

SUBSTITUTE FOR
HOUSE BILL NO. 5282

A bill to create the security act for nuclear energy; and to clarify the rights and duties of officers providing security at nuclear generating facilities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) An officer providing security at a nuclear
2 generating facility may use physical force, other than deadly
3 physical force, against another individual if that officer
4 providing security honestly and reasonably believes that the
5 physical force, other than deadly physical force, is necessary to
6 prevent or terminate that other individual's unlawful trespass at
7 that nuclear generating facility under section 552 of the Michigan
8 penal code, 1931 PA 328, MCL 750.552.

9 (2) An officer providing security at a nuclear generating

1 facility may use physical force, including deadly physical force,
2 against another individual if the officer providing security
3 honestly and reasonably believes that the use of physical force,
4 including deadly physical force, is necessary to prevent or
5 terminate an individual from breaking and entering or attempting to
6 break and enter into the business premises of a nuclear generating
7 or nuclear storage building or structure with the intent to commit
8 a crime involving the infliction or threatened infliction of
9 serious physical harm to any individual, or to deter a threat of
10 radiological sabotage or a threat of theft or diversion of special
11 nuclear material.

12 (3) Notwithstanding any other provision of this act, an
13 officer providing security at a nuclear generating facility may
14 threaten to use physical force, including deadly physical force, if
15 the officer providing security honestly and reasonably believes it
16 is necessary to protect himself or herself or another individual
17 against another individual's potential use of physical force,
18 including deadly physical force, or to deter a threat of
19 radiological sabotage or a threat of theft or diversion of special
20 nuclear material.

21 (4) Notice of the authorization provided in subsection (2)
22 shall be conspicuously posted at all entrances to the business
23 premises of a nuclear generating or nuclear storage building or
24 structure and at intervals along the perimeter in such a manner as
25 to provide reasonable notice of that authorization to persons about
26 to enter.

27 (5) An officer providing security at a nuclear generating

1 facility, the employer of an officer providing security at a
2 nuclear generating facility, and the owner and the operator of a
3 nuclear generating facility are immune from civil liability for the
4 conduct of an officer providing security at a nuclear generating
5 facility that is lawful under this section.

6 (6) Except as provided in this section, this section does not
7 modify the common law of this state in existence on the effective
8 date of this act regarding the use of deadly force.

9 (7) As used in this section:

10 (a) "Business premises of a nuclear generating or nuclear
11 storage building or structure" means a building or other structure
12 used to generate electricity using nuclear power, or that is used
13 to store special nuclear material associated with or resulting from
14 generating electricity using nuclear power. Business premises of a
15 nuclear generating or nuclear storage building or structure include
16 any appurtenant building or structure and any barrier or barrier
17 system surrounding that building or structure or appurtenant
18 building or structure that is designed to protect against
19 radiological sabotage or theft or diversion of special nuclear
20 material that is required to be designated and posted against
21 trespassing under 42 USC 2278a, or any other substantially
22 equivalent federal law.

23 (b) "Nuclear generating facility" means 1 or more of the
24 following:

25 (i) A facility that is located in this state that generates
26 electricity using nuclear power for sale, directly or indirectly,
27 to the public.

1 (ii) A facility that is located in this state that was formerly
2 used to generate electricity using nuclear power for sale, directly
3 or indirectly, to the public, and that stores special nuclear
4 material.

5 (iii) The land surrounding a facility described in subparagraph
6 (i) or (ii) that is in the possession of the facility owner or
7 operator.

8 (iv) Any nuclear generating or nuclear storage building or
9 structure on land described in subparagraph (iii).

10 (c) "Officer providing security at a nuclear generating
11 facility" means a security officer employed by or under contract
12 with a nuclear generating facility who is employed as part of any
13 security plan approved by the United States nuclear regulatory
14 commission or its successor agency and who is performing his or her
15 duties under that plan.

16 (d) "Special nuclear material" means material capable of a
17 self-sustaining fission chain reaction.

18 Enacting section 1. This act takes effect 90 days after the
19 date it is enacted into law.