechanical device; unlawful sale or possession; persons exempted.

750.227 Concealed weapons; carrying; penalty.

750.227a Pistols; unlawful possession by licensee.

750.227b Carrying or possessing firearm when committing or attempting to commit felony; "law enforcement officer" defined.

750.227c Transporting or possessing loaded firearm in or upon vehicle; violation as misdemeanor; penalty; applicability to person violating § 312.10(1)(g).

750.227d Transporting or possessing firearm in or upon motor vehicle or self-propelled vehicle designed for land travel; conditions; violation as misdemeanor; penalty.

750.227f Committing or attempting to commit a crime involving a violent act or threat of a violent act against another person while wearing body armor; penalty; exception; definitions.

750.228 Failure to have pistol inspected; applicability; penalty.

750.229 Pistols accepted in pawn, by second hand dealer or junk dealer.

750.230 Firearms; altering, removing, or obliterating marks of identity; presumption.

750.231 Sections 750.224, 750.227, 750.227c, and 750.227d inapplicable to certain persons and organizations.

750.231a Persons to which § 750.227 inapplicable; "antique firearm" defined.

750.231b Sale and safety inspection; persons exempt.

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750.232 Purchasers of firearms; registration.

750.232a Obtaining pistol in violation of § 28.422; intentionally making material false statement on application for license to purchase pistol; using or attempting to use false identification or identification of another person to purchase firearm; penalties.

750.233 Firearm; intentionally aiming without malice.

750.234 Firearm; discharge, intentionally aimed without malice.

750.234a Intentionally discharging firearm from motor vehicle, snowmobile, or off-road vehicle in manner that endangers safety of another individual as felony; penalty; exceptions.

750.234b Intentionally discharging firearm at dwelling or occupied structure as felony; penalty; exceptions; "dwelling" and "occupied structure" defined.

750.234c Intentionally discharging firearm at emergency or law enforcement vehicle as felony; penalty; "emergency or law enforcement vehicle" defined.

750.234d Possession of firearm on certain premises prohibited; applicability; violation as misdemeanor; penalty.

750.234e Brandishing firearm in public; applicability; violation as misdemeanor; penalty.

750.234f Possession of firearm by person less than 18 years of age; exceptions; violation as misdemeanor; penalty.

750.235 Firearm; injuring, intentionally aimed without malice.

750.236 Spring gun, trap or device; setting.

750.237 Liquor or other drug; possession or use of firearm by person under influence.

750.238 Search warrant.

750.239 Forfeiture of weapons.

## CHAPTER LII

### LARCENY

750.357b Committing larceny by stealing firearm of another person as felony; penalty.

## CHAPTER LXXXI

### STOLEN, EMBEZZLED OR CONVERTED PROPERTY

750.535b Transporting or shipping stolen firearm or stolen ammunition as felony; receiving, concealing, storing, bartering, selling, disposing of, pledging, or accepting as security for a loan a stolen firearm as felony; penalties.

## CHAPTER XLV

### HOMICIDE

750.329 Death; firearm pointed intentionally, but without malice.

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### ASSAULTS

750.82 Felonious assault.

### CARELESS, RECKLESS, OR NEGLIGENT USE OF FIREARMS (EXCERPTS)

#### Act 45 of 1952

752.861 Careless, reckless or negligent use of firearms; penalty.

752.862 Careless, reckless or negligent use of firearms; injury of property; penalty.

752.863a Reckless, wanton use or negligent discharge of firearm; penalty.

752.864 Firearms; injury to person or property, suspension of hunting privileges.

### CERTIFIED REPRODUCTIONS OF STATE POLICE RECORDS

#### Act 79 of 1939

28.201 Certified reproductions of state police records admissible as evidence.

28.202 Construction of act.

### THE CODE OF CRIMINAL PROCEDURE (EXCERPT)

#### Act 175 of 1927

## CHAPTER XVI

### MISCELLANEOUS PROVISIONS

776.20 Firearms violations; burden of establishing exception.

## THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

### CHAPTER XXXIX

#### FIREWORKS

750.243a Definitions; prohibited sales and conduct; fireworks for which permit not required.

### STATUTES (EXCERPT)

R.S. 1846, Ch. 1

8.3t "Firearm" defined.

### SPRING, GAS, OR AIR OPERATED HANDGUNS

Act 186 of 1959

752.891 Use or possession of BB handgun by minor.

752.892 Penalty.

### PURCHASE OF RIFLES AND SHOTGUNS

Act 207 of 1969

3.111 Rifles and shotguns; purchases by residents.

3.112 Rifles and shotguns; purchases by nonresidents.

## FINGERPRINTING RESIDENTS OF STATE (EXCERPT)

Act 120 of 1935

28.273 Fee.

## THE HUNTING AND FISHING LICENSE ACT (EXCERPTS)

Act 86 of 1980

### ARTICLE 2

316.202 Carrying or transporting firearm, slingshot, or bow and arrow.

316.203 Deer or elk season; transporting or possessing shotgun or rifle.

316.204 Spring wild turkey hunting season; carrying firearm or bow and arrow; turkey license required.

316.205 Carrying, transporting, or possessing firearm or bow and arrow without hunting license.

316.208 Carrying license; exhibiting license on demand; backtag; firearm deer license with unused kill tag; exhibiting tag on request.

### ARTICLE 8

316.802 Carrying firearm while bow hunting for deer prohibited.

316.807 Carrying or transporting firearm, slingshot, or bow and arrow during closed season on small game.

## CONCEALED WEAPONS AND FIREARMS LAWS

### EXECUTIVE ORGANIZATION ACT OF 1965 (EXCERPTS)

Act 380 of 1965

AN ACT to organize the executive and administrative agencies of state government; to establish principal departments and department heads; to define the powers and duties of the principal departments and their governing agents; to allocate executive and administrative powers, duties, functions, and services among the principal departments; to provide for a method for the gradual implementation of the provisions of this act and for the transfer of existing funds and appropriations of the principal departments herein created and established.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

*The People of the State of Michigan enact:*

### CHAPTER 7.

#### DEPARTMENT OF STATE POLICE

#### 16.251 Head of department of state police.

Sec. 151. The head of the department of state police is the director of the department of state police.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

#### 16.252 Director of department of state police; appointment.

Sec. 152. The director of the department of state police shall be appointed by the governor and serve at the pleasure of the governor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

### STATUTES (EXCERPT)

R.S. 1846, Ch. 1

Of the statutes.

History: R.S. 1846, Ch. 1.

#### 8.3t "Firearm" defined.

Sec. 3t. The word "firearm", except as otherwise specifically defined in the statutes, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air.

History: Add. 1959, Act 189, Imd. Eff. July 22, 1959.

## FIREARMS (EXCERPTS)

### Act 372 of 1927

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; to provide for the forfeiture of firearms possessed in violation of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

History: 1927, Act 372, Eff. Sept. 5, 1927;—Am. 1929, Act 206, Imd. Eff. May 20, 1929;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—Am. 1980, Act 345, Eff. Mar. 31, 1981;—Am. 1990, Act 320, Eff. Mar. 28, 1991.

*The People of the State of Michigan enact:*

#### **28.421 Firearms; definitions.**

Sec. 1. As used in this act:

(a) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(b) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(c) "Purchaser" means a person who receives a pistol from another person by purchase, gift, or loan.

(d) "Seller" means a person who sells, furnishes, loans, or gives a pistol to another person.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16749;—CL 1948, 28.421;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992.

#### **28.422 License to purchase, carry, or transport pistol; issuance; qualifications; applications; sale of pistol; exemptions; basic pistol safety brochure; forging application; implementation during business hours.**

Sec. 2. (1) Except as provided in subsection (2), a person shall not purchase, carry, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.

(2) A person who brings a pistol 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 pistol within 30 days after his or her arrival in this state.

(3) The commissioner or chief of police of a city, township, or village police department that issues licenses to purchase, carry, or transport pistols, or his or her duly authorized deputy, or the sheriff or his or her duly authorized deputy, in the parts of a county not included within 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, or transport pistols to qualified applicants residing within the city, village, township, or county, as applicable unless he or she has probable cause to believe that the applicant would be a threat to himself or herself or to other individuals, or would commit an offense with the pistol 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 person is 18 years of age or older or, if the seller is licensed pursuant to section 923 of title 18 of the United States Code, 18 U.S.C. 923, is 21 years of age or older.

(b) The person is a citizen of the United States and is a legal resident of this state.

(c) The person is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224f of the Michigan Compiled Laws.

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

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

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

(g) The person correctly answers 70% or more of the questions on a basic pistol safety review questionnaire approved by the basic pistol safety review board and provided to the individual free of charge by the licensing authority. If the person fails to correctly answer 70% or more of the questions on the basic pistol safety review questionnaire, the licensing authority shall inform the person of the questions he or she answered incorrectly and allow the person to attempt to complete another basic pistol safety review questionnaire. The person shall not be allowed to attempt to complete more than 2 basic pistol safety review questionnaires on any single day. The licensing authority shall allow the person to attempt to complete the questionnaire during normal business hours on the day the person applies for his or her license.

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

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

(6) One copy of the license shall be retained by the licensing authority as an official record for a period of 6 years. The other copy of the license shall be forwarded by the licensing authority within 48 hours to the director of the department of state police. A license is void unless used within 10 days after the date of its issue.

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

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

- (a) Rules for safe handling and use of pistols.
- (b) Safe storage of pistols.
- (c) Nomenclature and description of various types of pistols.
- (d) The responsibilities of owning a pistol.

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

(10) The basic pistol safety brochure required in subsection (8) shall be produced by a national nonprofit membership organization that provides voluntary pistol safety programs that include training individuals in the safe handling and use of pistols.

(11) A person who 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.

(12) 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 (6).

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, Eff. Mar. 28, 1991;—Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992;—Am. 1992, Act 220, Imd. Eff. Oct. 13, 1992.

Cited in other sections: Section 28.422 et seq. is cited in §§722.53, 750.223, 750.232a, and 750.224b.

#### **28.423 Applicant fee.**

Sec. 3. A local unit of government may charge an applicant a fee of not more than \$5.00 for the actual and necessary expenses of a license to purchase, carry, or transport a pistol issued under section 2.

History: Add. 1991, Act 130, Imd. Eff. Oct. 28, 1991.

Uncompiled section: Former section 3 of this act was not compiled.

#### **28.424 Restoration of rights by concealed weapons licensing board; application; fee; determination; circumstances; judicial review.**

Sec. 4. (1) A person who is prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f(2) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224f of the Michigan Compiled Laws, may apply to the concealed weapons licensing board in the county in which he or she resides for restoration of those rights.

(2) Not more than 1 application may be submitted under subsection (1) in any calendar year. The concealed weapons licensing board may charge a fee of not more than \$10.00 for the actual and necessary expenses of each application.

(3) The concealed weapons licensing board shall, by written order of the board, restore the rights of a person to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm if the board determines, by clear and convincing evidence, that all of the following circumstances exist:

(a) The person properly submitted an application for restoration of those rights as provided under this section.

(b) The expiration of 5 years after all of the following circumstances:

(i) The person has paid all fines imposed for the violation resulting in the prohibition.

(ii) The person has served all terms of imprisonment imposed for the violation resulting in the prohibition.

(iii) The person has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition.

(c) The person's record and reputation are such that the person is not likely to act in a manner dangerous to the safety of other persons.

(4) If the concealed weapons licensing board pursuant to subsection (3) refuses to restore a right under this section, the person may petition the circuit court for review of that decision.

History: Add. 1992, Act 219, Imd. Eff. Oct. 13, 1992.

Compiler's note: Former section 4 of this act was not compiled.

Cited in other sections: Section 28.424 is cited in §750.224f.



**28.426 Concealed weapon licensing board; membership; authority to issue licenses; clerk; qualifications of licensee; approval of application; appeal; hearing; notice; deposit; fingerprints; temporary permit; report; record; contents of application for license; restrictions to appear on face of license; revocation of license; chairperson of board; meetings; requirements for issuance of license; licensing fee; filing and indexing license; permanent official record; duration and renewal of license; license to bear imprint of thumb or finger; carrying and display of license; disposition of fees; fee for copy of license; imposition of fee by certain charter counties.**

Sec. 6. (1) The prosecuting attorney, the sheriff, and the director of the department of state police, or their respective authorized deputies, shall constitute boards exclusively authorized to issue a license to an applicant residing within their respective counties, to carry a pistol concealed on the person and to carry a pistol, whether concealed or otherwise, in a vehicle operated or occupied by the applicant. The county clerk of each county shall be clerk of the licensing board, which board shall be known as the concealed weapon licensing board. A license to carry a pistol concealed on the person or to carry a pistol, whether concealed or otherwise, in a vehicle operated or occupied by the person applying for the license, shall not be granted to a person unless the person is 18 years of age or older, is a citizen of the United States, and has resided in this state 6 months or more. A license shall not be issued unless it appears that the applicant has good reason to fear injury to his or her person or property, or has other proper reasons, and is a suitable person to be licensed. A license shall not be issued to a person who was convicted of a felony or confined for a felony conviction in this state or elsewhere during the 8-year period immediately preceding the date of the application or was adjudged insane unless the person was restored to sanity and so declared by court order.

(2) If an applicant resides in a city, village, or township having an organized department of police, a license shall not be issued unless the application is first approved in writing by the supervisor, commissioner or chief of police, or marshal. If an application is not approved by the supervisor, commissioner or chief of police, or marshal, the applicant shall have 10 days to appeal, in writing, to the concealed weapon licensing board in the county in which the applicant resides. Upon receipt of a written appeal, the concealed weapon licensing board at the next scheduled meeting to be held not less than 15 days after the receipt of the fingerprint comparison report shall hold a hearing to determine if the applicant is qualified to carry a concealed weapon pursuant to this section. Notice of the hearing shall be mailed to the applicant and the organized department of police not less than 10 days before the scheduled hearing. The applicant shall deposit the sum of \$10.00 with the county clerk at the time the appeal is made. If, upon appeal, a license is not issued, the deposit shall be credited to the general fund of the county. If a license is issued, the deposit shall be processed as the license fee required under subsection (6).

(3) If an applicant does not reside in a city, village, or township which has an organized department of police, a license shall not be issued unless the application is first submitted to the supervisor of the township in which the applicant resides for approval or objection. The supervisor shall indicate in writing on the application whether he or she objects to the license being issued. If action is not taken by a supervisor within 14 days after the application is submitted to the supervisor, the concealed weapon licensing board shall consider the application as if a statement of no objection had been included. If the supervisor objects to the application in writing, the applicant within 10 days may appeal to the concealed weapon licensing board of the county in which the applicant resides. Upon receipt of a written appeal, the concealed weapon licensing board at the next scheduled meeting to be held not less than 15 days after the receipt of the fingerprint comparison report shall hold a hearing to determine if the applicant is qualified to carry a concealed weapon pursuant to this section. Notice of the hearing shall be mailed to the applicant and the supervisor of the township not less than 10 days before the scheduled hearing. The applicant shall deposit the sum of \$10.00 with the county clerk at the time the appeal is made. If, upon appeal, a license is not issued, the deposit shall be credited to the general fund of the county. If a license is issued, the deposit shall be processed as the license fee required under subsection (6).

(4) An applicant shall have 2 sets of fingerprints taken by the sheriff, or the sheriff's authorized representative, of the county in which the applicant resides, if the applicant does not reside in a city, village, or township having an organized department of police, or by the commissioner or chief of police, or marshal, or an authorized representative of the commissioner or chief of police or marshal, if the applicant resides within a city, village, or township having an organized department of police. The first set of fingerprints shall be taken on forms furnished by the department of state police, and the second set on forms furnished by the federal bureau of investigation. The first set of fingerprints shall be forwarded to the department of state police by the department taking the prints, and the second set shall be forwarded by the department taking the fingerprints to the federal bureau of investigation or other agency designated by the federal bureau of investigation. The director of the bureau of identification of the department of state police shall compare the fingerprints with those already on file in the bureau. A license shall not be issued unless and until report is received by the clerk of the board from the department of state police and the federal bureau of investigation that the comparisons do not show a conviction of a felony or confinement for a felony conviction during the 8-year period. The board may grant a temporary permit in case of emergency pending the results of the comparisons. The temporary permit shall be issued for a period not to exceed 30 days and shall expire automatically at the end of the period for which it was issued. Upon receipt of the report from the federal bureau of investigation of the comparison, the bureau of identification of the department of state police shall forward a report of both comparisons to the officer taking the prints and also to the county clerk of the county in which the applicant resides, who as clerk of the board shall keep a record of the report and shall report to the board. The fingerprints received under this section shall be filed in the bureau of identification of the department of state police in the noncriminal section of the files.

(5) The application for a license shall state the reason or reasons for the necessity or desirability of carrying a pistol concealed on the person or a pistol, whether concealed or otherwise, in a vehicle operated or occupied by the person applying for the license, and the license, if issued, shall be restricted to the reason or reasons satisfactory to the board, which restriction or restrictions shall appear on the face of the license in a conspicuous place. The license shall be an authorization to carry a pistol in compliance with this section only to the extent contained in the face of the license and the license shall be revoked by the board if the pistol is carried contrary to the authorization.

(6) The prosecuting attorney shall be the chairperson of the board, which shall convene at least once in each calendar month and at other times as the board is called to convene by the chairperson. Each license shall be issued only upon written application signed by the applicant and on oath and upon a form provided by the director of the department of state police. Each license shall be issued only with the approval of a majority of the members of the board and shall be executed in triplicate upon forms provided by the director of the department of state police and shall be signed in the name of the concealed weapon licensing board by the county clerk with the seal of the circuit court affixed to the license. The county clerk shall first collect a licensing fee of \$10.00 from the applicant for each license delivered to the applicant. One copy of the license shall be delivered to the applicant, the duplicate shall be retained by the county clerk as a permanent official record for a period of 6 years, and the triplicate of the license shall be forwarded within 48 hours to the director of the department of state police who shall file and index each license received and retain it as a permanent official record for a period of 6 years. A license shall be issued for a definite period of not more than 3 years, to be stated in the license, and a renewal of the license shall not be granted except upon the filing of a new application. A license shall bear the imprint of the right thumb of the licensee, or, if that is not possible, of the left thumb or some other finger of the licensee. The licensee shall carry the license upon his or her person when carrying a pistol concealed upon his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the licensee, and shall display the license upon the request of a peace officer. On the first day of each month the county clerk shall remit to the state treasurer \$2.00 for each license issued during the preceding month. On the first day of each month the county clerk shall pay into the general fund of the county the remainder of each license fee for each license issued during the preceding month.

(7) The county clerk may issue a copy of a license issued pursuant to this section for a fee of \$3.00 which fee shall be paid into the general fund of the county.

(8) A charter county may impose by ordinance a different amount for the concealed weapon licensing fee prescribed by subsection (6). A charter county shall not impose a fee which is greater than the cost of the service for which the fee is charged.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16754;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—Am. 1939, Act 86, Eff. Sept. 29, 1939;—Am. 1941, Act 112, Imd. Eff. May 21, 1941;—Am. 1943, Act 51, Imd. Eff. Mar. 30, 1943;—CL 1948, 28.426;—Am. 1949, Act 115, Imd. Eff. Sept. 23, 1949;—Am. 1959, Act 50, Eff. Mar. 19, 1960;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1972, Act 15, Imd. Eff. Feb. 19, 1972;—Am. 1977, Act 280, Imd. Eff. Dec. 23, 1977;—Am. 1980, Act 339, Imd. Eff. Dec. 23, 1980;—Am. 1984, Act 295, Imd. Eff. Dec. 20, 1984.

Cited in other sections: Section 28.426 is cited in §722.53.

#### **28.426a Licenses to equip premises or vehicles with gas ejecting devices; rules; license to manufacture or sell gas ejecting or emitting weapon, cartridge, or device; "gas ejecting device" defined; license not required for self-defense spray device.**

Sec. 6a. (1) A concealed weapons licensing board may issue to any bank, trust company, armored car company, railway company, express company, or other company, institution, copartnership, or individual having in its, their, or the individual's possession large sums of money or other valuables, a license authorizing the licensee to equip the premises or vehicles under its, their, or the individual's control with gas ejecting devices to be used solely for the purpose of protecting those premises or vehicles and the persons or property in the premises or vehicles from criminal assaults.

(2) The director of the department of state police shall promulgate rules to govern the issuing of the license and the making of an application for the license. The rules shall be promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws. The concealed weapons licensing board may issue to any company, copartnership, or individual under the limitations and pursuant to the rules promulgated by the director of the department of state police a license authorizing the corporation, copartnership, or individual to manufacture or sell, or both, a gas ejecting or emitting weapon, cartridge, or device to any person authorized by law to possess the weapon, cartridge, or device.

(3) For purposes of this section, "gas ejecting device" means a device designed for the purpose of rendering a person either temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance.

(4) A license shall not be required under this section for the sale, purchase, or possession of a self-defense spray device, as defined in section 224d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224d of the Michigan Compiled Laws.

History: Add. 1929, Act 206, Imd. Eff. May 20, 1929;—CL 1929, 16755;—CL 1948, 28.426a;—Am. 1980, Act 345, Eff. Mar. 31, 1981;—Am. 1991, Act 34, Imd. Eff. June 10, 1991.

Administrative rules: R 28.91 and R 28.92 of the Michigan Administrative Code.

#### **28.427 Concealed weapons licenses; expiration.**

Sec. 7. All licenses heretofore issued in this state permitting a person to carry a pistol concealed upon his person shall expire at midnight, December 31, 1927.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16756;—CL 1948, 28.427.

#### **28.428 Revocation of licenses; grounds, hearing.**

Sec. 8. The licensing board herein created by section 6 may revoke any license issued by it upon receiving a certificate of any magistrate showing that such licensee has been convicted of violating any of the provisions of this act, or has been convicted of a felony. Such license may also be revoked whenever in the judgment of said board the reason for granting such license shall have ceased to exist, or whenever said board shall for any reasonable cause determine said licensee to be an unfit person to carry a pistol concealed upon his person. No such license shall be revoked except upon written complaint and then only after a hearing by said board, of which at least 7 days' notice shall be given to the licensee either by personal service or by registered mail to his last known address. The clerk of said licensing board is hereby authorized to administer an oath to any person testifying before such board at any such hearing.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16757;—CL 1948, 28.428.

#### **28.429 Pistols; safety inspection required; certificate of inspection; exemptions; requirements of pistol presented for inspection; violation as civil infraction; penalty.**

Sec. 9. (1) A person within the state who owns or comes into possession of a pistol shall, if he or she resides in a city,

township, or village having an organized police department, present the pistol for safety inspection to the commissioner or chief of police of the city, township, or village police department or to a duly authorized deputy of the commissioner or chief of police. If that person resides in a part of the county not included within a city, township, or village having an organized police department, he or she shall present the pistol for safety inspection to the sheriff of the county or to a duly authorized deputy of the sheriff. If the person presenting the pistol is eligible to possess a pistol under section 2(1), a certificate of inspection shall be issued in triplicate on a form provided by the director of the department of state police, containing the name, age, address, description, and signature of the person presenting the pistol for inspection, together with a full description of the pistol. The original of the certificate shall be delivered to the registrant. The duplicate of the certificate shall be mailed within 48 hours to the director of the department of state police and filed and indexed by the department and kept as a permanent official record. The triplicate of the certificate shall be retained and filed in the office of the sheriff, commissioner, or chief of police. This section does not apply to a wholesale or retail dealer in firearms who regularly engages in the business of selling pistols at retail, or to a person who holds a collection of pistols kept solely for the purpose of display as relics, curios, or antiques, and that are not made for modern ammunition or are permanently deactivated.

(2) A person who presents a pistol for a safety inspection under subsection (1) shall ensure that the pistol is unloaded and that the pistol is equipped with a trigger lock or other disabling mechanism or encased when the pistol is presented for inspection. A person who violates this subsection is responsible for a civil violation and may be fined not more than \$50.00.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16758;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—CL 1948, 28.429;—Am. 1957, Act 259, Eff. Sept. 27, 1957;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1986, Act 262, Imd. Eff. Dec. 9, 1986;—Am. 1990, Act 320, Eff. Mar. 28, 1991.

Cited in other sections: Section 28.429 is cited in §§750.224b and 750.228.

#### **28.429a Basic pistol safety review board; creation; membership; chair; duties.**

Sec. 9a. (1) The basic pistol safety review board is created in the department of state police. The board shall consist of the following members:

- (a) The director of the department of state police or his or her representative.
- (b) The director of the department of natural resources or his or her representative.
- (c) One person appointed by the governor with the advice and consent of the senate representing the interests of organizations involved in shooting sports.
- (d) One person appointed by the governor with the advice and consent of the senate representing the interests of a statewide conservation organization.

(e) One person appointed by the governor with the advice and consent of the senate representing the interests of the public.

(2) The director of the department of state police shall chair the basic pistol safety board.

(3) The basic pistol safety board shall do all of the following:

- (a) Approve a pamphlet on basic pistol safety for distribution to entities authorized to issue licenses under section 2.
- (b) Approve basic pistol safety questionnaires for distribution to entities authorized to issue licenses under section 2. The board shall approve a questionnaire under this subdivision only if both of the following circumstances exist:
  - (i) The questionnaire only addresses material covered in the pamphlet approved pursuant to subdivision (a).
  - (ii) The questionnaire reasonably examines the knowledge of pistol safety of individuals who are required to answer questionnaires.

(c) Upon the expiration of 90 days after the effective date of the amendatory act that added this section, provide the department of state police with master copies of the basic pistol safety pamphlet and basic pistol safety questionnaires for printing by the department of state police and for distribution by the department of state police to entities authorized to issue licenses under section 2.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

#### **28.429b Basic pistol safety pamphlet and questionnaires; printing and distribution.**

Sec. 9b. The department of state police shall print the basic pistol safety pamphlet and basic pistol safety questionnaires approved by the basic pistol safety review board, and shall distribute the pamphlet and the questionnaires free of charge to entities authorized to issue licenses under section 2. The department of state police shall distribute copies of the basic pistol safety pamphlet and the questionnaires within 90 days after the department of state police receives the master copies from the basic pistol safety review board.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

#### **28.429c Distribution of basic pistol safety pamphlet.**

Sec. 9c. Entities authorized to issue licenses under section 2 shall distribute a basic pistol safety pamphlet received by that entity from the department of state police free of charge to each person who requests a copy of the pamphlet.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

#### **28.429d Forfeiture of firearm.**

Sec. 9d. A firearm that is possessed in violation of this act is subject to forfeiture.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

#### **28.430 Theft of firearm; report required; failure to report theft as civil violation; penalty.**

Sec. 10. (1) A person who owns a firearm shall, within 5 days after he or she knows his or her firearm is stolen, report the theft to a police agency having jurisdiction over that theft.

(2) A person who fails to report the theft of a firearm as required under subsection (1) is responsible for a civil violation

and may be fined not more than \$500.00.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

Compiler's note: Former sections 10 and 11 were not compiled.

#### **28.431 Review of criminal histories; report; rules.**

Sec. 11. Before January 1, 1995, the director of the state police shall, if sufficient money is appropriated by the legislature, by rules promulgated by the department of state police, provide a system for the expeditious review of the criminal histories of individuals who purchase firearms and file with the legislature a written report of his or her findings and conclusions.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

#### **28.432 Inapplicability of licensing and safety inspection section.**

Sec. 12. Sections 2 and 9 do not apply to a duly authorized police or correctional agency of the United States or of the state or any subdivision thereof, nor to the army, air force, navy or marine corps of the United States, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard, armed forces reserves or other duly authorized military organizations, or to members of the above agencies or organizations for weapons used for the purposes of or incidental to such agencies or organizations, nor to a person holding a license to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by authorized agents of any person licensed to manufacture firearms.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16761;—CL 1948, 28.432;—Am. 1964, Act 216, Eff. Aug. 28, 1964.

#### **28.432a Persons to whom §28.426 inapplicable; exception as to township constable.**

Sec. 12a. Section 6 does not apply to:

(a) A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or a subdivision of this state, except that section 6 does apply to a township constable.

(b) A constable who is trained and certified pursuant to Act No. 203 of the Public Acts of 1965, as amended, being sections 28.601 to 28.616 of the Michigan Compiled Laws, who is engaged in his or her official duties or going to or coming from his or her official duties, and who is regularly employed and paid by a political subdivision of this state.

(c) A person regularly employed by the department of corrections and authorized in writing by the director of the department of corrections to carry a concealed weapon concealed during the performance of his or her duties or while going to or returning from his or her duties.

(d) A member of the army, air force, navy, or marine corps of the United States while carrying a weapon in line of duty.

(e) A member of the national guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while going to or returning from his or her place of assembly or practice or while carrying a weapon used for purposes of a military organization.

(f) A person licensed to carry a pistol concealed upon his or her person issued by another state.

(g) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms.

(h) A person while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from 1 place of abode or business to another place of abode or business.

History: Add. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1976, Act 102, Imd. Eff. Apr. 27, 1976;—Am. 1978, Act 282, Imd. Eff. July 6, 1978;—Am. 1978, Act 519, Imd. Eff. Dec. 19, 1978.

#### **28.432b Signaling devices to which §§28.422 and 28.429 inapplicable.**

Sec. 12b. Sections 2 and 9 do not apply to a signaling device which is approved by the United States coast guard pursuant to regulations issued under section 4488 of the Revised Statutes of the United States, 46 U.S.C. 481, or under section 5 of the federal boat safety act of 1971, Public Law 92-75, 46 U.S.C. 1454.

History: Add. 1982, Act 182, Eff. July 1, 1982.

#### **28.432c License renewal; fee waiver.**

Sec. 12c. A licensing fee for the renewal of a license issued pursuant to section 6 shall not be required of an applicant who is a retired peace officer of a duly authorized police agency of this state or a political subdivision of this state. When applying for the renewal of a license under section 6, a retired peace officer shall submit evidence of his or her retirement considered sufficient by the concealed weapons licensing board to have the fee waived pursuant to this section.

History: Add. 1992, Act 220, Imd. Eff. Oct. 13, 1992.

#### **28.433 Unlawful possession of weapon; complaint, search warrant, seizure.**

Sec. 13. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this act is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this act.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16762;—CL 1948, 28.433.

## **28.434 Unlawful possession; weapon forfeited to state.**

Sec. 14. All pistols, weapons or devices carried or possessed contrary to this act are hereby declared forfeited to the state, and shall be turned over to the commissioner of the Michigan state police or his designated representative, for such disposition as said commissioner may prescribe.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16763;—Am. 1943, Act 113, Eff. July 30, 1943;—CL 1943, 28,434.

## **FIREARMS AND AMMUNITION (EXCERPTS)**

### **Act 319 of 1990**

AN ACT to prohibit local units of government from imposing certain restrictions on the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunition for pistols or other firearms, or components of pistols or other firearms.

History: 1990, Act 319, Eff. Mar. 28, 1991.

*The People of the State of Michigan enact:*

### **123.1101 Definitions.**

Sec. 1. As used in this act:

(a) "Local unit of government" means a city, village, township, or county.

(b) "Pistol" means that term as defined in section 222 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.222 of the Michigan Compiled Laws.

History: 1990, Act 319, Eff. Mar. 28, 1991.

### **123.1102 Regulation of pistols or other firearms.**

Sec. 2. A local unit of government shall not impose special taxation on, enact or enforce any ordinance or regulation pertaining to, or regulate in any other manner the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunition for pistols or other firearms, or components of pistols or other firearms, except as otherwise provided by federal law or a law of this state.

History: 1990, Act 319, Eff. Mar. 28, 1991.

### **123.1103 Permissible prohibitions or regulation.**

Sec. 3. This act does not prohibit a local unit of government from doing either of the following:

(a) Prohibiting or regulating conduct with a pistol or other firearm that is a criminal offense under state law.

(b) Prohibiting or regulating the transportation, carrying, or possession of pistols and other firearms by employees of that local unit of government in the course of their employment with that local unit of government.

History: 1990, Act 319, Eff. Mar. 28, 1991.

### **123.1104 Prohibiting discharge of pistol or other firearm.**

Sec. 4. This act does not prohibit a city or a charter township from prohibiting the discharge of a pistol or other firearm within the jurisdiction of that city or charter township.

History: 1990, Act 319, Eff. Mar. 28, 1991.

## **THE MICHIGAN PENAL CODE (EXCERPTS)**

### **Act 328 of 1931**

AN ACT to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.

History: 1931, Act 328, Eff. Sept. 18, 1931.

*The People of the State of Michigan enact:*

## **CHAPTER XXXVII**

### **FIREARMS**

### **750.222 Definitions.**

Sec. 222. As used in this chapter:

(a) "Barrel length" means the internal length of a firearm as measured from the face of the closed breech of the firearm when it is unloaded, to the forward face of the end of the barrel.

(b) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(c) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(d) "Purchaser" means a person who receives a pistol from another person by purchase, gift, or loan.

(e) "Seller" means a person who sells, furnishes, loans, or gives a pistol to another person.

(f) "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single function of the trigger.

(g) "Short-barreled shotgun" means a shotgun having 1 or more barrels less than 18 inches in length or a weapon made from a shotgun, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

(h) "Rifle" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(i) "Short-barreled rifle" means a rifle having 1 or more barrels less than 16 inches in length or a weapon made from a rifle, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.222;—Am. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1978, Act 564, Imd. Eff. Dec. 29, 1978;—Am. 1992, Act 217, Imd. Eff. Oct. 13, 1992.  
Cited in other sections: Section 750.222 is cited in §123.1101.

### **750.223 Selling firearms and ammunition; violations; penalties; "licensed dealer" defined.**

Sec. 223. (1) A person who knowingly sells a pistol without complying with section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, 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.

(2) A person who knowingly sells a firearm more than 30 inches in length to a person under 18 years of age is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both. A second or subsequent violation of this subsection is a felony punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both. It is an affirmative defense to a prosecution under this subsection that the person who sold the firearm asked to see and was shown a driver's license or identification card issued by a state that identified the purchaser as being 18 years of age or older.

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

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

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

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

(5) As used in this section, "licensed dealer" means a person licensed under section 923 of chapter 44 of title 18 of the United States Code who regularly buys and sells firearms as a commercial activity with the principal objective of livelihood and profit.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.223;—Am. 1969, Act 210, Eff. Mar. 20, 1970;—Am. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 217, Imd. Eff. Oct. 13, 1992;—Am. 1992, Act 221, Eff. Mar. 31, 1993.

### **750.224 Weapons; manufacture, sale, or possession as felony; exceptions; "muffler" or "silencer" defined.**

Sec. 224. (1) A person shall not manufacture, sell, offer for sale, or possess any of the following:

(a) A machine gun or firearm that shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger.

(b) A muffler or silencer.

(c) A bomb or bombshell.

(d) A blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, or bludgeon.

(e) A device, weapon, cartridge, container, or contrivance designed to render a person temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance.

(2) A person who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$2,500.00, or both.

(3) Subsection (1) does not apply to any of the following:

(a) A self-defense spray device as defined in section 224d.

(b) A person manufacturing firearms, explosives, or munitions of war by virtue of a contract with a department of the government of the United States.

(c) A person licensed by the secretary of the treasury of the United States or the secretary's delegate to manufacture, sell, or possess a machine gun, or a device, weapon, cartridge, container, or contrivance described in subsection (1).

(4) As used in this chapter, "muffler" or "silencer" means 1 or more of the following:

(a) A device for muffling, silencing, or deadening the report of a firearm.

(b) A combination of parts, designed or redesigned, and intended for use in assembling or fabricating a muffler or silencer.

(c) A part, designed or redesigned, and intended only for use in assembling or fabricating a muffler or silencer.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.224;—Am. 1959, Act 175, Eff. Mar. 19, 1960;—Am. 1978, Act 564, Imd. Eff. Dec. 29, 1978;—Am. 1980, Act 346, Eff. Mar. 31, 1981;—Am. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1991, Act 33, Imd. Eff. June 10, 1991.

Constitutionality: The Michigan Supreme Court held that the statute was not unconstitutionally vague as applied to the defendant in *People v. Lynch*, 410 Mich. 343, 301 N.W.2d 796 (1981).

Cited in other sections: Section 750.224 is cited in §§600.4701 and 791.233b.

Former law: See section 3 of Act 372 of 1927, being CL 1929, §16751; and Act 206 of 1929.

#### **750.224a Portable device or weapon directing electrical current, impulse, wave, or beam; sale or possession prohibited; testing.**

Sec. 224a. (1) A person shall not sell, offer for sale, or possess in this state a portable device or weapon from which an electrical current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure, or kill.

(2) This section shall not prohibit delivery to or possession by the department of state police or any agency or laboratory with prior written approval of, and on conditions established by, the director of the department of state police for the purpose of testing such a device or weapon.

(3) A person who violates this section is guilty of a felony.

History: Add. 1976, Act 106, Eff. July 1, 1976.

#### **750.224b Short-barreled shotgun or rifle; manufacture, sale, or possession as felony; penalty; exceptions; applicability of §776.20.**

Sec. 224b. (1) A person shall not manufacture, sell, offer for sale, or possess a short-barreled shotgun or a short-barreled rifle.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not more than \$2,500.00, or both.

(3) The provisions of this section shall not apply to the sale, offering for sale or possession of a short-barreled rifle or a short-barreled shotgun which the secretary of the treasury of the United States of America, or his delegate, pursuant to U.S.C. title 26, section 5801 through 5872, or U.S.C. title 18, sections 921 through 928, has found to be a curio, relic, antique, museum piece or collector's item not likely to be used as a weapon, but only if the person selling, offering for sale or possessing the firearm has also fully complied with the provisions of sections 2 and 9 of Act No. 372 of the Public Acts of 1927, as amended, being sections 28.422 and 28.429 of the Michigan Compiled Laws.

The provisions of section 20 of chapter 16 of Act No. 175 of the Public Acts of 1927, as added by Act No. 299 of the Public Acts of 1968, being section 776.20 of the Michigan Compiled Laws, are applicable to this subsection.

History: Add. 1978, Act 564, Imd. Eff. Dec. 29, 1978.

#### **750.224c Armor piercing ammunition; manufacture, distribution, sale, or use prohibited; exceptions; violation as felony; penalty; definitions; exemption of projectile or projectile core; rule.**

Sec. 224c. (1) Except as provided in subsection (2), a person shall not manufacture, distribute, sell, or use armor piercing ammunition in this state. A person who willfully violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than \$2,000.00, or both.

(2) This section does not apply to either of the following:

(a) A person who manufactures, distributes, sells, or uses armor piercing ammunition in this state, if that manufacture, distribution, sale, or use is not in violation of chapter 44 of title 18 of the United States Code.

(b) A licensed dealer who sells or distributes armor piercing ammunition in violation of this section if the licensed dealer is subject to license revocation under chapter 44 of title 18 of the United States Code for that sale or distribution.

(3) As used in this section:

(a) "Armor piercing ammunition" means a projectile or projectile core which may be used in a pistol and which is constructed entirely, excluding the presence of traces of other substances, of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or a combination of tungsten alloys, steel, iron, brass, bronze, or beryllium copper. Armor piercing ammunition does not include any of the following:

(i) Shotgun shot that is required by federal law or by a law of this state to be used for hunting purposes.

(ii) A frangible projectile designed for target shooting.

(iii) A projectile that the director of the department of state police finds is primarily intended to be used for sporting purposes.

(iv) A projectile or projectile core that the director of the department of state police finds is intended to be used for industrial purposes.

(b) "Licensed dealer" means a person licensed under chapter 44 of title 18 of the United States Code to deal in firearms or ammunition.

(4) The director of the department of state police shall exempt a projectile or projectile core under subsection (3)(a)(iii) or (iv) if that projectile or projectile core is exempted under chapter 44 of title 18 of the United States Code. The director of state police shall exempt a projectile or projectile core under subsection (3)(a)(iii) or (iv) only by a rule promulgated in compliance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1990, Act 318, Eff. Mar. 28, 1991.



#### **750.224d Self-defense spray device.**

Sec. 224d. (1) As used in this section and section 224, "self-defense spray device" means a device to which all of the following apply:

- (a) The device is capable of carrying, and ejects, releases, or emits 1 of the following:
  - (i) Not more than 35 grams of any combination of orthochlorobenzalmalononitrile and inert ingredients.
  - (ii) A solution containing not more than 2% oleoresin capsicum.
- (b) The device does not eject, release, or emit any gas or substance that will temporarily or permanently disable, incapacitate, injure, or harm a person with whom the gas or substance comes in contact, other than the substance described in subdivision (a)(i) or (ii).
- (2) Except as otherwise provided in this section, a person who uses a self-defense spray device to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum at another person is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than \$2,000.00, or both.
- (3) If a person uses a self-defense spray device during the commission of a crime to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum or threatens to use a self-defense spray device during the commission of a crime to temporarily or permanently disable another person, the judge who imposes sentence upon a conviction for that crime shall consider the defendant's use or threatened use of the self-defense spray device as a reason for enhancing the sentence.
- (4) A person shall not sell a self-defense spray device to a minor. A person who violates this subsection is guilty of a misdemeanor.
- (5) Subsection (2) does not prohibit either of the following:
  - (a) The reasonable use of a self-defense spray device by a law enforcement officer in the performance of the law enforcement officer's duty.
  - (b) The reasonable use of a self-defense spray device by a person in the protection of a person or property under circumstances which would justify the person's use of physical force.

History: Add. 1980, Act 346, Eff. Mar. 31, 1981;—Am. 1991, Act 33, Imd. Eff. June 10, 1991;—Am. 1992, Act 4, Imd. Eff. Feb. 21, 1992.

Cited in other sections: Section 750.224d is cited in §28.426a.

#### **750.224e Conversion of semiautomatic firearm to fully automatic firearm; prohibited acts; penalty; applicability; "fully automatic firearm", "licensed collector", and "semiautomatic firearm" defined.**

Sec. 224e. (1) A person shall not knowingly do any of the following:

- (a) Manufacture, sell, distribute, or possess or attempt to manufacture, sell, distribute, or possess a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm.
- (b) Demonstrate to another person or attempt to demonstrate to another person how to manufacture or install a device to convert a semiautomatic firearm into a fully automatic firearm.
- (2) A person who violates subsection (1) 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.
- (3) This section does not apply to any of the following:
  - (a) A police agency of this state, or of a local unit of government of this state, or of the United States.
  - (b) An employee of an agency described in subdivision (a), if the manufacture, sale, distribution, or possession or attempted manufacture, sale, distribution, or possession or demonstration or attempted demonstration is in the course of his or her official duties as an employee of that agency.
  - (c) The armed forces.
  - (d) A member or employee of the armed forces, if the manufacture, sale, distribution, or possession or attempted manufacture, sale, distribution, or possession or demonstration or attempted demonstration is in the course of his or her official duties as a member or employee of the armed forces.
  - (e) A licensed collector who possesses a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm that was lawfully owned by that licensed collector before the effective date of the amendatory act that added this section. This subdivision does not permit a licensed collector who lawfully owned a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm before the effective date of the amendatory act that added this section to sell or distribute or attempt to sell or distribute that device to another person after the effective date of the amendatory act that added this section.

(4) As used in this section:

- (a) "Fully automatic firearm" means a firearm employing gas pressure or force of recoil to mechanically eject an empty cartridge from the firearm after a shot, and to load the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.
- (b) "Licensed collector" means a person who is licensed under chapter 44 of title 18 of the United States code to acquire, hold, or dispose of firearms as curios or relics.
- (c) "Semiautomatic firearm" means a firearm employing gas pressure or force of recoil to mechanically eject an empty cartridge from the firearm after a shot, and to load the next cartridge from the magazine, but requiring renewed pressure on the trigger for each successive shot.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.



**750.224f Possession of firearm by person convicted of felony; circumstances; penalty; applicability of section to expunged or set aside conviction; "felony" and "specified felony" defined.**

Sec. 224f. (1) Except as provided in subsection (2), a person convicted of a felony shall not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in this state until the expiration of 3 years after all of the following circumstances exist:

- (a) The person has paid all fines imposed for the violation.
- (b) The person has served all terms of imprisonment imposed for the violation.
- (c) The person has successfully completed all conditions of probation or parole imposed for the violation.

(2) A person convicted of a specified felony shall not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in this state until all of the following circumstances exist:

- (a) The expiration of 5 years after all of the following circumstances exist:
  - (i) The person has paid all fines imposed for the violation.
  - (ii) The person has served all terms of imprisonment imposed for the violation.
  - (iii) The person has successfully completed all conditions of probation or parole imposed for the violation.

(b) The person's right to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm has been restored pursuant to section 4 of Act No. 372 of the Public Acts of 1927, being section 28.424 of the Michigan Compiled Laws.

(3) A person who possesses, uses, transports, sells, purchases, carries, ships, receives, or distributes a firearm in violation of this section is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$5,000.00, or both.

(4) This section does not apply to a conviction that has been expunged or set aside, or for which the person has been pardoned, unless the expunction, order, or pardon expressly provides that the person shall not possess a firearm.

(5) As used in this section, "felony" means a violation of a law of this state, or of another state, or of the United States that is punishable by imprisonment for 4 years or more, or an attempt to violate such a law.

(6) As used in subsection (2), "specified felony" means a felony in which 1 or more of the following circumstances exist:

(i) An element of that felony is the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(ii) An element of that felony is the unlawful manufacture, possession, importation, exportation, distribution, or dispensing of a controlled substance.

(iii) An element of that felony is the unlawful possession or distribution of a firearm.

(iv) An element of that felony is the unlawful use of an explosive.

(v) The felony is burglary of an occupied dwelling, or breaking and entering an occupied dwelling, or arson.

History: Add. 1992, Act 217, Imd. Eff. Oct. 13, 1992.

Cited in other sections: Section 750.224f is cited in §§28.422 and 28.424.

**750.225 Firearms from without state; printed matter to sell or deliver.**

Sec. 225. Possession, etc., of printed matter offering to sell or deliver pistols, etc., from without the state—Any person who shall sell or deliver within this state, or offer or expose for sale, or have in possession for the purpose of sale, any book, pamphlet, circular, magazine, newspaper or other form of written or printed matter offering to sell or deliver, or containing an offer to sell or deliver to any person within this state from any place without this state any pistol or any weapon or device mentioned in the next preceding section of this chapter, shall be guilty of a misdemeanor. The provisions of this section shall not apply to sales of or offers to sell pistols at wholesale to persons regularly engaged in the business of selling such pistols wholesale or retail, nor to sales or offers to sell such pistols made or authorized by the United States government or any department or agency thereof.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.225.

Former law: See sections 15 and 16 of Act 372 of 1927, being CL 1929, §§16764 and 16765.

**750.226 Firearm or dangerous weapon; carrying with unlawful intent.**

Sec. 226. Carrying firearm or dangerous weapon with unlawful intent—Any person who, with intent to use the same unlawfully against the person of another, goes armed with a pistol or other firearm or dagger, dirk, razor, stiletto, or knife having a blade over 3 inches in length, or any other dangerous or deadly weapon or instrument, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.226.

Cited in other sections: Section 750.226 is cited in §791.233b.

Former law: See section 4 of Act 372 of 1927, being CL 1929, §16752.

**750.226a Pocket knife opened by mechanical device; unlawful sale or possession; persons exempted.**

Sec. 226a. Any person who shall sell or offer to sell, or any person who shall have in his possession any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure on a handle or other mechanical contrivance shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not to exceed 1 year or by a fine of not to exceed \$300.00, or both.

The provisions of this section shall not apply to any one-armed person carrying a knife on his person in connection with his living requirements.

History: Add. 1952, Act 233, Eff. Sept. 18, 1952.

### **750.227 Concealed weapons; carrying; penalty.**

Sec. 227. (1) A person shall not carry a dagger, dirk, stiletto, a double-edged nonfolding stabbing instrument of any length, or any other dangerous weapon, except a hunting knife adapted and carried as such, concealed on or about his or her person, or whether concealed or otherwise in any vehicle operated or occupied by the person, except in his or her dwelling house, place of business or on other land possessed by the person.

(2) A person shall not carry a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person, except in his or her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such license.

(3) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 5 years, or by a fine of not more than \$2,500.00.

*History:* 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.227;—Am. 1973, Act 206, Eff. Mar. 29, 1974;—Am. 1986, Act 8, Eff. July 1, 1986.

*Constitutionality:* The double jeopardy protection against multiple punishment for the same offense is a restriction on a court's ability to impose punishment in excess of that intended by the Legislature, not a limit on the Legislature's power to define crime and fix punishment. *People v. Sturges*, 427 Mich. 392, 397 N.W.2d 783 (1986).

*Cited in other sections:* Section 750.227 is cited in §791.233b.

*Former law:* See section 5 of Act 372 of 1927, being CL 1929, §16753.

### **750.227a Pistols; unlawful possession by licensee.**

Sec. 227a. Any person licensed in accordance with law to carry a pistol because he is engaged in the business of protecting the person or property of another, except peace officers of the United States, the state or any subdivision of the state railroad policemen appointed and commissioned under the provisions of Act No. 114 of the Public Acts of 1941, being sections 470.51 to 470.61 of the Compiled Laws of 1948 or those in the military service of the United States, who shall have a pistol in his possession while not actually engaged in the business of protecting the person or property of another, except in his dwelling house or on other land possessed by him, is guilty of a felony. This section shall not be construed to prohibit such person from carrying an unloaded pistol to or from his place of employment by the most direct route.

*History:* Add. 1966, Act 100, Eff. Mar. 10, 1967;—Am. 1967, Act 49, Eff. Nov. 2, 1967.

### **750.227b Carrying or possessing firearm when committing or attempting to commit felony; "law enforcement officer" defined.**

Sec. 227b. (1) A person who carries or has in his or her possession a firearm when he or she commits or attempts to commit a felony, except a violation of section 223, section 227, 227a or 230, is guilty of a felony, and shall be imprisoned for 2 years. Upon a second conviction under this section, the person shall be imprisoned for 5 years. Upon a third or subsequent conviction under this subsection, the person shall be imprisoned for 10 years.

(2) A term of imprisonment prescribed by this section is in addition to the sentence imposed for the conviction of the felony or the attempt to commit the felony, and shall be served consecutively with and preceding any term of imprisonment imposed for the conviction of the felony or attempt to commit the felony.

(3) A term of imprisonment imposed under this section shall not be suspended. The person subject to the sentence mandated by this section is not eligible for parole or probation during the mandatory term imposed pursuant to subsection (1).

(4) This section does not apply to a law enforcement officer who is authorized to carry a firearm while in the official performance of his or her duties, and who is in the performance of those duties. As used in this subsection, "law enforcement officer" means a person who is regularly employed as a member of a duly authorized police agency or other organization of the United States, this state, or a city, county, township, or village of this state, and who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state.

*History:* Add. 1976, Act 6, Eff. Jan. 1, 1977;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

*Constitutionality:* The double jeopardy protection against multiple punishment for the same offense is a restriction on a court's ability to impose punishment in excess of that intended by the Legislature, not a limit on the Legislature's power to define crime and fix punishment. *People v. Sturges*, 427 Mich. 392, 397 N.W.2d 783 (1986).

### **750.227c Transporting or possessing loaded firearm in or upon vehicle; violation as misdemeanor; penalty; applicability to person violating §312.10(1)(g).**

Sec. 227c. (1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a sailboat or a motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means, a firearm, other than a pistol, which is loaded.

(2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than \$2,500.00, or both.

(3) This section does not apply to a person who violates section 10(1)(g) of chapter II of Act No. 286 of the Public Acts of 1929, as amended, being section 312.10 of the Michigan Compiled Laws.

*History:* Add. 1981, Act 103, Eff. Mar. 31, 1982.

### **750.227d Transporting or possessing firearm in or upon motor vehicle or self-propelled vehicle designed for land travel; conditions; violation as misdemeanor; penalty.**

Sec. 227d. (1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a motor vehicle or any self-propelled vehicle designed for land travel a firearm, other than a pistol, unless the firearm is unloaded and is 1 or more of the following:

(a) Taken down.

(b) Enclosed in a case.

(c) Carried in the trunk of the vehicle.

(d) Inaccessible from the interior of the vehicle.

(2) A person who violates this section 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.

History: Add. 1981, Act 103, Eff. Mar. 31, 1982.

**750.227f Committing or attempting to commit a crime involving a violent act or threat of a violent act against another person while wearing body armor; penalty; exception; definitions.**

Sec. 227f. (1) Except as provided in subsection (2), an individual who commits or attempts to commit a crime that involves a violent act or a threat of a violent act against another person while wearing body armor 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.

(2) Subsection (1) does not apply to either of the following:

(a) A peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer.

(b) A security officer performing his or her duties as a security officer while on a scheduled work shift as a security officer.

(3) As used in this section:

(a) "Body armor" means clothing or a device designed or intended to protect an individual's body or a portion of an individual's body from injury caused by a firearm.

(b) "Security officer" means an individual lawfully employed to physically protect another individual or to physically protect the property of another person.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992.

**750.228 Failure to have pistol inspected; applicability; penalty.**

Sec. 228. (1) Except as provided in subsection (2), a person who fails to have his or her pistol inspected as required under section 9 of Act No. 372 of the Public Acts of 1927, being section 28.429 of the Michigan Compiled Laws, 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.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 9 of Act No. 372 of the Public Acts of 1927, before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who has his or her pistol inspected as required under section 9 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.228;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

**750.229 Pistols accepted in pawn, by second hand dealer or junk dealer.**

Sec. 229. Any pawnbroker who shall accept a pistol in pawn, or any second-hand or junk dealer, as defined in Act No. 350 of the Public Acts of 1917, who shall accept a pistol and offer or display the same for resale, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 236, Eff. Sept. 6, 1945;—CL 1948, 750.229.

Compiler's note: For provisions of Act 350 of 1917, referred to in this section, see §445.401 et seq.

Former law: See section 10 of Act 372 of 1927, being CL 1929, §16759.

**750.230 Firearms; altering, removing, or obliterating marks of identity; presumption.**

Sec. 230. A person who shall wilfully alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identity of a pistol or other firearm, shall be guilty of a felony, punishable by imprisonment for not more than 2 years or fine of not more than \$1,000.00. Possession of a firearm upon which the number shall have been altered, removed, or obliterated, other than an antique firearm as defined by section 231a(2)(a) or (b), shall be presumptive evidence that the possessor has altered, removed, or obliterated the same.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.230;—Am. 1976, Act 32, Imd. Eff. Mar. 5, 1976.

Constitutionality: The statutory presumption contained in this section is unconstitutional. *People v. Moore*, 402 Mich. 538, 266 N.W.2d 145 (1978).

Former law: See section 11 of Act 372 of 1927, being CL 1929, §16760.

**750.231 Sections 750.224, 750.227, 750.227c, and 750.227d inapplicable to certain persons and organizations.**

Sec. 231. Sections 224, 227, 227c, and 227d do not apply to any peace officer of a duly authorized police agency of the United States, of this state, or of any political subdivision of this state, who is regularly employed and paid by the United States, this state, or a political subdivision of this state; or to any person regularly employed by the state department of corrections, and authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties; or to any member of the army, air force, navy, or marine corps of the United States when carrying weapons in line of or incidental to duty; or to organizations authorized by law to purchase or receive weapons from the United States or from this state; or to members of the national guard, armed forces reserves, or other duly authorized military organizations when on duty or drill, or in going to or returning from their places of assembly or practice by a direct route or otherwise, while carrying weapons used for purposes of the national guard, armed forces reserves, or other duly authorized military organizations.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.231;—Am. 1958, Act 107, Eff. Sept. 13, 1958;—Am. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1981, Act 103, Eff. Mar. 31, 1982.

**750.231a Persons to which 5750.227 inapplicable; "antique firearm" defined.**

Sec. 231a. (1) Section 227 does not apply to any of the following:

(a) To a person holding a valid license to carry a pistol concealed upon his or her person issued by another state except where the pistol is carried in nonconformance with a restriction appearing on the license.

(b) To the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

(c) To a person carrying an antique firearm as defined in subsection (2), completely unloaded, in a wrapper or container in the trunk of a vehicle while en route to or from a hunting or target shooting area or function involving the exhibition, demonstration or sale of antique firearms.

(d) To a person while carrying a pistol unloaded in a wrapper or container in the trunk of the person's vehicle, while in possession of a valid Michigan hunting license or proof of valid membership in an organization having pistol shooting range facilities, and while en route to or from a hunting or target shooting area.

(e) To a person while carrying a pistol unloaded in a wrapper or container in the trunk of the person's vehicle from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from one place of abode or business to another place of abode or business.

(f) To a person while carrying an unloaded pistol in the passenger compartment of a vehicle which does not have a trunk, if the person is otherwise complying with the requirements of subdivision (d) or (e) and the wrapper or container is not readily accessible to the occupants of the vehicle.

(2) As used in this section, "antique firearm" means either of the following:

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

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

History: Add. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1973, Act 191, Eff. Mar. 29, 1974;—Am. 1974, Act 55, Imd. Eff. Apr. 1, 1974;—Am. 1978, Act 280, Imd. Eff. July 6, 1978.

**750.231b Sale and safety inspection; persons exempt.**

Sec. 231b. Sections 223 and 228 do not apply to a duly authorized police or correctional agency of the United States or of the state or any subdivision thereof, nor to the army, air force, navy or marine corps of the United States, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard, armed forces reserves or other duly authorized military organizations, nor to a member of such agencies or organizations for weapons used by him for the purposes of such agencies or organizations, nor to a person holding a license to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

History: Add. 1964, Act 215, Eff. Aug. 28, 1964.

**750.231c "Aircraft", "approved signaling device", and "vessel" defined; sections inapplicable to approved signaling device; sale, purchase, possession, or use of approved signaling device; violation as misdemeanor; penalties.**

Sec. 231c. (1) As used in this section:

(a) "Aircraft" means aircraft as defined in section 43.

(b) "Approved signaling device" means a pistol which is a signaling device approved by the United States coast guard pursuant to regulations issued under section 4488 of the Revised Statutes of the United States, 46 U.S.C. 481, or under section 5 of the federal boat safety act of 1971, Public Law 92-75, 46 U.S.C. 1454.

(c) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) Sections 223, 227, 228, 232, 232a, and 237 shall not apply to an approved signaling device.

(3) A person shall not sell an approved signaling device to a person, nor shall a person purchase an approved signaling device, unless the purchaser is 18 years of age or older and either of the following apply:

(a) The purchaser possesses and displays to the seller any of the following:

(i) A valid and current certificate of number issued pursuant to section 33 of Act No. 303 of the Public Acts of 1967, as amended, being section 281.1033 of the Michigan Compiled Laws, for a vessel.

(ii) If a vessel is considered in compliance with the numbering requirements of this state pursuant to section 31(2) of Act No. 303 of the Public Acts of 1967, as amended, being section 281.1031 of the Michigan Compiled Laws, proof of ownership or proof of the vessel's being numbered in another state.

(iii) If a vessel is not required to be numbered or to display a decal under Act No. 303 of the Public Acts of 1967, as amended, being sections 281.1001 to 281.1199 of the Michigan Compiled Laws, proof of ownership of the vessel.

(b) The purchaser is the holder of and displays to the seller a valid and effective airman's certificate of competency issued by the United States or a foreign government.

(4) A person may possess an approved signaling device only under the following circumstances:

(a) The possession occurs in the process of manufacturing, marketing, or sale of the device, including the transportation of the device as merchandise, and the device is unloaded.

- (b) The device is on a vessel or on an aircraft.
- (c) The device is at a person's residence.
- (d) The person is en route from the place of purchase to the person's residence or the person's vessel or aircraft or between the person's residence and the person's vessel or aircraft.
- (e) The device is in a vehicle other than a vessel or aircraft and all of the following apply:
  - (i) The device is unloaded.
  - (ii) The device is enclosed in a case and either is carried in the trunk of the vehicle which has a trunk or is otherwise not readily accessible to the occupants of the vehicle.
  - (iii) Subdivision (d) applies.

(5) A person shall not use an approved signaling device unless he or she reasonably believes that its use is necessary for the safety of the person or of another person on the waters of this state or in an aircraft emergency situation.

(6) A person who sells, purchases, or possesses an approved signaling device in violation of this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$200.00, or both.

(7) A person who uses an approved signaling device in violation of this section is guilty of a misdemeanor, punishable by a fine of not more than \$200.00.

History: Add. 1982, Act 185, Eff. July 1, 1982.

### **750.232 Purchasers of firearms; registration.**

Sec. 232. Registration of purchasers of pistols, etc.—Any person engaged in any way or to any extent in the business of selling at retail, guns, pistols, other fire-arms or silencers for fire-arms who shall fail or neglect to keep a register in which shall be entered the name, age, occupation and residence (if residing in the city with the street number of such residence) of each and every purchaser of such guns, pistols, other fire-arms or silencers for fire-arms together with the number or other mark of identification, if any, on such gun, pistol, other fire-arms or silencer for fire-arms, which said register shall be open to the inspection of all peace officers at all times, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.232.

Former law: See sections 1 and 2 of Act 250 of 1913, being CL 1915, §§15247 and 15248; and CL 1929, §§16768 and 16769.

### **750.232a Obtaining pistol in violation of §28.422; intentionally making material false statement on application for license to purchase pistol; using or attempting to use false identification or identification of another person to purchase firearm; penalties.**

Sec. 232a. (1) Except as provided in subsection (2), a person who obtains a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, 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.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927 before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who obtains a license as required under section 2 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

(3) A person who intentionally makes a material false statement on an application for a license to purchase a pistol under section 2 of Act No. 372 of the Public Acts of 1927, as amended, 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.

(4) A person who uses or attempts to use false identification or the identification of another person to purchase a firearm 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.

History: Add. 1943, Act 54, Eff. July 30, 1943;—CL 1948, 750.232a;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

### **750.233 Firearm; intentionally aiming without malice.**

Sec. 233. Intentionally aiming fire-arm without malice—Any person who shall intentionally, without malice, point or aim any fire-arm at or toward any other person, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.233.

Former law: See section 1 of Act 68 of 1869, being CL 1871, §7548; How., §9110; CL 1897, §11509; CL 1915, §15232; and CL 1929, §16776.

### **750.234 Firearm; discharge, intentionally aimed without malice.**

Sec. 234. Discharge of fire-arm intentionally but without malice aimed at another—Any person who shall discharge, without injury to any other person, any fire-arm, while intentionally, without malice, aimed at or toward any person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.234.

Cited in other sections: Section 750.234 is cited in §§780.781 and 780.811.

Former law: See section 2 of Act 68 of 1869, being CL 1871, §7548; How., §9111; CL 1897, §11510; CL 1915, §15233; and CL 1929, §16777.

### **750.234a Intentionally discharging firearm from motor vehicle, snowmobile, or off-road vehicle in manner that endangers safety of another individual as felony; penalty; exceptions.**

Sec. 234a. (1) Except as provided in subsection (2) or (3), an individual who intentionally discharges a firearm from a motor vehicle, a snowmobile, or an off-road vehicle in such a manner as to endanger the safety of another individual 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.

(2) Subsection (1) does not apply to a peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer.

(3) Subsection (1) does not apply to an individual who discharges a firearm in self-defense or the defense of another individual.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992.

**750.234b Intentionally discharging firearm at dwelling or occupied structure as felony; penalty; exceptions; "dwelling" and "occupied structure" defined.**

Sec. 234b. (1) Except as provided in subsection (3) or (4), an individual who intentionally discharges a firearm at a facility that he or she knows or has reason to believe is a dwelling or an occupied structure 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.

(2) An individual who intentionally discharges a firearm in a facility that he or she knows or has reason to believe is an occupied structure in reckless disregard for the safety of any individual 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.

(3) Subsections (1) and (2) do not apply to a peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer.

(4) Subsections (1) and (2) do not apply to an individual who discharges a firearm in self-defense or the defense of another individual.

(5) As used in this section:

(a) "Dwelling" means a facility habitually used by 1 or more individuals as a place of abode, whether or not an individual is present in the facility.

(b) "Occupied structure" means a facility in which 1 or more individuals are present.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992.

**750.234c Intentionally discharging firearm at emergency or law enforcement vehicle as felony; penalty; "emergency or law enforcement vehicle" defined.**

Sec. 234c. (1) An individual who intentionally discharges a firearm at a motor vehicle that he or she knows or has reason to believe is an emergency or law enforcement vehicle 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.

(2) As used in this section, "emergency or law enforcement vehicle" means 1 or more of the following:

(a) A motor vehicle owned or operated by a fire department of a local unit of government of this state.

(b) A motor vehicle owned or operated by a police agency of the United States, of this state, or of a local unit of government of this state.

(c) A motor vehicle owned or operated by the department of natural resources that is used for law enforcement purposes.

(d) A motor vehicle owned or operated by an entity licensed to provide emergency medical services under part 192 of article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20901 to 333.20979 of the Michigan Compiled Laws, and that is used to provide emergency medical assistance to individuals.

(e) A motor vehicle owned or operated by a volunteer employee or paid employee of an entity described in subdivisions (a) to (c) while the motor vehicle is being used to perform emergency or law enforcement duties for that entity.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

**750.234d Possession of firearm on certain premises prohibited; applicability; violation as misdemeanor; penalty.**

Sec. 234d. (1) Except as provided in subsection (2), a person shall not possess a firearm on the premises of any of the following:

(a) A depository financial institution or a subsidiary or affiliate thereof.

(b) A church or other house of religious worship.

(c) A school.

(d) A court.

(e) A theatre.

(f) A sports arena.

(g) A day care center.

(h) A hospital.

(i) An establishment licensed under the Michigan liquor control act, Act No. 8 Public Acts of the Extra Session of 1933, being sections 436.1 to 436.68 of the Michigan Compiled Laws.

(2) This section does not apply to any of the following:

(a) A person who owns, or is employed by or contracted by, an entity described in subsection (1) if the possession of that firearm is to provide security services for that entity.

(b) A peace officer lawfully performing his or her duties as a peace officer.

(c) A person licensed by this state or another state to carry a concealed weapon.

(d) A person who possesses a firearm in a school for purposes of providing or receiving instruction in firearms safety.

(e) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is for purposes of display or exhibition and with the permission of the owner or an agent of the owner of that entity.

(3) A person who violates this section 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.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

#### **750.234e Brandishing firearm in public; applicability; violation as misdemeanor; penalty.**

Sec. 234e. (1) Except as provided in subsection (2), a person shall not knowingly brandish a firearm in public.

(2) Subsection (1) does not apply to any of the following:

(a) A peace officer lawfully performing his or her duties as a peace officer.

(b) A person lawfully engaged in hunting.

(c) A person lawfully engaged in target practice.

(d) A person lawfully engaged in the sale, purchase, repair, or transfer of that firearm.

(3) A person who violates this section 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.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

#### **750.234f Possession of firearm by person less than 18 years of age; exceptions; violation as misdemeanor; penalty.**

Sec. 234f. (1) Except as provided in subsection (2), an individual less than 18 years of age shall not possess a firearm in public except under the direct supervision of an individual 18 years of age or older.

(2) Subsection (1) does not apply to an individual less than 18 years of age who possesses a firearm in accordance with the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being sections 300.251 to 300.270 of the Michigan Compiled Laws, or the hunting and fishing license act, Act No. 86 of the Public Acts of 1980, being sections 316.101 to 316.902 of the Michigan Compiled Laws. However, an individual less than 18 years of age may possess a firearm without a hunting license while at, or going to or from, a recognized target range or trap or skeet shooting ground if, while going to or from the range or ground, the firearm is enclosed and securely fastened in a case or locked in the trunk of a motor vehicle.

(3) An individual who violates this section 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.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992.

#### **750.235 Firearm; injuring, intentionally aimed without malice.**

Sec. 235. Injuring by discharge of fire-arm intentionally but without malice pointed at another—Any person who shall maim or injure any other person by the discharge of any fire-arm pointed or aimed intentionally, without malice, at any such person shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.235.

Cited in other sections: Section 750.235 is cited in §§780.781 and 780.811.

Former law: See section 3 of Act 68 of 1869, being CL 1871, §7549; How., §9112; CL 1897, §11511; CL 1915, §15234; and CL 1929, §16778.

#### **750.236 Spring gun, trap or device; setting.**

Sec. 236. Setting spring guns, etc.—Any person who shall set any spring or other gun, or any trap or device operating by the firing or explosion of gunpowder or any other explosive, and shall leave or permit the same to be left, except in the immediate presence of some competent person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by a fine of not more than 500 dollars, and the killing of any person by the firing of a gun or device so set shall be manslaughter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.236.

Former law: See section 1 of Act 97 of 1875, being How., §9114; CL 1897, §11515; CL 1915, §15250; and CL 1929, §16782.

#### **750.237 Liquor or other drug; possession or use of firearm by person under influence.**

Sec. 237. Possession or use of fire-arm by person under influence of liquor or drug—Any person under the influence of intoxicating liquor or any exhilarating or stupefying drug who shall carry, have in possession or under control, or use in any manner or discharge any fire-arm within this state, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.237.

Former law: See sections 1 and 2 of Act 25 of 1929, being CL 1929, §§16780 and 16781.

#### **750.238 Search warrant.**

Sec. 238. Search warrant—When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this chapter is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.238.

#### **750.239 Forfeiture of weapons.**

Sec. 239. All pistols, weapons or devices carried, possessed or used contrary to this chapter are hereby declared forfeited to the state, and shall be turned over to the commissioner of the Michigan state police or his designated representative, for such disposition as the commissioner may prescribe.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.239;—Am. 1949, Act 168, Eff. Sept. 23, 1949;—Am. 1964, Act 215, Eff. Aug. 28, 1964.

## CHAPTER LII

### LARCENY

#### **750.357b Committing larceny by stealing firearm of another person as felony; penalty.**

Sec. 357b. A person who commits larceny by stealing the firearm of another person is guilty of a felony, punishable by imprisonment for not more than 5 years or by a fine of not more than \$2,500.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

## CHAPTER LXXXI

### STOLEN, EMBEZZLED OR CONVERTED PROPERTY

#### **750.535b Transporting or shipping stolen firearm or stolen ammunition as felony; receiving, concealing, storing, bartering, selling, disposing of, pledging, or accepting as security for a loan a stolen firearm as felony; penalties.**

Sec. 535b. (1) A person who transports or ships a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than \$5,000.00, or both.

(2) A person who receives, conceals, stores, barter, sells, disposes of, pledges, or accepts as security for a loan a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than \$5,000.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

## CHAPTER XLV

### HOMICIDE

#### **750.329 Death; firearm pointed intentionally, but without malice.**

Sec. 329. Death from wound, etc., from firearm pointed intentionally, but without malice—Any person who shall wound, maim or injure any other person by the discharge of any firearm, pointed or aimed, intentionally but without malice, at any such person, shall, if death ensue from such wounding, maiming or injury, be deemed guilty of the crime of manslaughter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.329.

Cited in other sections: Section 750.329 is cited in §791.233b.

## CHAPTER XI

### ASSAULTS

#### **750.82 Felonious assault.**

Sec. 82. Felonious assault—Any person who shall assault another with a gun, revolver, pistol, knife, iron bar, club, brass knuckles or other dangerous weapon, but without intending to commit the crime of murder, and without intending to inflict great bodily harm less than the crime of murder, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.82.

Cited in other sections: Section 750.82 to 750.89 are cited in §§722.822, 770.9a, and 791.233b.

Former law: See section 1 of Act 232 of 1913, being CL 1915, §15228; CL 1929, §16747; and Act 241 of 1915.

### CARELESS, RECKLESS, OR NEGLIGENT USE OF FIREARMS (EXCERPTS)

#### **Act 45 of 1952**

AN ACT to prohibit the careless, reckless or negligent use of firearms and to provide penalties for the violation of this act; and to repeal certain acts and parts of acts.

History: 1952, Act 45, Eff. Sept. 18, 1952.

*The People of the State of Michigan enact:*

#### **752.861 Careless, reckless or negligent use of firearms; penalty.**

Sec. 1. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his immediate control, to be discharged so as to kill or injure another person, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years, or by a fine of not more than \$2,000.00, or by imprisonment in the county jail for not more than 1 year, in the discretion of the court.

History: 1952, Act 45, Eff. Sept. 18, 1952.

#### **752.862 Careless, reckless or negligent use of firearms; injury of property; penalty.**

Sec. 2. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his control to be discharged so as to destroy or injure the property of another, real or personal, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, if the injury to such property shall not exceed the sum of \$50.00, but in the event that such injury shall exceed the sum of \$50.00, then said offense shall be punishable by imprisonment in the county jail for not more than 1 year or by a fine not exceeding \$500.00.

History: 1952, Act 45, Eff. Sept. 18, 1952.



**752.863a Reckless, wanton use or negligent discharge of firearm; penalty.**

Sec. 3[a]. Any person who shall recklessly or heedlessly or wilfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others shall be guilty of a misdemeanor.

History: Add. 1955, Act 14, Eff. Oct. 14, 1955.

Compiler's note: Section 3, as added by Act 14 of 1955, appears as Sec. 3[a] to distinguish it from the preceding section. The compilation number formerly assigned to this section was §752.a863.

**752.864 Firearms; injury to person or property, suspension of hunting privileges.**

Sec. 4. In addition to the penalties provided in other sections of this act, the court may suspend the hunting privileges of any person convicted of violating any provision of this act for a period of not to exceed 3 years from the date of conviction.

History: Add. 1958, Act 15, Eff. Sept. 13, 1958.

**CERTIFIED REPRODUCTIONS OF STATE POLICE RECORDS**

**Act 79 of 1939**

AN ACT to authorize the use and declare the effect of certified reproductions of the records and papers, and certification of no records and papers, in the files of the department of state police in judicial and other proceedings.

History: 1939, Act 79, Eff. Sept. 29, 1939;—Am. 1941, Act 42, Eff. Jan. 10, 1942;—Am. 1992, Act 194, Imd. Eff. Oct. 5, 1992.

*The People of the State of Michigan enact:*

**28.201 Certified reproductions of state police records admissible as evidence.**

Sec. 1. A reproduction of a record or paper in the files of the department of state police, made in a medium pursuant to the records media act, or a reproduction consisting of a printout or other output readable by sight from such a medium, certified as a true reproduction by the director of the department of state police, is admissible as evidence in all cases equally and with like effect as the original. A statement, similarly certified as true by the director of the department of state police, that no record or paper is in the files of the department of state police with respect to a particular matter is admissible as evidence in all cases equally and with like effect as testimony to that effect by a member or employee of the department of state police.

History: 1939, Act 79, Eff. Sept. 29, 1939;—Am. 1941, Act 42, Eff. Jan. 10, 1942;—CL 1948, 28.201;—Am. 1992, Act 194, Imd. Eff. Oct. 5, 1992.

**28.202 Construction of act.**

Sec. 2. This act shall be construed to supplement the law of this state with respect to evidence and its admissibility.

History: 1939, Act 79, Eff. Sept. 29, 1939;—CL 1948, 28.202.

**THE CODE OF CRIMINAL PROCEDURE (EXCERPT)**

**Act 175 of 1927**

AN ACT to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

*The People of the State of Michigan enact:*

**CHAPTER XVI**

**MISCELLANEOUS PROVISIONS**

**776.20 Firearms violations; burden of establishing exception.**

Sec. 20. In any prosecution for the violation of any acts of the state relative to use, licensing and possession of pistols or firearms, the burden of establishing any exception, excuse, proviso or exemption contained in any such act shall be upon the defendant but this does not shift the burden of proof for the violation.

History: Add. 1968, Act 299, Eff. Nov. 15, 1968.

Cited in other sections: Section 776.20 is cited in §750.224b.

# THE MICHIGAN PENAL CODE (EXCERPT)

## Act 328 of 1931

AN ACT to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1991, Act 56, Eff. Jan. 1, 1992.

*The People of the State of Michigan enact:*

### CHAPTER XXXIX

#### FIREWORKS

#### **750.243a Definitions; prohibited sales and conduct; fireworks for which permit not required.**

Sec. 243a. (1) As used in this chapter:

(a) "Fireworks" means a device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration, or detonation. Fireworks includes class B fireworks and class C fireworks.

(b) "Class B fireworks" means toy torpedoes, railway torpedoes, firecrackers or salutes that do not qualify as class C fireworks, exhibition display pieces, aeroplane flares, illuminating projectiles, incendiary projectiles, incendiary grenades, smoke projectiles or bombs containing expelling charges but without bursting charges, flash powders in inner units not exceeding 2 ounces each, flash sheets in interior packages, flash powder or spreader cartridges containing not more than 72 grains of flash powder each, and other similar devices.

(c) "Class C fireworks" means toy smoke devices, toy caps containing not more than .25 grains of explosive mixture, toy propellant devices, cigarette loads, trick matches, trick noise makers, smoke candles, smoke pots, smoke grenades, smoke signals, hand signal devices, Very signal cartridges, sparklers, explosive auto alarms, and other similar devices.

(2) Except as provided in subsection (3) and sections 243b, 243c, and 243d, a person, firm, partnership, or corporation shall not offer for sale, expose for sale, sell at retail, keep with intent to sell at retail, possess, give, furnish, transport, use, explode, or cause to explode any of the following:

(a) A blank cartridge, blank cartridge pistol, toy cannon, toy cane, or toy gun in which explosives are used.

(b) An unmanned balloon which requires fire underneath to propel it and is not moored to the ground while aloft.

(c) Firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, bottle rockets, whistling chasers, rockets on sticks, or other fireworks of like construction.

(d) Fireworks containing an explosive or inflammable compound or a tablet or other device commonly used and sold as fireworks containing nitrates, fulminates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus, or a compound containing these or other modern explosives.

(3) A permit is not required for the following:

(a) Flat paper caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(b) Toy pistols, toy cannons, toy canes, toy trick noise makers, and toy guns of a type approved by the director of the department of state police in which paper caps as described in subdivision (a) are used and which are so constructed that the hand cannot come in contact with the cap when in place for the explosion and which are not designed to break apart or be separated so as to form a missile by the explosion.

(c) Sparklers containing not more than .0125 pounds of burning portion per sparkler.

(d) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter, cone fountains, and cylinder fountains.

(e) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(f) Possession, transportation, sale, or use of signal flares of a type approved by the director of the department of state police, blank cartridges or blank cartridge pistols specifically for a show or theater, for the training or exhibiting of dogs, for signal purposes in athletic sports, for use by military organizations, and all items described in subsection (2) used by railroads for emergency signal purposes.

(g) The sale of fireworks, provided they are to be shipped directly out of state pursuant to regulations of the United States department of transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

History: Add. 1968, Act 358, Eff. Jan. 1, 1969;—Am. 1976, Act 36, Imd. Eff. Mar. 9, 1976;—Am. 1978, Act 258, Eff. July 1, 1978;—Am. 1980, Act 422, Eff. Mar. 31, 1981.

Cited in other sections: Section 750.243a et seq. is cited in §§286.452 and 722.53.

### STATUTES (EXCERPT)

Of the statutes.

R.S. 1846, Ch. 1

History: R.S. 1846, Ch. 1.

#### **8.3t "Firearm" defined.**

Sec. 3t. The word "firearm", except as otherwise specifically defined in the statutes, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion, except

any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air.

History: Add. 1959, Act 189, Imd. Eff. July 22, 1959.

*Under this definition, pellet pistols fall within the statutory definition of firearms and it is therefore necessary that a person must obtain a permit to purchase and present them to proper authorities for safety inspection certificates. A permit must also be obtained from a concealed weapons licensing board to carry such pistols concealed on the person or in a vehicle.*

*In the event any of these pistols fail to have a serial number stamped on them it will be necessary that the owner or seller submit the pistol to his or her local law enforcement agency which will contact the Michigan State Police Firearms Records Section to have a serial number stamped on the gun, at no cost to the owner.*

## **SPRING, GAS, OR AIR OPERATED HANDGUNS**

### **Act 186 of 1959**

AN ACT to regulate the use of certain spring, gas or air operated handguns and to provide a penalty for violation of this act.

History: 1959, Act 186, Eff. Mar. 19, 1960.

*The People of the State of Michigan enact:*

#### **752.891 Use or possession of BB handgun by minor.**

Sec. 1. No person under 18 years of age shall use or possess any handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air, outside the curtilage of his domicile unless he is accompanied by a person over 18 years of age.

History: 1959, Act 186, Eff. Mar. 19, 1960;—Am. 1972, Act 37, Imd. Eff. Feb. 19, 1972.

Cited in other sections: Section 752.891 is cited in §722.53.

#### **752.892 Penalty.**

Sec. 2. Any person who violates the provisions of this act is guilty of a misdemeanor.

History: 1959, Act 186, Eff. Mar. 19, 1960.

Cited in other sections: Section 752.892 is cited in §722.53.

## **PURCHASE OF RIFLES AND SHOTGUNS**

### **Act 207 of 1969**

AN ACT to permit residents to purchase rifles and shotguns in contiguous states and to provide for reciprocity.

History: 1969, Act 207, Imd. Eff. Aug. 6, 1969.

*The People of the State of Michigan enact:*

#### **3.111 Rifles and shotguns; purchases by residents.**

Sec. 1. Residents of this state may purchase rifles and shotguns in any state contiguous thereto if they conform to the federal gun control act of 1968 and the regulations issued thereunder, as administered by the secretary of the treasury and the laws of the state where the purchase is made.

History: 1969, Act 207, Imd. Eff. Aug. 6, 1969.

#### **3.112 Rifles and shotguns; purchases by nonresidents.**

Sec. 2. Residents of a contiguous state may purchase rifles and shotguns in this state if they conform to the federal gun control act of 1968 and the regulations issued thereunder as administered by the secretary of the treasury and the laws of the state wherein the purchaser resides.

History: 1969, Act 207, Imd. Eff. Aug. 6, 1969.

## **FINGERPRINTING RESIDENTS OF STATE (EXCERPT)**

### **Act 120 of 1935**

AN ACT to prescribe a method for the fingerprinting of residents of the state, and to provide for the recording and filing thereof by the central records division of the department of state police.

History: 1935, Act 120, Eff. Sept. 21, 1935;—Am. 1985, Act 175, Imd. Eff. Dec. 2, 1985.

*The People of the State of Michigan enact:*

#### **28.273 Fee.**

Sec. 3. The department of state police may charge a fee, not to exceed \$15.00, for taking and processing the fingerprints and completing a criminal record check of a resident of this state when the impression of the fingerprints are requested for employment- or licensing-related purposes. The fee shall not exceed the actual cost of taking and processing the impression

of the fingerprints and completing a criminal record check on that person. The fee shall be collected and forwarded to the state police by the licensing body or the employer.

History: Add. 1985, Act 175, Imd. Eff. Dec. 2, 1985.

## FEDERAL FIREARMS LICENSE

*To clarify any misunderstanding pertaining to the possession of a Federal Firearms License and its application to state law, the following quote is taken from the Gun Control Act of 1968:*

*Part 178 of Title 27, Code of Federal Regulation. 178.58 State or other law. A license issued under this part confers no right or privilege to conduct business or activities contrary to state or other laws. The holder of such a license is not by reason of the rights and privileges granted by that license immune from punishment for operating a firearm or ammunition business or activity in violation of the provision of any state or other law. Similarly, compliance with the provision of any state or other laws affords no immunity under Federal Law or Regulations.*

## THE HUNTING AND FISHING LICENSE ACT (EXCERPTS)

### Act 86 of 1980

AN ACT to regulate the taking and subsequent transport of game animals, game birds, fur-bearing animals, and fish; to provide for the issuing of licenses, permits, and stamps for the taking, catching, hunting, or killing of game animals, game birds, fur-bearing animals, and fish; to provide for the collection, disposition, and use of certain funds; to prescribe the powers and duties of certain state agencies; to provide for certain immunities from civil and criminal liability; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts.

History: 1980, Act 86, Imd. Eff. Apr. 8, 1980.

*The People of the State of Michigan enact:*

### ARTICLE 2

#### **316.202 Carrying or transporting firearm, slingshot, or bow and arrow.**

Sec. 202. A person shall not carry or transport a firearm, slingshot, or a bow and arrow while in any area frequented by wild animals or wild birds unless that person has in the person's possession a license to hunt.

History: 1980, Act 86, Imd. Eff. Apr. 8, 1980.

#### **316.203 Deer or elk season; transporting or possessing shotgun or rifle.**

Sec. 203. During the open season for the taking of deer or elk with a firearm, other than the muzzle-loading deer season, a person shall not transport or possess a shotgun with buckshot, slug load, ball load, or cut shell or a rifle other than a .22 caliber rim fire, unless the person has in the person's possession a license to hunt deer or elk with a firearm.

History: 1980, Act 86, Imd. Eff. Apr. 8, 1980.

#### **316.204 Spring wild turkey hunting season; carrying firearm or bow and arrow; turkey license required.**

Sec. 204. A person shall not carry a firearm or a bow and arrow while in any area open for wild turkey hunting during the spring wild turkey hunting season, unless the person possesses a valid turkey license issued under section 306.

History: 1980, Act 86, Imd. Eff. Apr. 8, 1980;—Am. 1989, Act 76, Imd. Eff. June 20, 1989.

#### **316.205 Carrying, transporting, or possessing firearm or bow and arrow without hunting license.**

Sec. 205. A person may carry, transport, or possess a firearm or a bow and arrow without a hunting license while at or going to and from a recognized rifle or target range, trap or skeet shooting ground, or archery range if the firearm or bow and arrow, while being carried or transported, is enclosed and securely fastened in a case or locked in the trunk of a motor vehicle.

History: 1980, Act 86, Imd. Eff. Apr. 8, 1980.

#### **316.208 Carrying license; exhibiting license on demand; backtag; firearm deer license with unused kill tag; exhibiting tag on request.**

Sec. 208. (1) A person who has been issued a hunting, fishing, or fur harvester's license when hunting, fishing, or trapping or in the possession of firearms or other hunting, fishing, or trapping apparatus in an area frequented by wild animals, wild birds, and fish, shall carry the license and shall exhibit the license upon the demand of a conservation officer, a law enforcement officer, or the owner or occupant of the land upon which the person is hunting, fishing, or trapping. A person who is hunting shall wear a backtag issued by the department which displays the number of the license or passbook.

(2) The holder of a firearm deer license shall not carry or possess afield a shotgun with buckshot, slug loads, or ball loads; a bow and arrow; a muzzle-loading rifle or black powder handgun; or a centerfire handgun or centerfire rifle during firearm deer season unless that person has a valid firearm deer license with an unused kill tag issued in his or her name. The unused kill tag shall be exhibited upon the request of a conservation officer, a law enforcement officer, or the owner or occupant of the land upon which the person is hunting.

History: 1980, Act 86, Imd. Eff. Apr. 8, 1980;—Am. 1986, Act 63, Imd. Eff. Mar. 27, 1986;—Am. 1988, Act 259, Eff. Sept. 1, 1988.

### ARTICLE 8

### **316.802 Carrying firearm while bow hunting for deer prohibited.**

Sec. 802. During a season open to the hunting of deer with bow and arrow, a licensee shall not carry a pistol, revolver, or any other firearm while bow hunting for deer.

History: 1980, Act 86, Imd. Eff. Apr. 8, 1980.

### **316.807 Carrying or transporting firearm, slingshot, or bow and arrow during closed season on small game.**

Sec. 807. During the closed season on small game, a person, between the hours of sunset and sunrise, shall not carry or transport a firearm, slingshot, or bow and arrow in any area frequented by wild animals or wild birds.

History: 1980, Act 86, Imd. Eff. Apr. 8, 1980.

## **WILDLIFE CONSERVATION ACT COMMISSION ORDERS**

### **WCACO 2.1 Hunting; prohibited methods, devices, and weapons; exceptions.**

SECTION 2.1. Unless otherwise specified in this order, a person shall not do any of the following:

(3) Use in hunting, or possess in an area inhabited by wild birds and animals within the "shotgun, handgun, black-powder firearms only areas", from November 15 to November 30, a firearm other than:

(a) a shotgun with a smooth or rifled barrel.

(b) a repeating handgun .35 caliber or larger capable or holding no more than 9 shells at 1 time in the barrel and magazine combined, loaded with straight-walled cartridges.

(c) a muzzle-loading rifle or black powder handgun loaded with .44 caliber or larger projectile propelled by black powder or a commercially manufactured black powder substitute.

### **WCACO 3.101 Deer hunting, open seasons; season limit.**

SECTION 3.101. (3) A person hunting under the authority of a firearm license during the muzzle-loading and black-powder firearm season shall only possess and carry a muzzle-loading rifle, shotgun, or black-powder handgun loaded with .44 caliber or larger projectile propelled by black-powder or a commercially manufactured black-powder substitute.

Only the portions of the Wildlife Conservation Act, Commission Order, addressing firearms regulations are included in this booklet.

## **ATTORNEY GENERAL'S OPINIONS**

### **HOLSTERS**

The Attorney General has stated that if a pistol is carried in a holster or belt, on the outside of the clothing so as to be in plain view, it does not constitute carrying a concealed weapon. If it is worn under a coat, it would be a violation of the statute, as the same would then not be in plain view.

(*Opinion 3158 of Attorney General John R. Dethmers, February 14, 1945*).

### **AUTOMATIC WEAPONS, MACHINE GUNS, WEAPONS EQUIPPED WITH SILENCERS**

The Attorney General has stated that there is no provision in Michigan Law for the acquisition and possession of an automatic weapon by a private citizen, nor is there any provision for the issuance of permits for acquisition or possession of a machine gun or a weapon equipped with a silencer by a private individual.

(*Opinion 5210 of Attorney General Frank J. Kelley, August 10, 1977*).

The Attorney General has stated a peace officer may acquire and possess, without a license, an automatic weapon provided that the employer of the peace officer does not adopt a rule or policy prohibiting the acquisition or possession of such automatic weapons.

(*Opinion 6015 of Attorney General Frank J. Kelley, November 30, 1981*).

### **POLICE OFFICERS - WHEN EXEMPT FROM LICENSE TO PURCHASE AND SAFETY INSPECTION REQUIREMENTS**

The Attorney General has stated that the Legislature has specifically exempted police officers from the purchase permit and inspection requirements for those pistols used for purposes of or incidental to the police organization by which the officers are employed. Any police officer wishing to buy a handgun for his own personal use, however, is not exempted from the statutory requirements and must obtain a purchase permit and submit the weapon for safety inspection. A police officer who sells a pistol, even if it is one he used in the course of his employment, must comply with the requirements imposed on a seller by 1927 P.A. 372, §2(2) *Supra*, unless the buyer is another police officer who uses the handgun in the course of his employment.

(*Letter Opinion of Attorney General Frank J. Kelley, February 22, 1982*).

### **LIMITATION ON TARGET PRACTICE WITHIN A TOWNSHIP**

A hunting area control committee is empowered to adopt regulation prohibiting the discharge of firearms in a township or

portions thereof in accordance with 1967 P.A. 159.  
(*Opinion 5960 of Attorney General Frank J. Kelley, August 18, 1981*).

### **FIREARMS WITH CONTRACTING/FOLDING STOCKS; RIFLES AND SHOTGUNS**

The Attorney General has stated: 1) A firearm with a contracting/folding stock which, when contracted/folded measures 30 inches or less in overall length and is fully operable in that mode is a PISTOL requiring licensure for purchase, carrying or transport, and is subject to safety inspection; and 2) Rifles and shotguns whose barrels are 16 and 18 inches or more in length, respectively, with contracting/folding stocks, which are fully operable with stocks folded or contracted, and whose overall length are LESS than 26 inches with stocks contracted/folded, fall within the definition of "short-barreled rifle" and "short-barreled shotgun" and their sale or possession is PROHIBITED by MCL 750.224b; MSA 28.421(2).

The Opinion noted that the Uzi, semi-automatic carbine (barrel length-16.1 inches, length with stock contracted-24.4 inches, length with stock extended-31.5 inches) is a short-barreled rifle and their SALE and POSSESSION is prohibited.  
(*Opinion 6280 of Attorney General Frank J. Kelley, March 20, 1985*).

### **LICENSE TO CARRY HANDGUN FOR HUNTING OF DEER**

The Attorney General stated inasmuch as MCL 312.10 (1)(f); MSA 13.1339(1)(f), generally makes it illegal to hunt from a car, there is no rational justification for concluding that transportation of a loaded, accessible weapon in a motor vehicle is consistent with a concealed weapons license restricted to hunting.

In the event the hunter has obtained a concealed weapons license which is restricted to hunting, the hunter may transport the handgun while en route to or from a hunting area provided the handgun is unloaded, in a wrapper or container, and locked in the trunk of the motor vehicle. If the vehicle has no trunk, the handgun must be unloaded in a wrapper or container in an area of the motor vehicle not readily accessible to the occupants of the vehicle.

Hunters planning to use handguns for hunting deer are also reminded that they must secure a license to purchase a pistol. MCL 28.422(1); MSA 28.92, and the pistol must be safety inspected by a local law enforcement official. MCL 28.429; MSA 28.97. Failure to abide by these provisions is a crime. MCL 750.232a; MSA 24.429(1), and MCL 750.228; MSA 28.425.  
(*Opinion 6406 of Attorney General Frank J. Kelley, December 10, 1986*).

NOTE - Persons holding a license to carry a pistol concealed issued by another state are exempted from MCL 28.422(1); MSA 28.92 and MCL 28.429(1); MSA 28.97 and may qualify to possess a pistol while hunting, depending on the license restrictions, provided they are in possession of a valid Michigan hunting license and are transporting the pistol congruent with the above opinion.

There are no provisions for residents of states not issuing a license to carry a pistol concealed to transport/carry/use a pistol for hunting and target purposes.

### **TEAR GAS**

The Attorney General has stated that it is not legal in this state to market tear gas to the general public.  
(*Letter Opinion of Attorney General Frank J. Kelley, January 23, 1984*).

### **GENERAL QUESTIONS**

1. Do I need a license to carry a concealed pistol? I am a messenger and often carry large sums of money.
  - A. Yes. However, large sums of money may not justify receiving such a license. The decision rests with the Concealed Weapons Licensing Board.
2. Do I need a license to transport my registered pistol from Detroit to my hunting cabin located near Alpena?
  - A. No, provided it is unloaded in a wrapper or container in the trunk of the vehicle and you possess a valid Michigan hunting license or membership in an organization having a pistol range and while going to or from a hunting or target shooting area. If the vehicle does not have a trunk, the pistol may be carried in the passenger compartment if unloaded, in a wrapper or container, and is not readily accessible to the occupants.
3. Do I need a license to carry my pistol while walking through the woods near my cabin? If not, are there any restrictions on how or where the gun is carried?
  - A. No license is needed to carry a pistol as long as it is exposed. However, should a person cover the pistol during inclement weather with a jacket or coat, the pistol would be concealed and the carrier would place himself in jeopardy unless he possessed a Concealed Pistols License. A holster, in plain view, is not considered concealed. Department of Natural Resources regulations require a person to have a valid Michigan hunting license if in an area inhabited by wildlife.
4. I have a REPLICA of an antique pistol. Is it necessary that this gun be registered and that I obtain a Concealed Pistols License?
  - A. Not if it is kept for the SOLE PURPOSE OF DISPLAY. If carried or used in any other manner you must complete both a License to Purchase and Safety Inspection Certificate (registration). You don't need a Concealed Pistols License if the pistol is completely unloaded, in a wrapper or container in the trunk of your vehicle and you're en route to or from a hunting or target shooting area or function involving the exhibition, demonstration or sale of antique firearms.

5. How old do I have to be in order to have a pistol registered in my name?  
A. Eighteen (18) years of age.
6. My neighbor has a pistol registered in his name. Can I borrow the gun and take it up north?  
A. No. In the definition of a purchaser you will find, "... one who receives a pistol from another by purchase, gift or loan." Thus, a License to Purchase and Safety Inspection Certificate would be required. Then, in order to return the pistol, the process would have to be repeated by your neighbor.
7. I am moving to California. I have a pistol registered in my name. Is it legal for me to carry this gun in the car with me to my new location?  
A. The May 19, 1986, revision of the Federal Gun Control Act of 1968 now allows for transportation of pistols from one state to another providing the pistol is legally possessed in the state of origin, and possession is permitted in the state of destination. It must be transported unloaded and in a locked container inaccessible to the occupants.
8. My father-in-law, who lives in Georgia, has two pistols which he wants to give to me. Can I go down there and bring the guns back to Michigan?  
A. No. The Federal Gun Control Act of 1968 prohibits the purchasing or receiving of a pistol in any state other than the one of which you are a resident. The only way this can be done is for the person in one state to take the pistol to a local firearms dealer who in turn can send the gun to a firearms dealer in Michigan. The Michigan firearms dealer can then turn the pistol over to the individual providing that person has obtained a License to Purchase.
9. I lost my pistol registration (Safety Inspection Certificate). How do I go about getting another one?  
A. You should contact your local law enforcement agency, where you currently reside, and request they re-register your pistol. Confirmation of prior registration can be made by that agency with the Michigan State Police, Firearms Records Section in Lansing.
10. My pistol, along with the registration (Safety Inspection Certificate) and my Concealed Pistols License, was stolen. I need to provide my insurance company and the police agency with the description of my gun, along with getting the stolen documents replaced. What should I do?  
A. The Michigan State Police, Firearms Records Section can provide you with a copy of the original registration. However, in the event the pistol is recovered and returned to you, you should have it re-registered. You must contact the county clerk's office that issued your original Concealed Pistols License to obtain a copy. There is a \$3.00 replacement fee.
11. What is a License to Purchase, and is one needed in every case where a pistol is acquired?  
A. A License to Purchase is a license required prior to acquisition by purchase, gift, or loan. The important part of the License to Purchase is the affidavit signed by the purchaser swearing to their own qualifications. A License to Purchase is not needed by firearm dealers purchasing from wholesalers, or for relics, curios, antiques, etc., kept solely for the purpose of display.
12. What are the various steps necessary to purchase and legally possess a pistol?  
A. The prospective purchaser must successfully pass (70%) a basic pistol safety questionnaire and obtain a License to Purchase from the local law enforcement agency. The purchaser must sign a notarized sworn statement, make the purchase and, with the seller, complete the form. The License to Purchase, along with the pistol, must be returned to the local law enforcement agency within ten (10) days to obtain a Safety Inspection Certificate (registration). A License to Purchase a pistol is only valid for ten (10) days.
13. Are there any fees for a License to Purchase, Safety Inspection Certificate (Registration), or a License to Carry a Concealed Pistol?  
A. A local jurisdiction may charge a fee up to \$5.00 for processing a License to Purchase. There is no statutory fee for a Safety Inspection Certificate. The application for a License to Carry a Concealed Pistol requires a fingerprint clearance which is \$15.00; there is an additional \$10.00 fee for the license.
14. I have some questions concerning federal regulations on pistols. Who can I contact?  
A. Bureau of Alcohol, Tobacco and Firearms, Area Supervisor, Compliance, Arboretum Bldg., Suite 195, 34505 West 12 Mile Road, Farmington Hills, Michigan 48331. Phone: (313)-226-4735.
15. I am taking a business trip to the east coast via Canada. I have a revolver registered in my name and a Concealed Pistols License for business purposes. Is it legal for me to carry the pistol in my car on the trip?  
A. It is our understanding that Canadian authorities will not allow entry of the pistol. You may have to leave it at the port of entry and pick it up there on your way back.
16. Are gun dealers licensed in Michigan; and if so, who licenses them?  
A. Yes, by the U.S. Treasury Department, Bureau of Alcohol, Tobacco and Firearms. Michigan has no law to license dealers, however dealers must obtain a Michigan Sales Tax License.
17. I was arrested for making threats against my wife. As part of my probation, the judge ordered the gun turned over to the State Police. Can it be returned to me; and if so, when can I claim it?  
A. The statute requires weapons carried, possessed, or used contrary to the Concealed Weapons Act to be forfeited to

the Director of the Department of State Police. Prior to disposition, the forfeited weapons are retained for a reasonable length of time pending any possible appeal or litigation. There are no provisions in the act for any other disposition.

18. I am a firearms dealer. Is it necessary for me to forward a report to the State Police for each pistol I purchase or take in on trade?
- A. Yes. A Dealer's License to Purchase must be obtained from your local law enforcement agency for these transactions. The only time a License to Purchase is not required to be transacted is when purchasing from a wholesaler.
19. Can I carry a "cs device" in my car or on my person for protection?
- A. Yes. Providing the "cs device" is not more than 35 grams and is used in the protection of your person or property which would justify the use of physical force.
20. Can I carry tear gas or mace ("CN gas") in my car or on my person for protection?
- A. No, under the statutes and according to an attorney general's opinion, a private citizen cannot possess tear gas or mace.
21. Can I, as a licensed Federal Firearms Dealer, legally transport pistols which I acquire through purchase or trade without a Michigan Concealed Pistols License based on possession of the federal license?
- A. Only to and from the place of purchase to place of business. The pistol may be transported unloaded in a wrapper or container in the trunk of the vehicle. The pistol may be transported unloaded in a wrapper or container in the passenger compartment of a vehicle which does not have a trunk if it is not readily accessible to the occupants. Bear in mind the federal license confers no right or privilege to conduct business contrary to state law or other law. The holder of a federal license is not by reason of such a license, immune from punishment in violation of the provisions of any state law or other law.
22. I have a BB pistol with a smooth bore, .177 caliber. Do I have to have this gun registered?
- A. No. If the caliber was larger than .177, it would be classified as a pistol and required to be registered. Also, pistols which fire a PELLET or DART, regardless of the size of the caliber, are required to be registered.
23. I am on leave from military service. Does this exempt me from having to register the pistol I brought with me?
- A. No, you have 30 days in which to pass the basic pistol safety questionnaire and obtain a License to Purchase after your arrival into the state. You then have ten days in which to present the pistol for a Safety Inspection Certificate (registration).
24. My uncle had a .357 magnum revolver registered in his name when he died the first part of November. My brother has had custody of the gun, but now wants to give it to me. What procedure do I follow to gain legal possession of this gun, since my uncle obviously cannot sign it over to me?
- A. Michigan statutes provide for the administrator of the estate or next of kin to transact the License to Purchase indicating the pistol as an inheritance (purchaser).
25. I have a Class III Federal License to sell certain types of fully-automatic pistols and machine guns. Can I legally sell these firearms in Michigan?
- A. Yes, but only to other Class III dealers, the military, police agencies and police officers presenting proof that possession of fully-automatic firearms is not prohibited by their agency.
26. I have a federal license to collect curios and relics. Can I legally possess a fully automatic firearm in Michigan?
- A. Yes, but only if the firearm is classified under federal statutes as a curio or relic. If the fully automatic firearm is a pistol, then you must obtain a License to Purchase and present the pistol for a Safety Inspection Certificate.
27. I am giving my registered pistols to my son who lives in another state. How do I get the Safety Inspection Certificates out of my name?
- A. There are no provisions in the statute; however, send a letter to the Michigan State Police, Firearms Records Section, 7150 Harris Drive, Lansing, Michigan 48913, advising of the transaction. The letter must include a description of the pistols, your son's name and address, and the date of transaction in order for the Firearms Records Section to update their records. Your son must comply with the Concealed Weapons Laws of his own state.
28. I have just moved to Michigan from another state. How much time do I have to register my pistols?
- A. Upon establishing legal residency, you should immediately contact your local law enforcement agency, pass the basic safety questionnaire and complete both a License to Purchase and Safety Inspection Certificate.
29. Do rifles or shotguns with collapsible/folding stocks have to be registered?
- A. Yes, provided the rifle or shotgun is 30 inches or less in overall length with the stock collapsed/folded but at least 26 inches AND the barrel length is at least 16 inches and 18 inches respectively. If the firearm is less than 26 inches in overall length or the barrel is less than 16 or 18 inches respectively, the firearm is considered a short-barreled rifle or shotgun and is illegal to possess.
- There is an exception for short-barreled shotguns and short-barreled rifles which the Federal Bureau of Alcohol,



*Tobacco and Firearms has found to be a curio, relic, antique, museum piece or collector's item not likely to be used as a weapon. The possessor must comply with Section 2 (License to Purchase) and Section 9 (Safety Inspection Certificate/registration) of Act 372.*

**30. What are the requirements or criteria that cause weapons to be forfeited to the state?**

- A. Any pistol, weapon or device possessed, carried or used contrary to the Concealed Weapons Act and/or Penal Code requires forfeiture to the Director of the Department of State Police. This includes shotguns, rifles, knives, clubs, or any article used as a weapon.

**31. I work midnights as a security guard at a factory. Does my profession entitle me to carry a pistol as required by my employer?**

- A. No. You can *ONLY* carry a pistol while on duty on the premises of your employer and *ONLY* if it is exposed. If you wish to carry your pistol concealed, you must obtain a Concealed Pistols License from your county clerk's office.

**32. I recently purchased a double-edged survival knife. Can I carry this in my vehicle?**

- A. No. A double-edged cutting instrument, no matter what the length, cannot be carried concealed on or about a person, or whether concealed or otherwise in any vehicle operated or occupied by the person.

**33. I want to purchase an UZI Model B, 9MM semi-automatic carbine with a folding stock. Are these legal in Michigan?**

- A. No. The UZI carbine (barrel length-16.1 inches, length with stock contracted-24.4 inches, length with stock extended-31.5 inches) is a short-barreled rifle and their SALE and/or POSSESSION is prohibited according to an attorney general opinion.

**34. I am an out-of-state resident. Can I legally hunt deer with a pistol in Michigan?**

- A. If you have a license to carry a concealed pistol issued by another state may qualify to possess a pistol while hunting, depending on the license restrictions, and providing you are also in possession of a valid Michigan non-resident hunting license. You must transport the pistol, while en route to or from a hunting area, unloaded, in a wrapper or container, and locked in the trunk of the motor vehicle. If the vehicle has no trunk, the pistol must be unloaded in a wrapper or container in an area of the motor vehicle not readily accessible to the occupants of the vehicle.

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