

HOUSE BILL No. 5297

October 24, 1991, Introduced by Reps. Sikkema, Fitzgerald, Martin, O'Connor, Dalman, DeMars, Allen, DeLange, Horton, Jaye, Pitoniak, Sparks, Oxender and McNutt and referred to the Committee on Judiciary.

A bill to amend section 224d of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

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:

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

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

8 ~~(a) The device is capable of carrying not more than 35~~
9 ~~grams of any combination of active and inert ingredients.~~

1 (A) ~~(b)~~ The device IS CAPABLE OF CARRYING, AND ejects,
2 releases, or emits 1 of the following:

3 (i) ~~Orthochlorobenzalmalononitrile~~ NOT MORE THAN 35 GRAMS
4 OF ANY COMBINATION OF ORTHOCHLOROBENZALMALONONITRILE AND INERT
5 INGREDIENTS.

6 (ii) A solution containing not more than 2% oleoresin
7 capsicum.

8 (B) ~~(c)~~ The device does not eject, release, or emit any
9 gas or substance that will temporarily or permanently disable,
10 incapacitate, injure, or harm a person with whom the gas or sub-
11 stance comes in contact, other than the substance described in
12 subdivision ~~(b)(i)~~ (A)(i) or (ii).

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

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

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

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

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

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