

**SUBSTITUTE FOR
SENATE BILL NO. 79**

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

by amending section 15 (MCL 28.435), as added by 2000 PA 265, and by adding section 9.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) An individual who stores or leaves a firearm
2 unattended on premises under the individual's control, and who
3 knows or reasonably should know that a minor is, or is likely to
4 be, present on the premises, shall do 1 or more of the following:

5 (a) Store the firearm in a locked box or container.

6 (b) Keep the firearm unloaded and lock the firearm with a
7 locking device that is properly engaged to render the firearm
8 inoperable by any individual other than the owner or an authorized
9 user.

10 (2) An individual who enters onto the premises of another
11 individual, stores or leaves a firearm unattended on those
12 premises, and who knows or reasonably should know that a minor is,
13 or is likely to be, present on the premises, shall do 1 or more of
14 the following:

15 (a) Store the firearm in a locked box or container.

16 (b) Keep the firearm unloaded and lock the firearm with a
17 locking device that is properly engaged to render the firearm
18 inoperable by any individual other than the owner or an authorized
19 user.

20 (c) Before entering onto the premises, do both of the
21 following:

22 (i) In the individual's motor vehicle, store the firearm in a
23 locked box or container in that vehicle, or keep the firearm
24 unloaded and lock the firearm with a locking device that is
25 properly engaged to render the firearm inoperable by any individual
26 other than the owner or an authorized user.

27 (ii) Lock the individual's motor vehicle.

28 (3) An individual is guilty of a misdemeanor punishable by

1 imprisonment for not more than 93 days or a fine of not more than
2 \$500.00, or both, if the individual violates subsection (1) or (2)
3 by failing to store or leave a firearm in the required manner and a
4 minor obtains the firearm.

5 (4) If an individual violates subsection (1) or (2) by failing
6 to store or leave a firearm in the required manner and, as a result
7 of the violation, a minor obtains the firearm and discharges it to
8 inflict injury upon the minor or any other individual, the
9 individual is guilty of a felony punishable by imprisonment for not
10 more than 5 years or a fine of not more than \$5,000.00, or both.

11 (5) If an individual violates subsection (1) or (2) by failing
12 to store or leave a firearm in the required manner and, as a result
13 of the violation, a minor obtains the firearm and discharges it to
14 inflict death upon the minor or any other individual, the
15 individual is guilty of a felony punishable by imprisonment for not
16 more than 15 years or a fine of not more than \$7,500.00, or both.

17 (6) This section does not apply under any of the following
18 circumstances:

19 (a) A minor who does all of the following:

20 (i) Obtains a firearm with the permission of the minor's parent
21 or guardian.

22 (ii) Uses or possesses the firearm while the minor is under the
23 direct supervision of the minor's parent, guardian, or any
24 individual who is 18 years of age or older and who is authorized by
25 the person's parent or guardian.

26 (iii) Uses or possesses that firearm during any of the
27 following:

28 (A) The minor's employment.

29 (B) Ranching or farming.

1 (C) Target practice, hunting, or instruction in the safe use
2 of a firearm.

3 (b) A minor who obtains a firearm through the minor's unlawful
4 entry of any premises or the motor vehicle where the firearm has
5 been stored.

6 (c) A minor who obtains a firearm while lawfully acting in
7 self-defense or defense of another.

8 (7) The department of health and human services shall do both
9 of the following:

10 (a) Inform the public of the penalties for failing to store or
11 leave a firearm in the manner required under this section.

12 (b) Publish lethal means counseling literature and provide
13 that literature to federally licensed firearms dealers for use
14 under section 15.

15 (8) A criminal penalty provided for under this section may be
16 imposed in addition to any penalty that may be imposed for any
17 other criminal offense arising from the same conduct.

18 (9) As used in this section:

19 (a) "Locked box or container" means a secure container that is
20 fully enclosed and locked by a padlock, key lock, combination lock,
21 or similar locking device to which a minor does not possess the key
22 or combination.

23 (b) "Locking device" means a trigger lock, cable lock, or
24 similar lock that prevents a firearm from discharging.

25 (c) "Minor" means an individual less than 18 years of age.

26 Sec. 15. (1) Except as provided in subsection (2), a federally
27 licensed firearms dealer shall not sell a firearm in this state
28 unless the sale includes 1 of the following:

29 (a) A commercially available trigger lock or other device

1 designed to disable the firearm and prevent the discharge of the
2 firearm.

3 (b) A commercially available gun case or storage container
4 that can be secured to prevent unauthorized access to the firearm.

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

6 (a) The sale of a firearm to a police officer or a police
7 agency.

8 (b) The sale of a firearm to a person ~~who~~**that** presents to the
9 federally licensed firearms dealer 1 of the following:

10 (i) A trigger lock or other device designed to disable the
11 firearm and prevent the discharge of the firearm together with a
12 copy of the purchase receipt for the federally licensed firearms
13 dealer to keep. A separate trigger lock or device and a separate
14 purchase receipt ~~shall be~~**are** required for each firearm purchased.

15 (ii) A gun case or storage container that can be secured to
16 prevent unauthorized access to the firearm together with a copy of
17 the purchase receipt for the federally licensed firearms dealer to
18 keep. A separate gun case or storage container and a separate
19 purchase receipt ~~shall be~~**are** required for each firearm purchased.

20 (c) The sale of an antique firearm. As used in this
21 subdivision, "antique firearm" means that term as defined in
22 section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

23 (d) The sale or transfer of a firearm if the seller is not a
24 federally licensed firearms dealer.

25 (3) A federally licensed firearms dealer shall not sell a
26 firearm in this state unless the firearm is accompanied with, free
27 of charge, ~~a~~**all of the following:**

28 (a) A brochure or pamphlet that includes safety information on
29 the use and storage of the firearm in a home environment.

1 (b) A written warning informing the purchaser of the penalties
2 for failing to store or leave a firearm in the manner required
3 under section 9.

4 (c) Lethal means counseling literature published by the
5 department of health and human services under section 9.

6 (4) Upon the sale of a firearm, a federally licensed firearms
7 dealer shall sign a statement and require the purchaser to sign a
8 statement stating that the sale is in compliance with subsections
9 (1), (2), and (3).

10 (5) A federally licensed firearms dealer shall retain a copy
11 of the signed statements prescribed in subsection (4) and, if
12 applicable, a copy of the receipt prescribed in subsection (2)(b),
13 for at least 6 years.

14 (6) A federally licensed firearms dealer in this state shall
15 post in a conspicuous manner at the entrances, exits, and all
16 points of sale on the premises where firearms are sold a notice
17 **informing the reader** that ~~says the following: "You may be~~
18 ~~criminally and civilly liable for any harm caused by a person less~~
19 ~~than 18 years of age who lawfully gains unsupervised access to your~~
20 ~~firearm if unlawfully stored."~~ **failing to store or leave a firearm**
21 **in the manner required under section 9 is unlawful.**

22 ~~(7) A federally licensed firearms dealer is not liable for~~
23 ~~damages arising from the use or misuse of a firearm if the sale~~
24 ~~complies with this section, any other applicable law of this state,~~
25 ~~and applicable federal law.~~

26 ~~(8) This section does not create a civil action or liability~~
27 ~~for damages arising from the use or misuse of a firearm or~~
28 ~~ammunition for a person, other than a federally licensed firearms~~
29 ~~dealer, who produces a firearm or ammunition.~~

1 ~~(9) Subject to subsections (10) to (12), a political~~
2 ~~subdivision shall not bring a civil action against any person who~~
3 ~~produces a firearm or ammunition. The authority to bring a civil~~
4 ~~action under this section is reserved exclusively to the state and~~
5 ~~can be brought only by the attorney general. The court shall award~~
6 ~~costs and reasonable attorney fees to each defendant named in a~~
7 ~~civil action filed in violation of this subsection.~~

8 ~~(10) Subject to subsection (11), subsection (9) does not~~
9 ~~prohibit a civil action by a political subdivision based on 1 or~~
10 ~~more of the following, which the court shall narrowly construe:~~

11 ~~(a) A breach of contract, other contract issue, or an action~~
12 ~~based on a provision of the uniform commercial code, 1962 PA 174,~~
13 ~~MCL 440.1101 to 440.11102, in which the political subdivision is~~
14 ~~the purchaser and owner of the firearm or ammunition.~~

15 ~~(b) Expressed or implied warranties arising from the purchase~~
16 ~~of a firearm or ammunition by the political subdivision or the use~~
17 ~~of a firearm or ammunition by an employee or agent of the political~~
18 ~~subdivision.~~

19 ~~(c) A product liability, personal injury, or wrongful death~~
20 ~~action when an employee or agent or property of the political~~
21 ~~subdivision has been injured or damaged as a result of a defect in~~
22 ~~the design or manufacture of the firearm or ammunition purchased~~
23 ~~and owned by the political subdivision.~~

24 ~~(11) Subsection (10) does not allow an action based on any of~~
25 ~~the following:~~

26 ~~(a) A firearm's or ammunition's inherent potential to cause~~
27 ~~injury, damage, or death.~~

28 ~~(b) Failure to warn the purchaser, transferee, or user of the~~
29 ~~firearm's or ammunition's inherent potential to cause injury,~~

1 ~~damage, or death.~~

2 ~~(c) Failure to sell with or incorporate into the product a~~
3 ~~device or mechanism to prevent a firearm or ammunition from being~~
4 ~~discharged by an unauthorized person unless specifically provided~~
5 ~~for by contract.~~

6 ~~(12) Subsections (9) through (11) do not create a civil~~
7 ~~action.~~

8 ~~(13) Subsections (9) through (11) are intended only to clarify~~
9 ~~the current status of the law in this state, are remedial in~~
10 ~~nature, and, therefore, apply to a civil action pending on the~~
11 ~~effective date of this act.~~

12 ~~(7) (14) Beginning September 1, 2000, a~~ **A** ~~person who violates~~
13 ~~this section is guilty of a crime as follows:~~

14 (a) Except as provided in subdivision (b) or (c), the person
15 is guilty of a misdemeanor punishable by imprisonment for not more
16 than 93 days or a fine of not more than \$500.00, or both.

17 (b) For a second conviction, the person is guilty of a
18 misdemeanor punishable by imprisonment for not more than 1 year or
19 a fine of not more than \$1,000.00, or both.

20 (c) For a third or subsequent conviction, the person is guilty
21 of a felony punishable by imprisonment for not more than 2 years or
22 a fine of not more than \$5,000.00, or both.

23 ~~(8) (15) As used in this section:~~

24 (a) "Federally licensed firearms dealer" means a person
25 licensed under ~~section 923 of title 18 of the United States Code,~~
26 ~~18 U.S.C.—USC 923.~~

27 (b) ~~"Firearm or ammunition"—~~ **Firearm** ~~includes a component of~~
28 ~~a firearm. or ammunition.~~

29 (c) "Person" means an individual, partnership, corporation,

1 association, or other legal entity.

2 ~~(d) "Political subdivision" means a county, city, village,~~
3 ~~township, charter township, school district, community college, or~~
4 ~~public university or college.~~

5 ~~(e) "Produce" means to manufacture, construct, design,~~
6 ~~formulate, develop standards for, prepare, process, assemble,~~
7 ~~inspect, test, list, certify, give a warning or instructions~~
8 ~~regarding, market, sell, advertise, package, label, distribute, or~~
9 ~~transfer.~~