

SUBSTITUTE FOR
SENATE BILL NO. 582

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 234a and 234b (MCL 750.234a and 750.234b), as
amended by 2005 PA 303.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 234a. (1) ~~Except as provided in subsection (2) or (3), an~~
2 **AN** individual who intentionally discharges a firearm from a motor
3 vehicle, a snowmobile, or an off-road vehicle ~~in such a manner as~~
4 ~~to endanger the safety of another individual is guilty of a~~ **CRIME**
5 **AS FOLLOWS:**

6 **(A) IF THE VIOLATION ENDANGERS THE SAFETY OF ANOTHER**
7 **INDIVIDUAL, THE INDIVIDUAL IS GUILTY OF A** felony ~~—~~punishable by
8 imprisonment for not more than ~~4-10~~ years ~~—~~or a fine of not more

1 than ~~\$2,000.00,~~ \$10,000.00, or both.

2 (B) IF THE VIOLATION CAUSES ANY PHYSICAL INJURY TO ANOTHER
3 INDIVIDUAL, THE INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY
4 IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A FINE OF NOT MORE THAN
5 \$15,000.00, OR BOTH.

6 (C) IF THE VIOLATION CAUSES THE SERIOUS IMPAIRMENT OF A BODY
7 FUNCTION OF ANOTHER INDIVIDUAL, THE INDIVIDUAL IS GUILTY OF A
8 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A
9 FINE OF NOT MORE THAN \$25,000.00, OR BOTH.

10 (D) IF THE VIOLATION CAUSES THE DEATH OF ANOTHER INDIVIDUAL,
11 THE INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
12 LIFE OR ANY TERM OF YEARS.

13 (2) Subsection (1) does not apply to a ~~ANY OF THE FOLLOWING:~~

14 (A) A peace officer of this state or another state, or of a
15 local unit of government of this state or another state, or of the
16 United States, performing his or her duties as a peace officer
17 while on or off a scheduled work shift as a peace officer. ~~As used~~
18 ~~in this subsection, "peace officer" means that term as defined in~~
19 ~~section 215.~~

20 (B) ~~(3) Subsection (1) does not apply to an~~ AN individual who
21 discharges a firearm in self-defense or the defense of another
22 individual.

23 (3) THIS SECTION DOES NOT PROHIBIT AN INDIVIDUAL FROM BEING
24 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF
25 LAW THAT IS COMMITTED BY THAT INDIVIDUAL WHILE VIOLATING THIS
26 SECTION.

27 (4) A TERM OF IMPRISONMENT IMPOSED FOR A VIOLATION OF THIS

SECTION MAY RUN CONSECUTIVELY TO ANY TERM OF IMPRISONMENT IMPOSED FOR ANOTHER VIOLATION ARISING FROM THE SAME TRANSACTION.

(5) AS USED IN THIS SECTION:

(A) "PEACE OFFICER" MEANS THAT TERM AS DEFINED IN SECTION 215.

(B) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM AS DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.58C.

Sec. 234b. (1) Except as **OTHERWISE** provided in ~~subsection (3) or (4)~~, **THIS SECTION**, an individual who intentionally discharges a firearm at a facility that he or she knows or has reason to believe is a dwelling or ~~an~~ **A POTENTIALLY** occupied structure, **WHETHER OR NOT THE DWELLING OR STRUCTURE IS ACTUALLY OCCUPIED AT THE TIME THE FIREARM IS DISCHARGED**, is guilty of a felony ~~punishable by~~ imprisonment for not more than ~~4~~ **10** years ~~or~~ a fine of not more than ~~\$2,000.00,~~ **\$10,000.00**, or both.

(2) An individual who intentionally discharges a firearm in a facility that he or she knows or has reason to believe is ~~an~~ **A DWELLING OR A POTENTIALLY** occupied structure, in reckless disregard for the safety of any individual **AND WHETHER OR NOT THE DWELLING OR STRUCTURE IS ACTUALLY OCCUPIED AT THE TIME THE FIREARM IS DISCHARGED**, is guilty of a felony ~~punishable by~~ imprisonment for not more than ~~4~~ **10** years ~~or~~ a fine of not more than ~~\$2,000.00,~~ **\$10,000.00**, or both.

(3) IF AN INDIVIDUAL VIOLATES SUBSECTION (1) OR (2) AND CAUSES ANY PHYSICAL INJURY TO ANOTHER INDIVIDUAL, THE INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A FINE OF NOT MORE THAN \$15,000.00, OR BOTH.

1 (4) IF AN INDIVIDUAL VIOLATES SUBSECTION (1) OR (2) AND CAUSES
2 THE SERIOUS IMPAIRMENT OF A BODY FUNCTION OF ANOTHER INDIVIDUAL,
3 THE INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
4 NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN \$25,000.00, OR
5 BOTH.

6 (5) IF AN INDIVIDUAL VIOLATES SUBSECTION (1) OR (2) AND CAUSES
7 THE DEATH OF ANOTHER INDIVIDUAL, THE INDIVIDUAL IS GUILTY OF A
8 FELONY PUNISHABLE BY IMPRISONMENT FOR LIFE OR ANY TERM OF YEARS.

9 (6) ~~(3)~~ Subsections (1) and (2) do not apply to a peace
10 officer of this state or another state, or of a local unit of
11 government of this state or another state, or of the United States,
12 performing his or her duties as a peace officer.

13 (7) ~~(4)~~ Subsections (1) and (2) do not apply to an individual
14 who discharges a firearm in self-defense or the defense of another
15 individual.

16 (8) THIS SECTION DOES NOT PROHIBIT AN INDIVIDUAL FROM BEING
17 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF
18 LAW THAT IS COMMITTED BY THAT INDIVIDUAL WHILE VIOLATING THIS
19 SECTION.

20 (9) A TERM OF IMPRISONMENT IMPOSED FOR A VIOLATION OF THIS
21 SECTION MAY RUN CONSECUTIVELY TO ANY TERM OF IMPRISONMENT IMPOSED
22 FOR ANOTHER VIOLATION ARISING FROM THE SAME TRANSACTION.

23 (10) ~~(5)~~ As used in this section:

24 (a) "Dwelling" means a facility habitually used by 1 or more
25 individuals as a place of abode, whether or not an individual is
26 present in the facility.

27 ~~(b) "Occupied structure" means a facility in which 1 or more~~

1 ~~individuals are present.~~

2 (B) ~~(e)~~—"Peace officer" means that term as defined in section
3 215.

4 (C) "POTENTIALLY OCCUPIED STRUCTURE" MEANS A STRUCTURE THAT A
5 REASONABLE PERSON KNOWS OR SHOULD KNOW IS LIKELY TO BE OCCUPIED BY
6 1 OR MORE INDIVIDUALS DUE TO ITS NATURE, FUNCTION, OR LOCATION.

7 (D) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM AS
8 DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,
9 MCL 257.58C.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.