



MICHIGAN STATE POLICE LEGAL UPDATE

No. 117
July 1, 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.

CRIMINAL LAW

Amendments to the Firearms chapter of the Michigan Penal Code related to firearms and pneumatic guns

[Public Act 26 of 2015](#) amended various sections of the Firearms chapter of the Michigan Penal Code related to firearms and pneumatic guns.

Definitions

As a result of the amendments, the following terms have the following meaning for purposes of the Firearms chapter of the Michigan Penal Code:

"Brandish" means to point, wave about, or display in a threatening manner with the intent to induce fear in another person. [MCL 750.222\(c\)](#)

"Firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive. Previously, the definition of "firearm" included weapons that propelled a dangerous projectile by gas or air. [MCL 750.222\(e\)](#)

"Pneumatic gun" means any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air. Pneumatic gun includes a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact. [MCL 750.222\(g\)](#)

Pneumatic guns added to weapons-related violations

Carrying a pneumatic gun with unlawful intent

A person shall not, with intent to use the same unlawfully against the person of another, go armed with a pistol or other firearm, or a pneumatic gun, dagger, dirk, razor, stiletto, or knife having a blade over three inches in length, or any other dangerous or deadly weapon or instrument. A person who violates this section is guilty of a five-year felony. [MCL 750.226](#)

Possession of a pneumatic gun in furtherance of a crime ("felony firearm")

A person who carries or possesses a pneumatic gun and uses it in furtherance of committing or attempting to commit a felony, except a violation of [MCL 750.223](#), [750.227](#), [750.227a](#), or [750.230](#), is guilty of a two-year felony with increasing penalties for second or subsequent offenses. [MCL 750.227b\(2\)](#)

Transporting a loaded firearm or pneumatic gun in a vehicle

Except as otherwise permitted by law, a person shall not transport or possess either of the following in or upon a sailboat, motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means:

- A firearm, other than a pistol that is loaded.
- A pneumatic gun that is loaded and expels a metallic BB or metallic pellet greater than .177 caliber.

A person who violates this section is guilty of two-year misdemeanor. [MCL 750.227c](#)

Transporting an unloaded firearm or a pneumatic gun in a vehicle

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 either of the following:

- A firearm, other than a pistol, or
- A pneumatic gun that expels a metallic BB or metallic pellet greater than .177,

unless the firearm or pneumatic gun is one or more of the following:

- Taken down.
- Enclosed in a case.
- Carried in the trunk of a vehicle.
- Inaccessible from the interior of the vehicle.

A person who violates this section is guilty of a 90-day misdemeanor. [MCL 750.227d](#)

Pneumatic guns and "weapon free school zones"

[MCL 750.237a\(6\)\(d\)](#) was amended to provide that the term "weapon" for purpose of the weapon free school zones includes, but is not limited to, a pneumatic gun.

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.

CRIMINAL LAW

Amendments to the Natural Resources and Environmental Protection Act related to firearms and pneumatic guns

[Public Act 24 of 2015](#) amended various section of Part 401 (Wildlife Conservation) and Part 435 (Hunting and Fishing Licensing) of the Natural Resources and Environmental Protection Act (NERPA) related to firearms and pneumatic guns.

Definitions

As a result of the amendments, the following terms have the following meaning for purposes of Part 401 (Wildlife Conservation) and Part 435 (Hunting and Fishing Licensing) of the NERPA:

"Firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive. For purposes of the NERPA, the term "firearm" also includes a pneumatic gun, other than a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact. [MCL 324.40102\(12\)](#) and [MCL 324.43503\(3\)](#)

"Unloaded" means that the firearm does not have ammunition in the barrel, chamber, cylinder, clip, or magazine when the barrel, chamber, cylinder, clip, or magazine is part of or attached to the firearm. [MCL 324.40111\(7\)\(b\)](#)

Transporting or possessing a firearm in a vehicle

Except as otherwise provided, an individual shall not transport or possess a firearm in or upon a vehicle, unless the firearm is unloaded and enclosed in a case, unloaded and carried in the trunk of a vehicle, or unloaded in a motorized boat. A person who violates this section is guilty of 90-day misdemeanor. [MCL 324.40111\(2\)](#) and [MCL 324.40118](#)

Officers should note that, due to the definition of a firearm in the NERPA, this section does not apply to paintball gun. Paintball guns are regulated as pneumatic guns in the Firearms chapter of the Michigan Penal Code.

Hunting within 150 yards of certain buildings

An individual shall not hunt, as that term is defined in [MCL 324.43505](#), within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property. A person who violates this section is guilty of a 90-day misdemeanor. [MCL 324.40111\(6\)](#) and [MCL 324.40118](#)

Officers should note that the language in [MCL 324.40111\(6\)](#) that previously prohibited discharging a firearm within 150 yards of a listed building without written permission was removed from the statute. As a result of the amendments, [MCL 324.40111\(6\)](#) only prohibits hunting within 150 yards of a listed building without written permission.

STATUTES

Amendments to the definition of "firearm" found in the Firearms Act, the Revised Statutes of 1846, and the Death or Injuries from Firearms Act.

[Public Act 25 of 2015](#) amended [MCL 28.421\(b\)](#) of the [Firearms Act](#), to provide that the term "firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive. Previously, the definition of "firearm" included weapons that propelled a dangerous projectile by gas or air.

[Public Act 22 of 2015](#) amended [MCL 8.3t](#) of the [Revised Statutes of 1846](#) to provide that the term "firearm", except as otherwise specifically defined in statute, includes any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

[Public Act 23 of 2015](#) amended [MCL 752.841](#) of the [Death or Injuries from Firearms Act](#) to provide that the term "firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.