



# MICHIGAN STATE POLICE LEGAL UPDATE

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This update is published by the Michigan State Police Training and Standards Division. Questions and comments may be directed to [MSPLegal@michigan.gov](mailto:MSPLegal@michigan.gov). Past editions can be found at [www.michigan.gov/msp-legal](http://www.michigan.gov/msp-legal).

## FIREARMS LAW

As more and more police officers are encountering citizens who are openly carrying firearms in Michigan, the Michigan State Police published this special edition of the Update to assist officers in familiarizing themselves with Michigan laws regarding both open and concealed carrying of firearms.

### Open carry of firearms

In Michigan, it is legal for a person to carry a firearm in public as long as the person is carrying the firearm with lawful intent and the firearm is not concealed. You will not find a law that states that it legal to openly carry a firearm. It is legal because there is no Michigan law that prohibits it; however, Michigan law limits the premises on which a person may carry a firearm.

[MCL 750.234d](#) provides that it is a 90 day misdemeanor to possess a firearm on the premises of any of the following:

- A depository financial institution (e.g., bank or credit union)
- A church or other place of religious worship
- A court
- A theater
- A sports arena
- A day care center
- A hospital
- An establishment licensed under the Liquor Control Code

The above section does not apply to any of the following:

- The owner or a person hired as security (if the firearm is possessed for the purpose of providing security)
- A peace officer
- A person with a valid concealed pistol license (CPL) issued by any state
- A person who possesses on one of the above listed premises with the permission of the owner or owner's agent

Officers must be aware of the above exemption for valid CPL holders as many of the citizens who openly carry firearms possess valid CPLs. An individual with a valid CPL may carry a visible firearm in the above listed premises.

A CPL holder is not required by law to carry a pistol concealed. A CPL holder may carry a pistol concealed or visible.

A private property owner has the right to prohibit individuals from carrying a visible or concealed pistol on his or her property. If a person remains on the property after being told to leave by the owner, the person may be charged with trespassing ([MCL 750.552](#)).

[MCL 750.226](#) states it is a felony for a person to carry a dangerous weapon, including a firearm, with the intent to use the weapon unlawfully against another person.

Possession of firearms in public by a minor is addressed in [MCL 750.234f](#).

### Brandishing firearms

[MCL 750.234e](#) provides that it is a 90 day misdemeanor for a person to knowingly brandish a firearm in public. Brandishing is not defined in Michigan law and there are no reported Michigan cases that define the term. [Attorney General Opinion No. 7101](#) provides guidance and states, "A person 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...."

### Transporting firearms

Michigan law details how firearms may be transported in a vehicle. [MCL 750.227c](#) and [MCL 750.227d](#) discuss the transportation of firearms, other than pistols, in vehicles.

[MCL 750.227\(2\)](#) makes it a felony for a person to transport a pistol anywhere in a vehicle unless the person is licensed to carry a concealed pistol. Exceptions to the above statute are found in [MCL 750.231a](#).

One such exception allows for transportation of pistols in a vehicle for a “lawful purpose.” A lawful purpose includes going to or from any one of the following:

- A hunting or target area
- A place of repair
- Moving goods from a home or business to another home or business
- A law enforcement agency (for a safety inspection or to turn the pistol over to the agency)
- A gun show or place of sale or purchase
- A public shooting facility
- Public land where shooting is legal
- Private property where a pistol may be lawfully used

[MCL 750.231a](#) also provides that a pistol transported for a “lawful purpose” by a person not licensed to carry a concealed pistol must be all of the following:

- Unloaded
- In a closed case designed for firearms
- In the trunk (or if the vehicle has no trunk, it must not be readily accessible to the occupants)

There is no way to “open carry” a pistol in a vehicle. An individual, without a CPL or otherwise exempted (e.g., a police officer), who transports a pistol in a vehicle to an area where he or she intended to “open carry” may be in violation of [MCL 750.227](#).

### **Carrying concealed weapons**

[MCL 750.227](#) also makes it a felony for a person to carry a concealed pistol on or about his or her person. Complete invisibility is not required. The carrying of a pistol in a holster or belt outside the clothing is not carrying a concealed weapon. Carrying a pistol under a coat is carrying a concealed weapon. Op. Atty. Gen. 1945, O-3158. According to the Court of Appeals in *People v. Reynolds*, a weapon is concealed if it is not observed by those casually observing the suspect as people do in the ordinary course and usual associations of life. 38 Mich App. 159 (1970).

### **Firearms Act**

[MCL 28.422](#) provides that a person shall not purchase, carry, possess, or transport a pistol in Michigan without first having obtained a License to Purchase and registering the pistol. The statute contains exemptions for certain persons and additional exemptions are located in [MCL 28.422a](#) and in [MCL 28.432](#).

A person with a valid Michigan CPL does not have to obtain a License to Purchase; however, they still have to register the pistol after they purchase or otherwise acquire it using a Pistol Sales Record ([MCL 28.422a](#)). Violation is a state civil infraction. Additionally, a person with a valid CPL can carry, possess, use, or transport a properly registered pistol belonging to another ([MCL 28.432](#)).

Pistol buyers are required to have in their possession their copy of the License to Purchase or Pistol Sales Record when carrying, using, possessing, and transporting the pistol for 30 days after they acquire the pistol. These records are commonly referred to as Registration Certificates or Green Cards. Officers are reminded that after 30 days, there is no requirement to have either record in their possession or to keep either record.

[MCL 28.425o](#) provides that a person with a valid CPL shall not carry a concealed pistol in a pistol-free zone. First offense is a state civil infraction. The following is a list of the premises (excluding parking lots) included in the statute:

- School or school property, except a parent or legal guardian who is dropping off or picking up a child and the pistol is kept in the vehicle
- Public or private day care center
- Sports arena or stadium
- A bar or tavern where sale and consumption of liquor by the glass is the primary source of income (does not apply to owner or employee of the business).
- Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless authorized by the presiding official
- An entertainment facility that has a seating capacity of 2,500 or more
- A hospital

- A dormitory or classroom of a community college, college, or university
- A casino

Note, the above statute applies to CPL holders carrying a **concealed** pistol. If the CPL holder is carrying a visible pistol, the statute does not apply. As noted above, the unlawful premises listed in [MCL 750.234d](#) do not apply to persons with a valid CPL. Therefore, a person with a valid CPL may carry a visible pistol in the areas described in [MCL 28.425o](#) and [MCL 750.234d](#).

Additionally, the above listed pistol-free zones for CPL holders do not apply to the following individuals when they are licensed to carry a concealed weapon:

- Retired police officers
- Persons employed or contracted by a listed entity to provide security where carrying a concealed pistol is a term of employment
- Licensed private detectives or investigators
- Sheriff's department corrections officers
- State police motor carrier officers or capital security officers
- Members of a sheriff's posse
- Auxiliary or reserve officers of a police or sheriff's department
- Parole or probation officers of the department of corrections
- Current or retired state court judges

#### **Out of state residents**

Non-residents may legally possess a firearm more than 30 inches in length in Michigan. In order for a non-resident to possess a pistol in Michigan, he or she must either be licensed his or her state of residence to carry a concealed pistol or be licensed by his or her state of residence to purchase, carry, or transport a pistol. The ownership of property in Michigan does not qualify a non-resident to possess a pistol in Michigan.

#### *Non-resident concealed pistol licensees*

[MCL 750.231a](#) makes it legal for a non-resident of Michigan with a valid CPL issued by his or her state of residence to carry a concealed pistol in Michigan as long as the pistol is carried in conformance with any and all restrictions appearing on the license. Individuals with out of state CPLs are subject to Michigan laws that govern Michigan CPL holders. As many states

issue CPLs to out of state residents, officers should verify that the person actually resides in the state that issued the license. If the person does not reside in the state that issued the license, Michigan does not recognize the CPL and the person may not carry a concealed pistol in Michigan.

#### *Possession of pistols by non-residents*

[MCL 28.422](#) exempts residents of other states from Michigan's pistol registration requirements, therefore, allowing them to possess a pistol in Michigan, if all of the following requirements are met:

1. The person is licensed by his or her state of residence to purchase, transport, or carry a pistol,
2. The person is in possession of the license while in Michigan,
3. The person owns the pistol possessed in Michigan,
4. The person possesses the pistol for a lawful purpose as defined in [MCL 750.231a](#), and
5. The person is in Michigan less than 180 days and does not intend to establish residency here.

A non-resident must present the license issued by his or her state of residence to a police officer upon demand. Failure to do so is a 90-day misdemeanor. When transporting a firearm in Michigan, non-residents must transport pistols in compliance with [MCL 750.231a](#) (discussed above in the Transporting Firearms section), unless they have a concealed pistol license issued by their state of residence.

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Officers are reminded that the Fourth Amendment protects citizens from unreasonable searches and seizures. Carrying a visible firearm is generally legal. Officers may engage in a consensual encounter with a person carrying a visible pistol; however, in order to stop a citizen, officers are required to have reasonable suspicion that crime is afoot.

Officers are also reminded there is no general duty for citizens to identify themselves to a police officer unless the citizen is being stopped for a Michigan Vehicle Code violation.

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