

HOUSE BILL No. 6202

November 5, 1992, Introduced by Rep. Jonker and referred to the Committee on Judiciary.

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

"The Michigan penal code,"

section 224 as amended by Act No. 33 of the Public Acts of 1991 and section 224d as amended by Act No. 4 of the Public Acts of 1992, being sections 750.224 and 750.224d of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 224 and 224d of Act No. 328 of the
2 Public Acts of 1931, section 224 as amended by Act No. 33 of the
3 Public Acts of 1991 and section 224d as amended by Act No. 4 of
4 the Public Acts of 1992, being sections 750.224 and 750.224d of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 224. (1) A person shall not manufacture, sell, offer
7 for sale, or possess any of the following:

1 (a) A machine gun or firearm that shoots or is designed to
2 shoot automatically more than 1 shot without manual reloading, by
3 a single function of the trigger.

4 (b) A muffler or silencer.

5 (c) A bomb or bombshell.

6 (d) A blackjack, slungshot, billy, metallic knuckles, sand
7 club, sand bag, or bludgeon.

8 (e) A device, weapon, cartridge, container, or contrivance
9 designed to render a person temporarily or permanently disabled
10 by the ejection, release, or emission of a gas or other
11 substance.

12 (2) A person who violates subsection (1) is guilty of a
13 felony, punishable by imprisonment for not more than 5 years, or
14 a fine of not more than \$2,500.00, or both.

15 (3) Subsection (1) does not apply to any of the following:

16 (a) A self-defense spray device as defined in section 224d.

17 (B) A LAW ENFORCEMENT OFFICER WHO POSSESSES A DEVICE THAT
18 EJECTS, RELEASES, OR EMITS A SOLUTION CONTAINING NOT MORE THAN 5%
19 OLEORESIN CAPSICUM, IF THAT POSSESSION IS IN THE PERFORMANCE OF
20 THE LAW ENFORCEMENT OFFICER'S DUTY.

21 (C) ~~(b)~~ A person manufacturing firearms, explosives, or
22 munitions of war by virtue of a contract with a department of the
23 government of the United States.

24 (D) ~~(c)~~ A person licensed by the secretary of the treasury
25 of the United States or the secretary's delegate to manufacture,
26 sell, or possess a machine gun, or a device, weapon, cartridge,
27 container, or contrivance described in subsection (1).

1 (4) As used in this chapter, "muffler" or "silencer" means 1
2 or more of the following:

3 (a) A device for muffling, silencing, or deadening the
4 report of a firearm.

5 (b) A combination of parts, designed or redesigned, and
6 intended for use in assembling or fabricating a muffler or
7 silencer.

8 (c) A part, designed or redesigned, and intended only for
9 use in assembling or fabricating a muffler or silencer.

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

13 (a) The device is capable of carrying, and ejects, releases,
14 or emits 1 of the following:

15 (i) Not more than 35 grams of any combination of orthochlo-
16 robenzalmalononitrile and inert ingredients.

17 (ii) A solution containing not more than 2% oleoresin
18 capsicum.

19 (b) The device does not eject, release, or emit any gas or
20 substance that will temporarily or permanently disable, incapaci-
21 tate, injure, or harm a person with whom the gas or substance
22 comes in contact, other than the substance described in subdivi-
23 sion (a)(i) or (ii) OR SUBSECTION (5)(A).

24 (2) Except as otherwise provided in this section, a person
25 who uses a self-defense spray device to eject, release, or emit
26 orthochlorobenzalmalononitrile or oleoresin capsicum at another
27 person is guilty of a misdemeanor, punishable by imprisonment for

1 not more than 2 years, or a fine of not more than \$2,000.00, or
2 both.

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

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

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

16 (a) The reasonable use of a self-defense spray device OR A
17 DEVICE THAT EJECTS, RELEASES, OR EMITS A SOLUTION CONTAINING NOT
18 MORE THAN 5% OLEORESIN CAPSICUM by a law enforcement officer in
19 the performance of the law enforcement officer's duty.

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