

Carry Laws & Other Important Information

AG opinions, MCL's, & Cites

Brandishing and disturbing the peace are not an offense while lawfully openly carrying a firearm.

ADVISORY NOTE: Though this section on disturbing the peace does not deal with firearms, due to the nature of this code, this law has been cited by officers to suppress or discourage lawful open carry. Since a person who is not licensed to carry concealed **MUST** open carry their firearms on foot in order to avoid criminal charge, nor is there any duty for anyone licensed to conceal their handgun, open carry is not disorderly conduct. The open carrying of firearms is not by itself threatening, nor does it cause a hazardous or physically offensive condition.

BRANDISHING Opinion No. 7101 February 6, 2002:

In the absence of any reported Michigan appellate court decisions defining "brandishing," it is appropriate to rely upon dictionary definitions.....the term brandishing is defined as:

1. To wave or flourish menacingly, as a weapon.
2. To display ostentatiously. "A menacing or defiant wave or flourish."

This definition comports with the meaning ascribed to this term by courts of other jurisdictions...the court recognized that in federal sentencing guidelines, "brandishing" a weapon is defined to mean "that the weapon was pointed or waved about, or displayed in a threatening manner." Applying these definitions to your question, it is clear that a reserve police officer, regardless whether he or she qualifies as a "peace officer," when carrying a handgun in a holster in plain view, is not waving or displaying the firearm in a threatening manner. Thus, such conduct does not constitute brandishing a firearm in violation of section 234e of the Michigan Penal Code. It is my opinion, therefore, that...by carrying a handgun in a holster that is in plain view, does not violate section 234e of the Michigan Penal Code, which prohibits brandishing a firearm in public. A person openly carrying a firearm on foot in a legal manner when approached by a police officer and questioned where the only reason for the questioning is because of the openly carried firearm need not give that officer their name and address. No license or ID is required to openly carry a firearm.

It is your option to provide ID/CPL.

ADVISORY NOTE: *Each situation is different. We recommend you cooperate with all lawful questions and requests. Ask the officer if the reason you are being detained is for the legal open carry of a firearm. After giving your name and address, ask if you are free to go, ask if you are being detained. If they continue to ask questions about ID and why you are carrying a gun, repeat the question, am I free to go? Am I being detained? If the situation escalates ask for a supervisor. Remember the officer can arrest you for anything, don't resist the arrest. After an illegal arrest you may have legal options you can employ.*

An AG opinion, the **MSP** and Senator **Prusi** stated that a person with a CPL can carry a firearm openly in the exempted areas listed in **MCL** 750.234d. For example, with permission from the owner you can openly carry a handgun in a bar, sports arena, etc.

Opinion No. 7097 January 11, 2002... *A person licensed by this state... to carry a concealed weapon....*By its express terms, section 234d prohibits certain persons from carrying a firearm in the enumerated places but explicitly exempts from its prohibition "[a] person licensed by this state or another state to carry a concealed weapon." Thus, any person licensed to carry a concealed pistol, including a private investigator, is exempt from the gun-free zone restrictions imposed by section 234d of the Penal Code and may therefore possess firearms while on the types of premises listed in that statute.

"Your analysis is correct. Non-CPL pistol free zones do not apply to CPL holders. The CPL pistol free zones only apply to CPL holders carrying a concealed pistol. Therefore, a CPL holder may openly carry a pistol in Michigan's pistol free zones."

Sincerely, Sgt. Thomas Deasy, Michigan State Police Executive Resource Section, (517) 336-6441

“...My office has contacted the Michigan State Police legislative liaison and has received some answers to share with you. According to the liaison, it is legal to openly carry a firearm in a "Pistol Free Zone" if you are a licensed CPL holder. I was advised that your information was correct that MCL 28.425o and MCL 750-234d permit this activity. I was informed that there was no other additional relevant laws regarding this matter...”
Michael A Prusi, State Senator 38th District"

ADVISORY NOTE: *Before carrying a handgun we recommend that you become familiar with all state and federal laws in regards to firearm laws and the use of deadly force. Taking a self defense/firearm course is recommended. Michigan has a self defense act PA No. 309 July 18, 2006 that states you do not have to retreat from a threat, but you must meet the legal requirements before you engage in the use of deadly force.*

DEADLY FORCE IN MICHIGAN

The “CASTLE DOCTRINE” package of bills was signed into law on July 20, 2006. The law became effective on October 1, 2006.

This law removes the duty to retreat from a violent attack. Individuals in Michigan, as in most states, have always had the right to stand their ground and defend themselves with no duty to retreat when attacked inside the four walls of their home. However, if attacked outside the four walls of their home, even if on their own property (such as the backyard, detached garage, or a pole building), individuals in Michigan were required to retreat from a violent attack if able to do so safely. As of October 1, 2006, there is no longer a “duty to retreat” from a violent attack as long as the individual is in a place where they have a legal right to be and as long as they are not engaged in illegal activity.

The “Use of Deadly Force” continuum still applies. The escalating degrees of force still apply to all situations and the “Reasonable Man” standard is still used to evaluate an individual’s actions in a given circumstance. This means that the following three valid reasons to use deadly force still apply to all situations:

- 1) Fear of Death.**
- 2) Fear of Serious Bodily Injury.**
- 3) Fear of Forcible Sexual Penetration.**

In addition to these three reasons for the use of deadly force, the following three conditions must exist in order for the use of deadly force to be justifiable:

1. **Imminent** - One of the three above listed reasons for the use of deadly force must be about to happen; it cannot be something that will happen tomorrow or in a few weeks.
2. **Intent** - The attacker has to have demonstrated some sort of intent. This can be verbal or non-verbal. The display of a weapon, verbal threats, or aggressive advances after being told to stay away are all indications of intent.
3. **Ability** – The attacker has to have the ability to carry through with their intended attack. If someone says they are going to shoot you, but have no firearm, then they do not have the ability to shoot you at that moment.

You still must act reasonably and apply the above principles of the use of deadly force.

Here is what this law does change. This law removes the duty to retreat anywhere that an individual has a legal right to be provided that they are not engaged in illegal activity. If a person acts with reasonable force, up to and including deadly force, then the prosecuting attorney must prove that the person acted unlawfully in order to take the case to trial. This is a change from current procedure where a person who acts in self-defense must prove that they acted lawfully after being charged and possibly taken to court. In addition, if a person cannot be charged and convicted criminally, the new law provides that they cannot be prosecuted civilly. If for some reason a civil case is allowed to proceed, the person who used justifiable self-defense shall be awarded court and attorney’s fees.

This all means that you must still act in a reasonable manner. Your firearm should still be your “tool of last resort” for self-defense. The emotional trauma and aftermath of shooting another human being will be absolutely devastating. It should be avoided if at all possible. This law mitigates the aftermath so that a decision made under the duress of defending oneself against a criminal does not destroy your life criminally or financially.

You are encouraged to read these laws for yourself and evaluate them. For professional legal advice, you should consult a lawyer familiar with firearms law and the use of deadly force in Michigan.

The new laws are 2006 PA 309 and 2006 PA 313.

Above modified From: <http://www.southsidesportsmanclub.com/stand-your-ground.html>

SELF-DEFENSE ACT (EXCERPT)

Act 309 of 2006

780.972 Use of deadly force by individual not engaged in commission of crime; conditions.

Sec. 2.

(1) An individual who has not or is not engaged in the commission of a crime at the time he or she uses deadly force may use deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if either of the following applies:

(a) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent death of or imminent great bodily harm to himself or herself or to another individual.

(b) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent sexual assault of himself or herself or of another individual.

(2) An individual who has not or is not engaged in the commission of a crime at the time he or she uses force other than deadly force may use force other than deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if he or she honestly and reasonably believes that the use of that force is necessary to defend himself or herself or another individual from the imminent unlawful use of force by another individual. 2006, Act 309, Eff. Oct. 1, 2006.

WHAT WE SEND TO LEO DEPARTMENTS:

Dear Chief or Sheriff:

Attached is information on the legality of the open carry of a handgun in Michigan. The open carry of a handgun has increased in Michigan in the last year as more and more citizens are becoming aware of its legality. It is our hope that this information is helpful to you and that you will take the time to review the information and inform your officers on the legality of the open carry of a handgun in Michigan. We also hope that you work with your 911 dispatchers in regards to asking some simple question when they receive a call of a "person with a gun". If you have questions please talk with your prosecuting attorney or you can contact me via email or phone for more information. We thank you for your time and consideration in this regard and appreciate the difficult job you all do.

Sincerely, XXXXX

PURPOSE: To provide guidance in calls for services that involves a person who is openly carrying a pistol in a holster.

As you may know any law abiding citizen of the State of Michigan who can legally possess a firearm may openly carry (in a holster) said firearm in all places not explicitly exempt by law without a CPL (1). Those that do not have a CPL when transporting their firearms must do so as prescribe by law. No local ordinance concerning firearm possession is enforceable due to Michigan's preemption law (2). Brandishing and disturbing the peace are not an offense while lawfully openly carrying a firearm (3). Attorney General Opinion 7101, 2/02 states...by carrying a handgun in a holster that is in plain view, does not violate section 234e of the Michigan Penal Code, which prohibits brandishing a firearm in public." In regards to disorderly conduct due to the nature of this code, this law has been cited by officers to suppress or discourage lawful open carry. Since a person who is not licensed to carry concealed **MUST** open carry their firearms on foot in order to avoid criminal charge, nor is there any duty for anyone licensed to conceal their handgun, open carry is not disorderly conduct. The open carrying of firearms is not by itself threatening, nor does it cause a hazardous or physically offensive condition. A person openly carrying a firearm on foot in a legal manner when approached by a police officer and questioned where the only reason for the questioning is because of the openly carried firearm need not give that officer their name and address. No license or ID is required to openly carry a firearm.

Officers should not editorialize against open carry by private citizens in any way shape or form, or in any way suggest that a person should conceal their firearm. Suggestions and editorializing against lawful open carry may be interpreted as “commands” by civilians who are lawfully open carrying and may subject officers to complaints filed against them, as well as possible legal action against themselves and the department. Recently it has been opined by the AG opinion, the **MSP** and Senator **Prusi** that persons with a CPL can carry a firearm openly in the exempted areas listed in **MCL** 750.234d. (4).

It is suggested that Law enforcement supervisors inform their staff in regards to the legality of openly carrying a handgun in Michigan. It is also suggested that an officer protocol be developed in dealing with such a call. It also would be beneficial to inform your dispatchers and your county 911 department in developing a protocol on receiving a “man with a gun” call. An example of some questions to ask a person calling 911 about a person openly carrying is included.

It is our hope that by informing you and all law enforcement personnel throughout the state about the legality of open carry that we can avoid any civil or criminal actions that might otherwise occur. If you have questions or concerns please contact your prosecuting attorney. We thank you for your time and consideration in this regard, and as law abiding citizens we appreciate the demanding and dangerous work you all do.

Footnotes:

1) Sec. 234d (1) Except as otherwise 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 of a depository financial institution.
- b) A church or other house of religious worship.
- c) A court.
- d) A theatre.
- e) A sports arena.
- f) A day care center.
- g) A hospital.
- h) An establishment licensed under the Michigan liquor control act.

(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.
- c) A person licensed by this state or another state to carry a concealed weapon.
- d) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is with the permission of the owner or an agent of the owner of that entity.

(2) MSP Legal Update Newsletters: April 2007 and June 2008

http://www.michigan.gov/documents/msp/MSP_Legal_Update_No._66_238184_7.pdf

Did You Know: It is not illegal under Michigan law to openly carry a pistol.

Preemption: In **MCRGO v. Ferndale**, the Michigan Court of Appeals held that local units of government may not impose restrictions upon firearms possession. Therefore, officers should check with their prosecutors before enforcing an ordinance that imposes a general ban on openly carrying a pistol.

THE MICHIGAN APPEAL COURT CONCLUDED:

April 29, 20006 v No. 242237

In sum, we conclude that § 1102 is a statute that specifically imposes a prohibition on local units of government from enacting and enforcing any ordinances or regulations pertaining to the transportation and possession of firearms, and thus preempts any ordinance or regulation of a local unit of government concerning these areas.

Further, we conclude that the specific language of the 2000 amendments to MCL 28.421 *et seq.*, particularly §§ 5c and 5o, which were adopted more than a decade after the enactment of § 1102, do not repeal § 1102 or otherwise reopen this area to local regulation of the carrying of firearms.¹⁷ Accordingly, we hold that the Ferndale ordinance is preempted by state law and, consequently, we reverse.

In 1990, the Michigan legislature enacted MCL 123.1102 which provides, in pertinent part: 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.

(3) Act 328 of 1931

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

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.

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

Opinion No. 7101 February 6, 2002 In part:

... Section 234e of the Michigan Penal Code does not define the crime of brandishing a firearm in public. The Michigan Criminal Jury Instructions, published by the Committee on Standard Criminal Jury Instructions, does not include a recommended jury instruction on brandishing a firearm. Research discloses that while the term "brandishing" appears in reported Michigan cases,² none of the cases define the term.

In the absence of any reported Michigan appellate court decisions defining "brandishing," it is appropriate to rely upon dictionary definitions. *People v Denio*, 454 Mich 691, 699; 564 NW2d 13 (1997). According to *The American Heritage Dictionary, Second College Edition* (1982), at p 204, the term brandishing is defined as: "1. To wave or flourish menacingly, as a weapon. 2. To display ostentatiously. —n. A menacing or defiant wave or flourish." This definition comports with the meaning ascribed to this term by courts of other jurisdictions. For example, in *United States v Moerman*, 233 F3d 379, 380 (CA 6, 2000), the court recognized that in federal sentencing guidelines, "brandishing" a weapon is defined to mean "that the weapon was pointed or waved about, or displayed in a threatening manner."

Applying these definitions to your question, it is clear that a reserve police officer, regardless whether he or she qualifies as a "peace officer," when carrying a handgun in a holster in plain view, is not waving or displaying the firearm in a threatening manner. Thus, such conduct does not constitute brandishing a firearm in violation of section 234e of the Michigan Penal Code.

It is my opinion, therefore, ...by carrying a handgun in a holster that is in plain view, does not violate section 234e of the Michigan Penal Code, which prohibits brandishing a firearm in public.

JENNIFER M. GRANHOLM, Attorney General

(4)Three opinions on this topic. An AG's opinion, the Michigan State Police, and a State Senator's.

AG opinion No. 7097 FIREARMS LAWS OF MICHIGAN January 11, 2002: This conclusion is not affected by the provisions of section 234d of the Michigan Penal Code, 1931 PA 328, MCL 750.1 *et seq.* That statute prohibits certain persons from possessing firearms on certain types of premises as follows: Sec. 234d (1) Except as otherwise 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 of a depository financial institution.
- b) A church or other house of religious worship.
- c) A court.
- d) A theatre.
- e) A sports arena.
- f) A day care center.
- g) A hospital.
- h) An establishment licensed under the Michigan liquor control act.

(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.

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

d) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is with the permission of the owner or an agent of the owner of that entity. [*Emphasis added.*]

By its express terms, section 234d prohibits certain persons from carrying a firearm in the enumerated places but explicitly exempts from its prohibition “[a] person licensed by this state or another state to carry a concealed weapon.” Thus, any person licensed to carry a concealed pistol,... is exempt from the gun-free zone restrictions imposed by section 234d of the Penal Code and may therefore possess firearms while on the types of premises listed in that statute.

MSP opinion: Your analysis is correct. Non-CPL pistol free zones do not apply to CPL holders. The CPL pistol free zones only apply to CPL holders carrying a concealed pistol. Therefore, a CPL holder may openly carry a pistol in Michigan's pistol free zones. Sincerely, Sgt. Thomas **Deasy**, Michigan State Police Executive Resource Section, 714 S. Harrison Rd. East Lansing, MI 48823 (517) 336-6441

Senator **Prusi**'s opinion: My office received your inquiry regarding the legality of a licensed CPL holder to open carry a firearm in "Pistol Free Zones." On Friday we received a copy of your correspondence, as Senator Carl Levin's Office referred your letter to my office because your concerns mainly pertain to state issues. As such, I am happy to assist you in this matter.

My office has contacted the Michigan State Police legislative liaison and has received some answers to share with you. According to the liaison, it is legal to openly carry a firearm in a "Pistol Free Zone" if you are licensed a CPL holder. I was advised that your information was correct that **MCL** 28.425o and **MCL** 750-234d permit this activity. I was informed that there was no other additional relevant laws regarding this matter....Michael A **Prusi**, State Senator 38th District"

PREEMPTION LAW in part: In 1990, the Michigan legislature enacted **MCL 123.1102** which provides, in pertinent part: 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.

CAMPUS CARRY:

The preemption law to which you're referring can be found in **MCL 123.1102**. That statute generally prohibits a local unit of government from regulating firearms. However, colleges and universities are not local units of government for the purposes of that statute; **MCL 123.1101** defines "Local unit of government" as "a city, village, township, or county." Further, various statutes in Chapter 390 of the Michigan Compiled Laws grant state colleges and universities broad authority to enact ordinances (e.g., **MCL 390.5** grants that power to the University of Michigan). Therefore, it appears that a university can enact and enforce an ordinance prohibiting a CPL holder from carrying a pistol on campus beyond classrooms and dormitories.

(see **MCL 28.425o** - the pistol free zone statute for CPL holders).

There are a number of non-statutory preemption theories used by the courts. It is possible that a court or the Attorney General may hold that state law does preempt a university ordinance. However, at this time we're not aware of an opinion holding that way.

Finally, it's worth noting that there's a difference between an ordinance and a policy. A university policy does not carry the force of law, and likely only applies to students, faculty, and employees. If you are a university employee, you are bound by the policy (**MCL 28.425n** allows employers to prohibit employee CPL holders from carrying at work).

Sincerely, Sgt. Thomas Deasy, Michigan State Police Executive Resource Section, 714 S. Harrison Rd.
East Lansing, MI 48823 (517) 336-6441

Attorney General summary of Michigan FOIA act.

http://www.michigan.gov/ag/0,1607,7-164-17337_18160-51242--,00.html

FOIA letter generator for Michigan along with some information.

<http://www.rcfp.org/foialetter/index.php>

This is a form letter that you can use as a guide.

<http://prfamerica.org/images/pdfs/FOIL-Sample-Letter.pdf>

Terry Stop

A "Terry Stop" is what it's called when an officer detains you.

It's so named from the court decision of Terry v. Ohio. http://en.wikipedia.org/wiki/Terry_v._Ohio

There are different levels of interaction/investigation with police.

First is **voluntary interview**. This is when an officer may approach you to ask you questions, but you are free to leave at any time. These are probably most common. These can last as long as either party is willing. (added): These encounters may be completely benign in nature, but it's also quite possible that the officer is using this interview to gain evidence to justify either reasonable suspicion (RS) to detain (Terry Stop) you, or arrest you.

Second is when you are being **detained**. This is typically called the Terry Stop. For this to take place, the officer needs to be able to articulate reasonable suspicion that a crime either has been committed, is in progress, or is about to be committed. During the Terry Stop, the suspect is not free to leave, and is under investigation. These may last up to about 20 minutes, but any longer is not viewed favorably by the courts. The officer should either make an arrest, or release the suspect. (added): It is usually a good idea to not give the officer any information during a Terry Stop, as it is you whom the officer is investigating. Talking could give him more information that could incriminate you in ways that you have no knowledge of. You can't incriminate yourself if your mouth is shut. Keep in mind that there may be exceptions to silent rule, but you need to determine when it's best.

The next (third) step in officer interaction/investigation is **arrest**. This takes place when the officer has evidence (not suspicion) that you have committed a crime. (added): I'd imagine that most defense lawyers would advise that you remain silent at least by this point.

Wash, Rinse, Repeat:

People who OC should strive for a short list of simple things:

1. Have a digital voice recorder with download capability, and record the whole encounter. Wal-Mart has one for about \$35. Get a microphone for it for better recording quality.
2. Time the entire encounter from start to finish. (That means the second the officer approaches you. These encounters should last no more than 20 minutes. If your driving it means as soon as you see flashing lights, you start recording.)
3. Ask the following questions, and stay on those points specifically, and explicitly. Don't waiver from them:

“Under suspicion of what crime am I being detained?” (By wording it this way, you put the conversation on establishing the officer's lawful reason for stopping you. If the officer wants to stated that the crime is “being a person of interest”, then even better since it will make future action on your part all the more easier, providing you stick to the program. No need to argue that it isn't a crime).

“What is your reasonable suspicion?” (if the officer states to the effect that it's the gun on your hip, then you might also ask if that is the sole basis of his RS, or if there is anything else to constitute RS. the reason for this is because a gun "in and of itself" is not RS to a Terry Stop).

“Am I free to go?”

Wash, rinse, repeat.

Be polite, professional, and don't argue or give him an attitude.

This should be all you say to an adversarial officer. Having a recording of the officer's responses is helpful in that it gives you evidence backing up your side of the story (FIOA isn't as important if you have the officer stating his RS on record, but may still be a good idea).

FOR MORE INFO SEE www.miopencarry.org

***The information contained above is not meant to be legal advice, but is solely intended as a starting point for further research on the subject of open carry in Michigan. You are responsible in determining the accuracy of any information listed above. If you have further questions it is advisable to seek out an attorney that is well versed in firearm law.**

Brochure Handouts

<http://www.michiganopencarry.org/node/12>

FAQ for CPL Holders

Are there any places where I may not carry a concealed pistol? [MCL 28.425o](#)

Anyone licensed to carry a concealed pistol from Michigan or another state shall not carry a concealed pistol in any of the pistol free zones. For a complete list, please see: [Pistol Free Areas](#). Under Federal law, firearms are also restricted in federal facilities. A federal facility means "a building or part thereof owned or leased by the federal government, where federal employees are regularly present for the purpose of performing their official duties." This includes facilities such as post offices and federal courts.

When may a concealed pistol be seized? [MCL 28.425g](#).

A pistol carried in violation of this act is subject to seizure and forfeiture in the same manner that property is subject to seizure and forfeiture under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL [600.4701](#) to [600.4709](#). This section does not apply if the violation is a state civil infraction under section 5f unless the individual fails to present his or her license within the 45-day period described in that section.

Does my valid Concealed Pistol License allow me to carry a concealed pistol in a state park?

Yes. [MCL 324.504](#) states that the DNR cannot promulgate or enforce a rule that prohibits a ccw holder from carrying on property under the control of the DNR.

Concealed Weapons (Non-CPL Holders)

1. If I do not have a CCW permit, may I transport my pistol in a motor vehicle?

[MCL 750.231a](#) A person is now permitted to transport a pistol for a lawful purpose if the owner or occupant of the vehicle is the registered owner of the firearm and the pistol is unloaded and in a closed case in the trunk of the vehicle. If the vehicle does not have a trunk, the pistol may be in the passenger compartment of the vehicle unloaded and inaccessible to the occupants of the vehicle.

A 'lawful purpose' includes:

- While en route to or from a hunting or target shooting area.
- While transporting a pistol to or from home or place of business and a place of repair.
- While moving goods from one place of residence or business to another place of residence or business.
- While transporting a licensed pistol to or from a law enforcement agency for the purpose of having a safety inspection performed (registering the pistol) or to have a law enforcement official take possession of the pistol.
- While en route to or from home or place of business to a gun show or place of purchase or sale.
- While en route to or from home to a public shooting facility or land where the discharge of firearms is permitted.
- While en route to or from home to private property where the pistol is to be used as permitted by law, rule, regulation, or local ordinance.

2. I work as a security guard. Does my profession entitle me to carry a concealed pistol without a license in Michigan as required by my employer?

[MCL 750.227](#) 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 a pistol concealed, you must obtain a concealed pistol license through the county gun board.

28.425n(2)b This does not prohibit an employer from prohibiting the carrying of the concealed pistol by an employee while in the course of his or her employment with that employer.

3. Do I need a concealed pistol permit to carry my pistols while walking through the woods near my cabin in Michigan? If not, are there any restrictions on how or where the gun is carried?

[MCL 750.227](#) allows you to carry a pistol concealed or not if you are in your own home or on your own property. If you do not own the land, 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 or get into a vehicle, the pistol would be concealed, and the carrier would place himself in jeopardy unless he possessed a concealed pistol permit. Per Attorney General's opinion #3158 dated February 14, 1945, 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, while in possession of a firearm.

Pistol Registration, Purchase, and Transfer for Michigan Residents

1. Are there any fees for the following Michigan forms?

License to Purchase: [MCL 28.423](#) was repealed by PA 381 of 2000 eliminating the \$5 processing fee for obtaining a License to Purchase. However, you may be charged a fee to notarize the application for a License to Purchase. [MCL 28.422](#) A local police or sheriff may charge up to \$1.00 for the cost of providing, to the owner, a copy of information that was entered in the pistol entry database.

Pistol Sales Record: [MCL 28.422a](#) A local police or sheriff may charge up to \$1.00 for the cost of providing, to the owner, a copy of information that was entered in the pistol entry database.

License to Carry a Concealed Pistol: [MCL 28.425b\(5\)](#) The application fee is \$105 payable to the county clerk at the time the application is filed. Fingerprinting at the county sheriff's office is included in this cost. If you choose to be fingerprinted by a local police agency, that agency may charge an additional fee up to \$15 for fingerprinting costs.

2. I have a replica of an antique pistol. Is a License to Purchase or Pistol Sales Record required in Michigan? Is it necessary that I obtain a Michigan Concealed Pistols License?

[MCL 28.422](#) No, antique pistols made before 1898 and replicas of antiques that use black powder, matchlock, flintlock, percussion cap or similar type of ignition system do not require a License to Purchase. The pistol is still subject to all concealed pistol licensing laws.

3. How old do I have to be in order to legally own a pistol in Michigan?

[MCL 28.422](#) Eighteen (18) years of age. However, Federal law prohibits a federally licensed firearms dealer from selling a pistol to anyone under the age of twenty-one (21).

4. I lost my Michigan pistol registration (Safety Inspection Certificate). How do I go about getting another one?

The Safety Inspection requirement in the law, previously [MCL 28.429](#) has been repealed. As long as the gun was previously registered in your name and is on file with the Michigan State Police, you are not required to complete any additional paperwork. It is not a requirement that you carry your Safety Inspection Certificate or License to Purchase on you when carrying, using or transporting the gun, once 30 days from the date of purchase has expired. There are no Safety Inspection Certificate forms available to issue you a new one. You may contact your local law enforcement agency and request a copy of the information entered in the pistol entry database relative to your registration/license. They may charge up to \$1.00. Or, you may make a request through the Michigan State Police, Freedom of Information Unit, 106 West Allegan, Lansing, MI 48933 for a copy of your registration.

5. In Michigan, what is a License to Purchase and is one needed in every case where a pistol is acquired?

[MCL 28.422](#) A License to Purchase is a license required prior to acquisition of a pistol by purchase or gift. 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 for anyone with a valid Michigan Concealed Pistol License, for firearms dealers purchasing from wholesalers, or for relics, curios, antiques, etc., not made for modern ammunition. Someone with a valid Michigan Concealed Pistol License must, however, complete a Pistol Sales Record when purchasing or acquiring a pistol.

6. What are the steps necessary to purchase and legally possess a pistol in Michigan without a concealed pistol license?

[MCL 28.422](#) The prospective purchaser must successfully pass (70% or more) a basic pistol safety questionnaire and obtain a License to Purchase, which is valid for 10 days, from the local law enforcement agency. The purchaser must sign a notarized sworn statement that they meet the Michigan qualifications to purchase/obtain a pistol. At the time of the

purchase, the purchaser and the seller complete the form. The License to Purchase, must be returned in person or by certified or first class mail to the local law enforcement agency within 10 days.

7. I am on leave from military service. Does this exempt me from having to register the pistols I brought with me to Michigan?

[MCL 28.422](#) 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.

8. My uncle had a .357 magnum revolver registered in his name when he died. 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 in Michigan, since my uncle obviously cannot sign it over to me?

[MCL 28.422](#) Michigan statutes provide for the personal representative of the estate or next of kin having authority to dispose of the pistol to sign the License to Purchase as the seller.

9. I am giving my registered pistols to my son who lives in another state. How do I get the pistols out of my name?

There are no provisions in the statute; however, send a letter to the Michigan State Police, Firearms Records Unit, 106 West Allegan, Lansing, Michigan 48933, 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 Unit to update their records. Your son must comply with the weapons laws of his own state. There are federal restrictions regarding transfer of ownership across state lines.

10. I have just moved to Michigan from another state. How much time do I have to register my pistols?

[MCL 28.422](#) Upon establishing legal residency, you should immediately contact your local law enforcement agency, pass the basic safety questionnaire, and complete a License to Purchase.

11. Does a person have to be a United States citizen in order to purchase a pistol?

Although [MCL 28.422](#) states a person must be a citizen of the United States to purchase a pistol, the Michigan Court of Appeals ruled this as unconstitutional. Per Federal law, you must be a legal resident alien, having resided in this state for 90 days.

12. I found a pistol in an old house that I was fixing up. Can I get it registered in my name?

You should take it to your local police agency and they can check on the history of the pistol. They will, of course, check to make sure it is not stolen, and also for any previous registered owner. If the pistol was not previously registered, it is considered contraband, and cannot be registered to you. If there was a previous registered owner, attempts should be made to contact that person. If contact is made, the pistol will either be turned over to them, or they will sign off as seller on a License to Purchase issued to you. If attempts at making contact are futile, you can get a License to Purchase and the pistol can be released to you.

13. I inherited a pistol from my uncle. Do I just take it in to my local police agency to get a License to Purchase?

[MCL 28.422](#) Unless you have a valid Concealed Pistol License issued after July 1, 2001, you must obtain a License to Purchase first. When the owner of a pistol is deceased, the statutes provide that the next of kin or personal representative of the estate has the authority to sign as seller. If you are the next of kin or personal representative, you may sign as seller indicating "Estate of ..." and also as purchaser

Firearms Rights - Persons convicted of crimes or subject to a PPO

1. I was arrested for making threats with a gun 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?

[MCL 28.434](#) and [MCL 750.239](#) The statute requires weapons carried, possessed or used contrary to the Concealed Weapons Act and the Firearms Section of the penal code 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.

2. Is it possible to have my felony record from 20 years ago cleared so I can purchase a firearm?

[MCL 780.621](#) Allows a person to apply to have their felony conviction set-aside if it is their only conviction. If/when the set-aside is granted, you would be eligible to purchase or possess a firearm.

[MCL 750.224f](#) If the felony conviction was "non-specified", you would be eligible to possess a firearm eight years after the date of conviction or confinement and 3 years after release from probation or parole, whichever is the later date, if that date is before July 1, 2001. If the date is after July 1, 2001, only a set-aside, expungement, or pardon would allow you to possess a firearm.

If the felony conviction was "specified", you must either have been granted a restoration of your firearms rights by your local county gun board prior to July 1, 2001, or have a set-aside, expungement or pardon. A "specified" felony is one in which 1 or more of following circumstances exist: 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. An element of that felony is the unlawful manufacture, possession, importation, exportation, distribution, or dispensing of a controlled substance. An element of that felony is the unlawful possession or distribution of a firearm. An element of that felony is the unlawful use of an explosive. The felony is burglary of an occupied dwelling, or breaking and entering an occupied dwelling, or arson.

3. There has been a personal protection order issued against me. Does that prohibit me from buying any firearm? Does it affect the guns that I already own?

[MCL 28.422](#) prohibits you from obtaining a License to Purchase a pistol if you have received notice of the Order and had an opportunity for a hearing. If the judge included in the order that you are prohibited from owning or possessing firearms, then it would affect the firearms you already own.

Other Weapons (Non-Pistols)

1. In Michigan, can I carry a self-defense spray in my car or on my person for protection?

[MCL 750.224d](#) Yes, but only if it is either:

- Not more than 35 grams of any combination of orthochlorobenzalmalononitrile and inert ingredients (CS gas); or
- A solution containing not more than 2% oleoresin capsicum (pepper spray) and is used in the protection of your person or property which would justify the use of physical force. It cannot be sold to a minor.

2. In Michigan, can I carry tear gas or mace ("CN gas") in my car or on my person for protection?

[MCL 750.224d](#) No, under the statute and according to an Attorney General's opinion, a private citizen cannot possess tear gas or mace.

3. Do rifles or shotguns with collapsible/folding stocks have to be registered in Michigan?

[MCL 750.222](#) 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. Attorney General's opinion #6280: 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. [MCL 750.224d](#) 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.

4. I recently purchased a double-edged survival knife. Does Michigan law allow me to carry this in my vehicle?

[MCL 750.227](#) No. A dagger, dirk, stiletto, or double-edged non-folding stabbing instrument of any length, or any other dangerous weapon, except a hunting knife adapted and carried as such, cannot be carried concealed on or about a person, or whether concealed or otherwise in any vehicle operated or occupied by the person, except in their own home, place of business or on other land possessed by the person.

5. Is it illegal to have a knife with a blade over 3 inches in my possession?

[MCL 750.226](#) No. Michigan law specifies that a person, *with intent to use the knife unlawfully against another*, shall not go armed with a knife having a blade over 3 inches in length.

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

Under [MCL 750.222](#) and Attorney General's Opinion #6820, the answer is 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's opinion.

7. Is a paint ball pistol required to be registered in Michigan?

Upon initial review, it has not been found that a paint ball pistol falls under the definition of a dangerous weapon or firearm. Therefore, is not required at this time to be registered.

8. Is a flare gun used as a signaling device on a watercraft required to be registered in Michigan?

[MCL 28.432b](#) No.

9. Do pellet pistols have to be registered?

[MCL 28.421](#) Although, there is an occasional misconception that pellet pistols only require registration if they are over .177 caliber, that caliber designation only applies to guns made exclusively for propelling BB's. A pellet pistol, does fall under the definition of a firearm, and is subject to all License to Purchase, Safety Inspection Certificate and Concealed Pistol License requirements.

10. Is there anything that prohibits possession of Ninja-type sticks, brass knuckles or billy clubs?

[MCL 750.224](#) prohibits the manufacture, sale, offering for sale or possession of a blackjack, billy, metallic knuckles, sand club, sand bag or bludgeon. It does not specifically list Ninja-type sticks. However, they could be considered a dangerous weapon, depending on the use.

Firearms Related Questions

1. Is it legal to carry a visible pistol in public?

Although [MCL 750.227](#) restricts carrying a pistol concealed on your person or in a vehicle, there is no statute that specifically prohibits carrying a visible pistol. [MCL 750.234d](#) states that you cannot possess any firearm in a depository financial institution, a church or other house of religious worship, court, theatre, sports arena, day care center, hospital or an establishment licensed under the Michigan liquor control act, unless that possession is with the permission of the owner or his/her agent of the entity.

2. Can a resident of another state legally possess a pistol in Michigan?

If you are a non-resident of Michigan with a valid concealed pistol permit from your home state, Michigan will recognize your permit ([MCL 28.432](#) & [MCL 28.432a](#)). However, you must carry in conformance with any and all restrictions appearing on the permit. You are subject to Michigan's concealed pistol law including but not limited to restrictions on where a concealed pistol may be carried. Without a CPL, a non-resident may not have a pistol in Michigan.

3. Is an individual required to carry a copy of their Safety Inspection Certificate with them at all times?

Michigan law does not require a person to have a copy of their certificate with their pistol after it has been registered; nor does the law require that a person keep a copy.

4. How should long-guns be legally transported?

[MCL 750.227d](#) describes that any firearm other than a pistol can only be transported in a motor vehicle if it is unloaded and is one or more of the following: taken down, enclosed in a case, carried in the trunk of the vehicle, or inaccessible from the interior of the vehicle. A violation of this section is a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than \$100 or both.