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STATE OF MICHIGAN

**FRANK J. KELLEY, ATTORNEY GENERAL**

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Opinion No. 6280

March 20, 1985

PISTOLS:

Firearm fully operable when folded or contracted with length of 30 inches or less as a pistol

SHORT-BARRELED RIFLE:

Rifle fully operable with stock folded or contracted as a 'short-barreled rifle'

SHORT-BARRELED SHOTGUN:

Shotgun fully operable with stock folded or contracted as a 'short-barreled shotgun'

WEAPONS:

Firearm fully operable when folded or contracted with length of 30 inches or less as a pistol

A firearm containing a stock capable of being contracted or folded to an overall length of 30 inches or less and being fully operable in such contracted or folded condition is a pistol requiring licensure for purchase, carrying or transport, and is subject to safety inspection.

A rifle with a barrel of at least 16 inches in length and a stock capable of being contracted or folded to an overall length of less than 26 inches, being fully operable in such contracted or folded condition, is a 'short-barreled rifle' whose sale or possession is prohibited.

A shotgun with a barrel of at least 18 inches in length and a stock capable of being contracted or folded to an overall length of less than 26 inches, being fully operable in such contracted or folded condition, is a 'short-barreled shotgun' whose sale or possession is prohibited.

Colonel Gerald L. Hough

Director

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You have requested my opinion on two questions relating to certain firearms. Examples of the types of firearms at issue include the UZI semiautomatic carbine rifle (barrel length--16.1 inches; length with stock contracted--24.4 inches; length with stock expanded--31.5 inches); the Remington 870P shotgun (barrel length--18 inches; length with stock folded--28.5 inches; length with stock unfolded--38.5 inches); and the Universal Firearms #5000-PT semiautomatic

carbine rifle (barrel length--18 inches; length with stock folded--27 inches; length with stock unfolded--36 inches).

Your first question is:

Are firearms with folding and/or telescoping stocks which are fully operable with the stocks folded or contracted and whose lengths are 30 inches or less with the stocks folded or contracted 'pistols,' as defined in MCL 28.421 et seq; MSA 28.91 et seq, and, thus, subject to the provisions contained therein?

The definition of the term 'pistol' is set forth in subsection (a) of MCL 28.421; MSA 28.91:

"Pistol" means any firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm.'

'Firearm' is defined in MCL 8.3t; MSA 2.212(20):

'The word 'firearm', except as otherwise specifically defined in the statutes, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of spring, gas or air.'

In Huron Advertising Co v Charter Twp of Pittsfield, 110 Mich App 398, 402; 313 NW2d 132 (1981), lv den, 414 Mich 855 (1982), the court stated:

'All words and phrases in ordinances and statutes must be construed according to their common and approved usage. . . . Effect must also be given to each part of a sentence, so as not to render another part nugatory. . . . Judicial construction of a statute or ordinance is inappropriate where the language of the statute is unambiguous.'

The definition of the term 'pistol' in MCL 28.421; MSA 28.91, is unambiguous. It clearly covers all firearms which are not more than 30 inches in length. The firearms which are described generally in the first question and specifically in the examples are fully operable when they are 30 inches or less in length and are pistols under MCL 28.422; MSA 28.92.

MCL 28.422; MSA 28.92, provides that no person shall purchase, carry or transport a pistol without first obtaining a license therefor. A person who owns or comes into possession of a pistol is required to present such weapon for safety inspection to the applicable local law enforcement officer in accordance with MCL 28.429; MSA 28.99.

It is my opinion, therefore, that a firearm which may be contracted or folded to 30 inches or less and is fully operable in such condition is a pistol requiring licensure for purchase, carrying or transport, and is subject to safety inspection.

Your second question is:

Are rifles and shotguns whose barrels are at least 16 and 18 inches in length, respectively, with folding and/or telescoping stocks which are fully operable with the stocks folded or contracted and whose lengths are less than 26 inches with the stocks folded or contracted 'short-barreled rifles' and 'short-barreled shotguns,' respectively, as defined in MCL 750.222 et seq; MSA 28.419 et seq, and, thus, subject to the provisions contained therein?

MCL 750.222; MSA 28.419, in pertinent part, provides:

'(d) 'Shotgun' means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single function of the trigger.

'(e) 'Short-barreled shotgun' means a shotgun having 1 or more barrels less than 18 inches in length or a weapon made from a shotgun, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

'(f) 'Rifle' means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge

to fire only a single projectile through a rifled bore for each single pull of the trigger.

'(g) 'Short-barreled rifle' means a rifle having 1 or more barrels less than 16 inches in length or a weapon made from a rifle, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.'

MCL 750.224b; MSA 28.421(1), provides that a person who manufactures, sells, offers for sale, or possesses a short-barreled shotgun or a short-barreled rifle is guilty of a felony. This section specifically exempts from its provisions the sale, offering for sale or possession of a short-barreled rifle or a short-barreled shotgun which the Secretary of the Treasury of the United States has found to be a curio, relic, antique, museum piece, or collector's item not likely to be used as a weapon, but only if the person selling, offering for sale or possessing the firearm has fully complied with the provisions of MCL 28.422; MSA 28.92 and MCL 28.429; MSA 28.99.

The firearms which are referred to in the second question will fall within the definition of a short-barreled rifle or a short-barreled shotgun only if they are considered to have been made from a rifle or shotgun 'by alteration, modification, or otherwise' and are capable of being folded or contracted to less than 26 inches in length. It is unclear what is meant by the phrase 'by alteration, modification, or otherwise' as used in MCL 750.222; MSA 28.419.

To resolve a perceived ambiguity, a court will look to the object of the statute or rule, the evil or mischief which it is designed to remedy, and will apply a reasonable construction which best accomplishes the purpose of the statute or rule. Johnston v Billot, 109 Mich App 578, 589, 590; 311 NW2d 808 (1981), lv den, 414 Mich 955 (1982). In construing a statute, legislative intent may be determined from consideration of all provisions of the enactment in question. Wheeler v Tucker Freight Lines Co. Inc., 125 Mich App 123, 126; 336 NW2d 14 (1983), lv den, 418 Mich 867 (1984).

It has been held that the term 'alteration' means a change of a thing from one form or state to another, making it different from what it was without destroying its identity. Paye v City of Grosse Pointe, 279 Mich 254, 257; 271 NW 826 (1937).

It is clear that if a person altered or modified a rifle or a shotgun with a fixed stock by shortening that stock so that the overall length of the rifle or the shotgun was less than 26 inches, such a firearm would fall within the definition of a short-barreled rifle or a short-barreled shotgun. Sale or possession of such firearms is prohibited by MCL 750.224b; MSA 28.421(2):

(1) A person shall not manufacture, sell, offer for sale, or possess a short-barreled shotgun or a short-barreled rifle.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not more than \$2,500.00, or both.'

In order to effectuate the legislative intent to limit the presence of such weapons in this state, a rifle or a shotgun which can be lengthened and shortened at will must also be considered as a weapon made from a rifle or a shotgun by alteration, modification, or otherwise when it is capable of being less than 26 inches in length by folding or contracting its stock.

It is noted that the UZI semiautomatic carbine rifle is a short-barreled rifle since it is capable of being contracted to an overall length of 24.4 inches and is fully operable in this condition. The Remington 870P shotgun has a barrel 18 inches in length and an overall length of 28.5 inches with the stock folded, and, therefore, it is not a short-barreled shotgun. The Universal Firearms #5000-PT semiautomatic carbine rifle has a barrel length of 18 inches and an overall length of 27 inches with the stock folded, and, thus, it is not a short-barreled rifle.

It is my opinion, in answer to your second question, that rifles and shotguns whose barrels are at least 16 and 18 inches in length, respectively, with folding and/or telescoping stocks, which are fully operable with stocks folded or contracted, and whose lengths are less than 26 inches with stocks folded or contracted, fall within the definitions of 'short-barreled rifle' and 'short-barreled shotgun,' and their sale or possession is prohibited by MCL 750.224b; MSA 28.421(2).

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Attorney General

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