

## VI Legal Considerations of Self Defense

*Objectives: Upon completion of this module the student will be able to demonstrate a basic understanding of the laws governing the use of deadly force in self defense.*

### A Deadly Force – Definition

Any force that a reasonable person would believe could cause death or serious injury.

### B Self Defense

- 1 The law recognizes that a person has the right to use force or even take a life in defense of his/her own person under certain circumstances.
- 2 If a person acts in lawful self defense, his/her actions are excused and he/she is not guilty of any crime.
- 3 At the time of the act of self defense the person must honestly and reasonably believe that he/she was in danger of being killed, seriously injured, or forcibly sexually penetrated.
- 4 A person may not kill or seriously injure another person just to protect him/her self against what seems like a threat of only minor injury. The fear must be one involving a threat of death or serious injury. Some factors that may be considered are:
  - a Relative strength
  - b Was the other person armed
  - c Nature of attack or threat
  - d Previous violent acts

## VI C Defense of Others

- 1 The law recognizes the right of a person to use force or even take a life in defense of another person under certain circumstances.
- 2 The standards for the defense of another person are similar to the standards for self defense. Some factors that may be considered are:
  - a Nature of the people involved
  - b Relative strength
  - c Armed with a dangerous weapon
  - d Nature of the attack
  - e Previous violent acts

## D Defense of Property

You may not use deadly force to protect property

## E Civil Liability

Even though a person's self defense actions may not subject the person to criminal prosecution they still may be subject to a civil action.

## VII Avoiding Criminal Attack and Controlling a Confrontation

*Objectives: Upon completion of this module the student will be able to demonstrate a basic understanding of how to avoid and/or control a confrontation.*

### A Avoiding a Confrontation

- 1 Remain alert and be aware of your surrounding
- 2 Avoid dark, poorly lit areas
- 3 Keep vehicle doors locked and windows up
- 4 Be discreet with money
- 5 Avoid using ATM's late at night or in secluded areas
- 6 Contact police or security personnel at the first sign of suspicious activity

VII B Controlling a Confrontation

- 1 The best means of controlling a confrontation is by escaping it
- 2 Create distance between you and the threat
- 3 Attempt to keep obstacles between you and the threat
- 4 Attempt to diffuse the confrontation
- 5 Remain calm
- 6 Avoid escalating the situation

VIII Requirements of the PA 381 of 2000

*Objectives: Upon completion of this module the student will be able to demonstrate a basic understanding of the requirements for and how to obtain a CPL and the laws governing carrying a concealed handgun.*

A Application Requirements and Process for Obtaining a CPL

*This section will consist of a page- by-page review of the Michigan CPL Application kit RI-012 (11/20/15)*

B Pistol Free Zones *(Changes effective 07/01/03)*

- 1 A handgun may not be carried on school property, except by a parent or legal guardian who is dropping off or picking up a child and the handgun is kept in the vehicle.
- 2 A handgun may not be carried in a bar, lounge, or dining room licensed by the Liquor Control Commission, *where the primary source of income is the sale of liquor by the glass*, except by an owner or employee.
- 3 A handgun may not be carried in any dormitory or classroom of a college, no exceptions.
- 4 A handgun may not be carried in an entertainment facility or auditorium where the person knows or should have known has a seating capacity of 2,500 seats or more, no exceptions.

- VIII B 5 A handgun may not be carried in a sports arena or stadium of any size, no exceptions.
- 6 A handgun may not be carried in a hospital, no exceptions.
- 7 A handgun may not be carried in a casino, no exceptions.
- 8 A handgun may not be carried in a public or private child day care center, child caring agency, or child placing agency, no exceptions.
- 9 A handgun may not be carried in a church, synagogue, mosque, temple or other place of worship unless authorized by the presiding official.
- 10 Premises does NOT include the parking area of the above prohibited areas.
- 11 Violations for carrying a handgun in a Pistol Free Zone:
- |   |                         |                    |               |
|---|-------------------------|--------------------|---------------|
| a | 1 <sup>st</sup> Offense | Civil Infraction   | 28.425o(3)(a) |
| b | 2 <sup>nd</sup> Offense | 90 Day Misdemeanor | 28.425o(3)(b) |
| c | 3 <sup>rd</sup> Offense | 4 Year Felony      | 28.425o(3)(b) |

C Carrying a handgun while under the influence of alcohol or drugs

- 1 When accepting a Concealed Pistol License, a person gives implied consent to submit to chemical testing.
- 2 A police officer with probable cause to believe the concealed pistol license holder is under the influence of alcohol or drugs or has any bodily alcohol content may request a test.
- 3 Chemical testing and collection shall be done in the same manner as OWI violations.
- 4 The investigating police officer shall immediately notify the County Clerk that issued the concealed pistol license, via the Prosecutor's Office of that county, of any refusal to submit to a chemical test or if results prove ANY bodily alcohol. The investigating officer shall also seize the handgun.
- |   |                 |                    |               |
|---|-----------------|--------------------|---------------|
| a | BAC of .02-.079 | Civil Infraction   | 28.425k(2)(c) |
| b | BAC of .08-.099 | 93 Day Misdemeanor | 28.425k(2)(b) |
| c | BAC of .10->    | 93 Day Misdemeanor | 28.425k(2)(a) |

- VIII C 5 A person in a vehicle, with a bodily alcohol content (BAC), will NOT be in violation of the statute if the handgun is:
- a Locked in the trunk, for vehicles with a trunk.
  - b Unloaded and locked in a container separate from the ammunition in a vehicle not equipped with a trunk.

D Actions during a traffic stop

- 1 It is advisable to keep hands in clear view (on the steering wheel) and at night turn on the interior lights.
- 2 When stopped by police, a person with a Michigan concealed pistol license must disclose that they are carrying a concealed handgun.
  - 1<sup>st</sup> Offense* 28.425f(5)(a)
  - 2<sup>nd</sup> Offense* 28.425f(5)(b)
- 3 A person must possess a concealed pistol license when carrying a concealed handgun. 28.425f(1)
- 4 A person with a Michigan concealed pistol license, who is carrying a handgun, must also carry and display their Michigan concealed pistol license and a valid Michigan Driver's License or a Michigan Personal Identification upon request of a police officer. 28.425f(2)
- 5 Violations of these requirements are civil infractions.

E Suspension/Revocation of Michigan Concealed Pistol License

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- 1 Suspensions
    - a After being notified of certain CPL violations by the Michigan State Police the County Clerk will mail written notification of a suspension of the CPL to the CPL holder. The CPL holder has ten days to surrender the CPL to the Clerk in person or by mail. Failure to surrender the CPL is a misdemeanor.
    - b Suspensions will be for six months with a \$500 fine (1<sup>st</sup> Offense)

VIII E 2 Revocations

- a After being notified of certain CPL violations or statutory disqualifications by the Michigan State Police the County Clerk will mail written notification of a revocation of the CPL to the CPL holder. The CPL holder has ten days to surrender the CPL to the Clerk in person or by mail. Failure to surrender the CPL is a misdemeanor.
- b Revocations for certain CPL violations will include a \$1000 fine

F Seizure of a handgun by a police officer

- 1 A handgun may be seized by a police officer and forfeited for any violation.
- 2 The exception is if the person had a valid Michigan Driver's License or Identification Card AND if the person's CPL can be verified via LEIN. Under this circumstance the officer may still issued the person a civil infraction for failure to be in possession of their CPL.
- 3 If the officer cannot verify if a CPL has been issued the handgun will be seized. The person has 45 days to produce his/her CPL, otherwise the handgun may be forfeited.

**PRESUMPTION REGARDING SELF-DEFENSE (EXCERPT)**  
**Act 311 of 2006**

**780.951 Individual using deadly force or force other than deadly force; presumption; definitions.**

Sec. 1. (1) Except as provided in subsection (2), it is a rebuttable presumption in a civil or criminal case that an individual who uses deadly force or force other than deadly force under section 2 of the self-defense act has an honest and reasonable belief that imminent death of, sexual assault of, or great bodily harm to himself or herself or another individual will occur if both of the following apply:

(a) The individual against whom deadly force or force other than deadly force is used is in the process of breaking and entering a dwelling or business premises or committing home invasion or has broken and entered a dwelling or business premises or committed home invasion and is still present in the dwelling or business premises, or is unlawfully attempting to remove another individual from a dwelling, business premises, or occupied vehicle against his or her will.

(b) The individual using deadly force or force other than deadly force honestly and reasonably believes that the individual is engaging in conduct described in subdivision (a).

(2) The presumption set forth in subsection (1) does not apply if any of the following circumstances exist:

(a) The individual against whom deadly force or force other than deadly force is used, including an owner, lessee, or titleholder, has the legal right to be in the dwelling, business premises, or vehicle and there is not an injunction for protection from domestic violence or a written pretrial supervision order, a probation order, or a parole order of no contact against that person.

(b) The individual removed or being removed from the dwelling, business premises, or occupied vehicle is a child or grandchild of, or is otherwise in the lawful custody of or under the lawful guardianship of, the individual against whom deadly force or force other than deadly force is used.

(c) The individual who uses deadly force or force other than deadly force is engaged in the commission of a crime or is using the dwelling, business premises, or occupied vehicle to further the commission of a crime.

(d) The individual against whom deadly force or force other than deadly force is used is a peace officer who has entered or is attempting to enter a dwelling, business premises, or vehicle in the performance of his or her official duties in accordance with applicable law.

(e) The individual against whom deadly force or force other than deadly force is used is the spouse or former spouse of the individual using deadly force or force other than deadly force, an individual with whom the individual using deadly force or other than deadly force has or had a dating relationship, an individual with whom the individual using deadly force or other than deadly force has had a child in common, or a resident or former resident of his or her household, and the individual using deadly force or other than deadly force has a prior history of domestic violence as the aggressor.

(3) As used in this section:

(a) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(b) "Business premises" means a building or other structure used for the transaction of business, including an appurtenant structure attached to that building or other structure.

(c) "Dwelling" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

(d) "Law enforcement officer of a Michigan Indian tribal police force" means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to former 25 CFR 12.100 to 12.103.

(e) "Michigan Indian tribe" means a federally recognized Indian tribe that has trust lands located within this state.

(f) "Peace officer" means any of the following:

(i) A regularly employed member of a law enforcement agency authorized and established pursuant to law, including common law, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state. Peace officer does not include a person serving solely because he or she occupies any other office or position.

(ii) A law enforcement officer of a Michigan Indian tribal police force.

(iii) The sergeant at arms or any assistant sergeant at arms of either house of the legislature who is commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act, 2001 PA 185, MCL 4.381 to 4.382.

(iv) A law enforcement officer of a multicounty metropolitan district.

(v) A county prosecuting attorney's investigator sworn and fully empowered by the sheriff of that county.

(vi) Until December 31, 2007, a law enforcement officer of a school district in this state that has a

**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.

History: 2006, Act 309, Eff. Oct. 1, 2006.

# The Self Defense Act (PA 309-314)

MCL 600.2922b,c & 777.21c

- Effective Oct 1, 2006
- A person may use deadly force, with no duty to retreat if:
  - They are not engaged in a crime
  - They are in a place they have a legal right to be
  - They honestly and reasonably believe deadly force is necessary
- The deadly force is used to prevent imminent death, great bodily harm, or sexual assault of the person or another

# The Self Defense Act (PA 309-314)

MCL 600.2922b,c & 777.21c

- Honest and Reasonable Belief:

- PA 311 creates a rebuttable presumption that a person using force has an honest and reasonable belief that imminent death, great bodily harm, or sexual assault will occur if the person using force honestly and reasonably believes the person against whom force is used is any of the following:

# The Self Defense Act (PA 309-314)

MCL 600.2922b,c & 777.21c

- In process of a B & E Occupied Dwelling / Building.
- In process Home Invasion
- Completed B&E or Home invasion and is still in the dwelling or business.
- Is attempting to unlawfully remove a person from a dwelling, business, or vehicle against his / her will.

# The Self Defense Act (PA 309-314)

MCL 600.2922b,c & 777.21c

- The presumption of the act does not apply:
  - The person whom force is used has a legal right to be in the dwelling, business or vehicle.
  - The person being removed is a child in the lawful custody of the person removing the child.
  - The person using force is engaged in a crime or using the business, vehicle or dwelling to further the crime.

# The Self Defense Act (PA 309-314)

MCL 600.2922b,c & 777.21c

- The person against whom force is used is a police officer attempting to enter a dwelling, business or vehicle in the performance of his / her duty.
- The Person whom force was used has a domestic relationship with the person using force and the person using force has a history of domestic violence as the aggressor.

DEPARTMENT OF ATTORNEY GENERAL

MEET BILL

ABOUT

INITIATIVES

OUTREACH

RESOURCES

CONTACT

Ethics

Homeland Security

Complaints

Seniors/Health Care Fraud

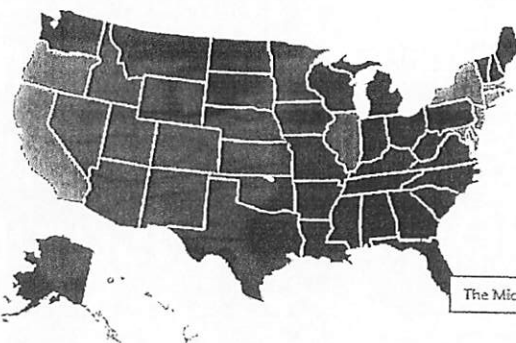
Environment

residents have been issued concealed pistol permits.

While anyone interested in this subject is encouraged to check Act 372, generally, the law provides that a person who meets certain requirements will be issued a concealed pistol permit.

The Michigan State Police website provides a detailed list of state requirements that an applicant must satisfy for a Michigan CPL.

## MICHIGAN LICENSEES: CARRYING IN ANOTHER STATE [RECIPROCITY]



The Michigan legislative compendium of firearm laws

## RESOURCES

Michigan Concealed Pistol  
Licensing Act

Michigan State Police Firearms  
and Concealed Pistol License  
Information

ATF Firearms Generally

ATF State Laws and Published  
Ordinances - Firearms (2010-  
2011, 31st Edition)

DNR - General Firearms Laws  
and Legislation

DNR - Firearm & Bow Regulation

Read more about state requirements

## OPINIONS

http://www.legislature.mi.gov/documents/Publications/Firearms.pdf

Attorney General Opinions Interpreting Michigan's Firearms Laws



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