



MICHIGAN STATE POLICE LEGAL UPDATE

No. 119
December 2, 2015

Subscriptions: To receive the Update via email, go to michigan.gov/msp-legal and click on "subscribe to legal updates."

CRIMINAL LAW AND PROCEDURE MANUAL

The third edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is now available for purchase in print and eBook formats.

The manual is published by Kendall Hunt Publishing Co. Copies may be [ordered online](#) or by calling Kendall Hunt Customer Service at (800) 228-0810.

STATUTES

Amendments to the Firearms Act affecting the process for obtaining a Concealed Pistol License

[Public Act 3 of 2015](#) amended various sections of the **Firearms Act**, MCL 28.421 through MCL 28.435, related to the sale, purchase, possession, and carrying of firearms and certain other devices, and revised the process for issuing or renewing a concealed pistol license (CPL).

Elimination of county gun boards

[MCL 28.425a](#) eliminated all county concealed weapons licensing boards effective December 1, 2015, and required the boards to transfer all CPL applications and official documents held by the board to the county clerk of the county in which the board was located. All pending applications remained in place and are considered to have a December 1, 2015, application date. These applications will be processed by the county clerk as provided by law. Any valid CPL issued before December 1, 2015, will continue to be in effect until the expiration of the CPL or as otherwise provided by law.

CPL requirements and application process

General information regarding the application process and the requirements for obtaining or renewing a CPL may be found in the [RI-012 Concealed Pistol License Guide and Application](#).

The Michigan State Police (MSP) does not issue or deny applications for a CPL. The MSP is responsible for verifying through the Law Enforcement Information Network and National Instant Criminal Background Check System that the applicant meets certain statutory requirements and reporting all statutory disqualifications to the county clerk.

The county clerk is responsible for issuing either a CPL or a notice of statutory disqualification within 45 days after classifiable fingerprints are taken.

Emergency CPLs

[MCL 28.425a](#) revised the process for issuing an emergency license to carry a concealed pistol (emergency CPL). To be eligible to obtain an emergency CPL, an applicant must meet certain statutory requirements and have either obtained a personal protection order issued under [MCL 600.2950](#) or [MCL 600.2950a](#), or a county sheriff has determined there is clear and convincing evidence to believe the safety of the applicant or the safety of a member of the applicant's family or household is endangered by the applicant's inability to immediately obtain a CPL.

An emergency CPL is valid for 45 days or until the county clerk issues a CPL or a notice of statutory disqualification, whichever occurs first. Pursuant to [MCL 28.425a\(4\)](#), an individual who fails to immediately surrender an unexpired emergency CPL to the county clerk after being notified of a statutory disqualification is guilty of a 93-day misdemeanor.

An emergency CPL will indicate if the individual is exempt from the prohibitions against carrying a concealed pistol or electro-muscular disruption (EMD) device on the premises listed in [MCL 28.425o](#).

Fingerprinting and fingerprinting receipt

An applicant for a CPL who has submitted an application and paid the required application fee, must request that classifiable fingerprints be taken by the county clerk, Michigan State Police, county sheriff, a local police agency, or other entity, if that entity provides fingerprinting capability for purposes of the **Firearms Act**. Fingerprints shall be taken by the entity within five days of the request. The applicant shall pay a fee of \$15 to the entity taking the fingerprints and provide that entity with his or her CPL application receipt. The entity shall issue the applicant a receipt at the time his or her fingerprints are taken. The receipt shall contain the information required by [MCL 28.425b\(9\)](#).

Pursuant to [MCL 28.425b\(14\)](#), if a CPL or notice of statutory disqualification is not issued within 45 days of the date classifiable fingerprints were taken, the fingerprinting receipt will serve as a CPL when carried with an official state-issued driver's license or personal identification card and is valid as a CPL until a CPL or notice of statutory disqualification is issued by the county clerk.

CPL renewal and renewal receipt

[MCL 28.425l\(5\)](#) was amended to provide that if an individual applies for a renewal CPL before the expiration of his or her CPL, the expiration date of the current CPL is extended until

This update is published by the Michigan State Police, Office of the Director, Legal Resource and Education Unit and is provided for informational purposes only. Officers should contact their local prosecutor for an interpretation before applying the information contained in this update. Questions and comments may be directed to MSPLegal@michigan.gov. Past editions can be found at www.michigan.gov/msp-legal.

the renewal CPL or notice of statutory disqualification is issued. The county clerk is required to issue the applicant a receipt for his or her renewal application at the time the application is submitted. The county clerk must issue a renewal CPL or a notice of statutory disqualification within 30 days after the renewal application is received.

Pursuant to [MCL 28.425l\(6\)](#), a person carrying a concealed pistol after the expiration date of his or her CPL under a renewal extension described above is required at all times to be in possession of the renewal receipt issued by the county clerk and his or her expired CPL. The renewal receipt is considered part of the CPL until a renewal CPL is issued or denied, or until a notice of statutory disqualification is issued.

License to purchase requirements

Pursuant to [MCL 28.422a\(1\)\(a\)](#), the following individuals are not exempt from the license to purchase a pistol requirements detailed in [MCL 28.422](#), based solely on the fact the individual possesses a CPL:

- An individual with an emergency license issued under [MCL 28.425a](#)
- An individual who has a receipt serving as a CPL under [MCL 28.425b\(9\)](#)
- An individual who has a renewal receipt serving as a CPL under [MCL 28.425l](#)

Possession of CPL and other identification

[MCL 28.425f\(1\)-\(2\)](#) requires anyone licensed to carry a concealed pistol to possess both the license to carry that pistol and his or her state-issued driver's license or personal identification card at all times that he or she is carrying a concealed pistol or EMD device, and to show both items to a peace officer upon request. Failure to do so is a state civil infraction.

Disclosure to a police officer when stopped

[MCL 28.425f\(3\)](#) continues to require a Michigan CPL holder who is carrying a concealed pistol or an EMD device and who is stopped by a peace officer to immediately disclose to the peace officer that he or she is carrying a pistol or an EMD device concealed upon his or her person or in his or her vehicle. Officers should note that this disclosure requirement only applies to individuals issued a Michigan CPL and only when he or she is carrying a concealed pistol or EMD device at the time of the stop.

[MCL 28.425f\(6\)](#) was amended to require a peace officer to notify the MSP if an individual is found responsible for a state civil infraction for violating [MCL 28.425f\(3\)](#).

Chemical test rights

Officers are reminded that, pursuant to [MCL 28.425k](#) acceptance of a Michigan CPL constitutes implied consent to submit to a chemical analysis when a police officer has probable cause to believe an individual is carrying a concealed pistol or EMD device while under the influence of alcoholic liquor or a controlled substance, or while having any bodily alcohol content of .02 or more.

[MCL 28.425k\(8\)\(c\)](#) was amended to define "under the influence of alcoholic liquor or a controlled substance" for purposes of [MCL 28.425k](#) to mean "that the individual's ability to properly handle a pistol or to exercise clear judgment regarding the use of that pistol was substantially and materially affected by the consumption of alcoholic liquor or a controlled substance."

Pursuant to [MCL 28.425k\(1\)](#), the requirement to submit to a chemical analysis also applies to individuals who are exempt under [MCL 28.432a](#) from the requirements for obtaining a CPL, including a regularly employed police officer and a non-resident licensed by his or her state of residence to carry a concealed pistol.

Prior to requiring an individual to submit to a chemical analysis of his or her blood, breath, or urine, a peace officer must advise the individual that he or she can refuse to submit to a chemical analysis, but if he or she refuses, all of the following apply:

- The officer may obtain a court order requiring the individual to submit to a chemical analysis.
- The refusal will result in a 6-month suspension of the individual's CPL.

The peace officer must also advise the individual that if he or she submits to a chemical analysis, the individual may also obtain a chemical test of his or her blood, breath, or urine from a person of his or her own choosing.

[MCL 28.425k\(7\)](#) was amended to require a peace officer to promptly report a refusal to take a chemical test in writing to the MSP. Peace officers may utilize the [CPL Chemical Test Rights form \(UD-194\)](#) to report the refusal to the MSP.

[MCL 28.425k\(2\)\(c\)](#) was amended to require a peace officer to notify the MSP of a state civil infraction for carrying a concealed pistol or EMD device while having a bodily alcohol content of .02 or more but less than .08 grams per 100 milliliters of blood, per 210 milliliters of breath, or per 67 milliliters of urine.

Notifications to the MSP

Notifications and reports that are required to be made to the MSP by a peace officer may be mailed to the Michigan State Police CPL Unit, P.O. Box 30634, Lansing, MI 48909-0634, or emailed to MSCPL@michigan.gov.