

Act No. 4  
Public Acts of 1992  
Approved by the Governor  
February 21, 1992  
Filed with the Secretary of State  
February 21, 1992

**STATE OF MICHIGAN  
86TH LEGISLATURE  
REGULAR SESSION OF 1992**

Introduced by Reps. Sikkema, Fitzgerald, Martin, O'Connor, Dalman, DeMars, Allen, DeLange, Horton, Jaye, Pitoniak, Sparks, Oxender and McNutt

# ENROLLED HOUSE BILL No. 5297

AN ACT to amend section 224d of Act No. 328 of the Public Acts of 1931, entitled as amended "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended by Act No. 33 of the Public Acts of 1991, being section 750.224d of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 224d of Act No. 328 of the Public Acts of 1931, as amended by Act No. 33 of the Public Acts of 1991, being section 750.224d of the Michigan Compiled Laws, is amended to read as follows:

Sec. 224d. (1) As used in this section and section 224, "self-defense spray device" means a device to which all of the following apply:

- (a) The device is capable of carrying, and ejects, releases, or emits 1 of the following:
  - (i) Not more than 35 grams of any combination of orthochlorobenzalmalononitrile and inert ingredients.
  - (ii) A solution containing not more than 2% oleoresin capsicum.

(b) The device does not eject, release, or emit any gas or substance that will temporarily or permanently disable, incapacitate, injure, or harm a person with whom the gas or substance comes in contact, other than the substance described in subdivision (a)(i) or (ii).

(2) Except as otherwise provided in this section, a person who uses a self-defense spray device to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum at another person is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than \$2,000.00, or both.

(3) If a person uses a self-defense spray device during the commission of a crime to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum or threatens to use a self-defense spray device during the commission of a crime to temporarily or permanently disable another person, the judge who imposes sentence upon a conviction for that crime shall consider the defendant's use or threatened use of the self-defense spray device as a reason for enhancing the sentence.

(4) A person shall not sell a self-defense spray device to a minor. A person who violates this subsection is guilty of a misdemeanor.

(5) Subsection (2) does not prohibit either of the following:

(a) The reasonable use of a self-defense spray device by a law enforcement officer in the performance of the law enforcement officer's duty.

(b) The reasonable use of a self-defense spray device by a person in the protection of a person or property under circumstances which would justify the person's use of physical force.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved .....

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Governor.