



**House
Legislative
Analysis
Section**

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LEGALIZE CAPSICUM SPRAYS

House Bills 4115 and 4116
Sponsor: Rep. Ken Sikkema
Committee: Judiciary

Complete to 2-21-91

A SUMMARY OF HOUSE BILLS 4115 AND 4116 AS INTRODUCED 2-7-91

The Michigan Penal Code generally prohibits the manufacture or possession of any device designed to disable a person by releasing a substance; however, Public Act 346 of 1980 created an exception for CS-type tear gas self-defense sprays (mace sprays remain illegal for private use). House Bill 4116 would amend the penal code to permit the manufacture, sale, and possession of a self-defense spray device containing not more than two percent oleoresin capsicum, a hot pepper derivative. The product would be subject to the same restrictions now applying to CS devices: the size would be limited to 35 grams; it would be a misdemeanor punishable by imprisonment for up to two years and a \$2,000 fine to use the spray other than to protect a person or property; improper use of the spray in the commission of a crime would be reason for a judge to increase a sentence; and, it would be a misdemeanor to sell the product to a minor.

MCL 750.224 and 750.224d

House Bill 4115 would amend Public Act 372 of 1927 to specify that a license from a concealed weapons licensing board would not be necessary for the sale or possession of a self-defense spray permitted under the penal code. (Public Act 372 at present exempts CS sprays from the license requirement that would otherwise apply.)

MCL 28.426a

Neither bill could take effect unless both were enacted.