

SB 443, As Passed Senate, April 30, 1998

Senate Bill No. 443

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1 (C) "DELIVER" MEANS THE ACTUAL OR CONSTRUCTIVE TRANSFER OF A
2 SUBSTANCE OR DEVICE FROM 1 PERSON TO ANOTHER REGARDLESS OF ANY
3 AGENCY RELATIONSHIP.

4 (D) "FOR AN UNLAWFUL PURPOSE" INCLUDES, BUT IS NOT LIMITED
5 TO, HAVING THE INTENT TO DO ANY OF THE FOLLOWING:

6 (i) FRIGHTEN, TERRORIZE, INTIMIDATE, THREATEN, HARASS,
7 INJURE, OR KILL ANY PERSON.

8 (ii) DAMAGE OR DESTROY ANY REAL OR PERSONAL PROPERTY WITHOUT
9 THE PERMISSION OF THE PROPERTY OWNER OR THE APPROPRIATE GOVERN-
10 MENTAL AUTHORITY.

11 (E) "HARMFUL BIOLOGICAL DEVICE" MEANS A DEVICE DESIGNED OR
12 INTENDED TO RELEASE A HARMFUL BIOLOGICAL SUBSTANCE.

13 (F) "HARMFUL BIOLOGICAL SUBSTANCE" MEANS A BACTERIA, VIRUS,
14 OR OTHER MICROORGANISM OR A TOXIC SUBSTANCE DERIVED FROM OR
15 PRODUCED BY AN ORGANISM THAT CAN BE USED TO CAUSE DEATH, INJURY,
16 OR DISEASE IN HUMANS, ANIMALS, OR PLANTS.

17 (G) "HARMFUL CHEMICAL DEVICE" MEANS A DEVICE THAT IS
18 DESIGNED OR INTENDED TO RELEASE A HARMFUL CHEMICAL SUBSTANCE.

19 (H) "HARMFUL CHEMICAL SUBSTANCE" MEANS A SOLID, LIQUID, OR
20 GAS THAT THROUGH ITS CHEMICAL OR PHYSICAL PROPERTIES, ALONE OR IN
21 COMBINATION WITH 1 OR MORE OTHER CHEMICAL SUBSTANCES, CAN BE USED
22 TO CAUSE DEATH, INJURY, OR DISEASE IN HUMANS, ANIMALS, OR
23 PLANTS.

24 (I) "HARMFUL RADIOACTIVE MATERIAL" MEANS MATERIAL THAT IS
25 RADIOACTIVE AND THAT CAN BE USED TO CAUSE DEATH, INJURY, OR DIS-
26 EASE IN HUMANS, ANIMALS, OR GROWING PLANTS BY ITS RADIOACTIVITY.

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1 (J) "HARMFUL RADIOACTIVE DEVICE" MEANS A DEVICE THAT IS
2 DESIGNED OR INTENDED TO RELEASE A HARMFUL RADIOACTIVE MATERIAL.

3 (K) "IMITATION HARMFUL SUBSTANCE OR DEVICE" MEANS A SUB-
4 STANCE OR DEVICE THAT IS DESIGNED OR INTENDED TO REPRESENT 1 OR
5 MORE OF THE FOLLOWING OR THAT IS ALLEGED TO BE 1 OF THE FOLLOWING
6 BUT THAT IS NOT ANY OF THE FOLLOWING:

7 (i) A HARMFUL BIOLOGICAL DEVICE.

8 (ii) A HARMFUL BIOLOGICAL SUBSTANCE.

9 (iii) A HARMFUL CHEMICAL DEVICE.

10 (iv) A HARMFUL CHEMICAL SUBSTANCE.

11 (v) A HARMFUL RADIOACTIVE MATERIAL.

12 (vi) A RADIOACTIVE DEVICE.

13 (l) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM
14 AS DEFINED IN SECTION 625 OF THE MICHIGAN VEHICLE CODE, 1949 PA
15 300, MCL 257.625.

16 (M) "VULNERABLE TARGET" MEANS ANY OF THE FOLLOWING:

17 (i) A CHILD CARE CENTER OR DAY CARE CENTER AS DEFINED IN
18 SECTION 1 OF 1973 PA 116, MCL 722.111.

19 (ii) A HEALTH CARE FACILITY OR AGENCY AS DEFINED IN SECTION
20 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20106.

21 (iii) A BUILDING OR STRUCTURE OPEN TO THE GENERAL PUBLIC.

22 (iv) A CHURCH, SYNAGOGUE, MOSQUE, OR OTHER PLACE OF RELI-
23 GIOUS WORSHIP.

24 (v) A PUBLIC, PRIVATE, DENOMINATIONAL, OR PAROCHIAL SCHOOL
25 OFFERING DEVELOPMENTAL KINDERGARTEN, KINDERGARTEN, OR ANY GRADE 1
26 THROUGH 12.

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1 (vi) AN INSTITUTION OF HIGHER EDUCATION.

2 SEC. 200I. (1) A PERSON SHALL NOT MANUFACTURE, DELIVER,
3 POSSESS, TRANSPORT, PLACE, USE, OR RELEASE ANY OF THE FOLLOWING
4 FOR AN UNLAWFUL PURPOSE:

5 (A) A HARMFUL BIOLOGICAL SUBSTANCE OR A HARMFUL BIOLOGICAL
6 DEVICE.

7 (B) A HARMFUL CHEMICAL SUBSTANCE OR A HARMFUL CHEMICAL
8 DEVICE.

9 (C) A HARMFUL RADIOACTIVE MATERIAL OR A HARMFUL RADIOACTIVE
10 DEVICE.

11 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
12 CRIME AS FOLLOWS:

13 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) TO (E), THE
14 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
15 MORE THAN 15 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR
16 BOTH.

17 (B) IF THE VIOLATION RESULTS IN PROPERTY DAMAGE, THE PERSON
18 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE
19 THAN 20 YEARS OR A FINE OF NOT MORE THAN \$15,000.00, OR BOTH.

20 (C) IF THE VIOLATION RESULTS IN PERSONAL INJURY TO ANOTHER
21 INDIVIDUAL OTHER THAN SERIOUS IMPAIRMENT OF A BODY FUNCTION OR
22 DEATH, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-
23 MENT FOR NOT MORE THAN 25 YEARS OR A FINE OF NOT MORE THAN
24 \$20,000.00, OR BOTH.

25 (D) IF THE VIOLATION RESULTS IN SERIOUS IMPAIRMENT OF A BODY
26 FUNCTION TO ANOTHER INDIVIDUAL, THE PERSON IS GUILTY OF A FELONY

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1 PUNISHABLE BY IMPRISONMENT FOR LIFE OR ANY TERM OF YEARS OR A
2 FINE OF NOT MORE THAN \$25,000.00, OR BOTH.

3 (E) IF THE VIOLATION RESULTS IN THE DEATH OF ANOTHER INDI-
4 VIDUAL, THE PERSON IS GUILTY OF A FELONY AND SHALL BE PUNISHED BY
5 IMPRISONMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE AND MAY BE
6 FINED NOT MORE THAN \$40,000.00, OR BOTH.

7 SEC. 200J. (1) A PERSON SHALL NOT MANUFACTURE, DELIVER,
8 POSSESS, TRANSPORT, PLACE, USE, OR RELEASE FOR AN UNLAWFUL PUR-
9 POSE ANY OF THE FOLLOWING:

10 (A) A CHEMICAL IRRITANT OR A CHEMICAL IRRITANT DEVICE.

11 (B) A SMOKE DEVICE.

12 (C) AN IMITATION HARMFUL SUBSTANCE OR DEVICE.

13 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
14 CRIME AS FOLLOWS:

15 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) TO (E), THE
16 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
17 NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR
18 BOTH.

19 (B) IF THE VIOLATION RESULTS IN PROPERTY DAMAGE, THE PERSON
20 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE
21 THAN 4 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

22 (C) IF THE VIOLATION RESULTS IN PERSONAL INJURY TO ANOTHER
23 INDIVIDUAL OTHER THAN SERIOUS IMPAIRMENT OF A BODY FUNCTION OR
24 DEATH, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-
25 MENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN
26 \$10,000.00, OR BOTH.

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1 (D) IF THE VIOLATION RESULTS IN SERIOUS IMPAIRMENT OF A BODY
2 FUNCTION TO ANOTHER INDIVIDUAL, THE PERSON IS GUILTY OF A FELONY
3 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 25 YEARS OR A FINE
4 OF NOT MORE THAN \$25,000.00, OR BOTH.

5 (E) IF THE VIOLATION RESULTS IN THE DEATH OF ANOTHER INDI-
6 VIDUAL, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-
7 MENT FOR LIFE OR ANY TERM OF YEARS OR A FINE OF NOT MORE THAN
8 \$40,000.00, OR BOTH.

9 SEC. 200K. (1) SECTIONS 200H TO 200J DO NOT APPLY TO ANY OF
10 THE FOLLOWING:

11 (A) A MEMBER OF THE MILITARY FORCES OF THE UNITED STATES OR
12 OF THIS STATE ACTING UNDER A LAWFUL ORDER OR WHILE ENGAGED IN A
13 LAWFUL MILITARY ACTIVITY.

14 (B) A LAW ENFORCEMENT OFFICER ENFORCING THE LAWS OF THE
15 UNITED STATES OR OF THIS STATE OR WHILE ENGAGED IN A LAWFUL LAW
16 ENFORCEMENT ACTIVITY.

17 (C) A PERSON ENGAGED IN SELF-DEFENSE OR THE LAWFUL DEFENSE
18 OF ANOTHER PERSON.

19 (D) UNLESS ACTING WITH AN UNLAWFUL PURPOSE, A PERSON ACTING
20 WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT UNDER A RULE OR A
21 PERMIT OR LICENSE OF THE UNITED STATES OR OF THIS STATE.

22 (2) UNLESS ACTING WITH AN UNLAWFUL PURPOSE, A PERSON WHO
23 WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT VIOLATES A RULE OR A
24 PROVISION OF A PERMIT OR LICENSE ISSUED BY THE UNITED STATES OR
25 THIS STATE TO MANUFACTURE, DELIVER, POSSESS, TRANSPORT, PLACE,
26 CLASSIFY, LABEL, USE, OR RELEASE A SUBSTANCE OR DEVICE SHALL NOT
27 BE PROSECUTED UNDER THIS CHAPTER.

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1 SEC. 212A. (1) IF A PERSON VIOLATES THIS CHAPTER, THE
2 VIOLATION IS COMMITTED IN OR IS DIRECTED AT A VULNERABLE TARGET,
3 AND THE VIOLATION RESULTS IN THE DEATH OF ANOTHER INDIVIDUAL OR
4 RESULTS IN SERIOUS IMPAIRMENT OF A BODY FUNCTION OF ANOTHER INDI-
5 VIDUAL, THE PERSON IS GUILTY OF A FELONY AND SHALL BE PUNISHED BY
6 IMPRISONMENT FOR NOT MORE THAN 20 YEARS. A TERM OF IMPRISONMENT
7 IMPOSED UNDER THIS SECTION IS IN ADDITION TO ANY TERM OF IMPRIS-
8 ONMENT IMPOSED FOR THE UNDERLYING VIOLATION AND SHALL BE SERVED
9 CONSECUTIVE TO THAT TERM OF IMPRISONMENT.

10 (2) AS USED IN THIS SECTION:

11 (A) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM
12 AS DEFINED IN SECTION 625 OF THE MICHIGAN VEHICLE CODE, 1949 PA
13 300, MCL 257.625.

14 (B) "VULNERABLE TARGET" MEANS ANY OF THE FOLLOWING:

15 (i) A CHILD CARE CENTER OR DAY CARE CENTER AS DEFINED IN
16 SECTION 1 OF 1973 PA 116, MCL 722.111.

17 (ii) A HEALTH CARE FACILITY OR AGENCY AS DEFINED IN SECTION
18 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20106.

19 (iii) A BUILDING OR STRUCTURE OPEN TO THE GENERAL PUBLIC.

20 (iv) A CHURCH, SYNAGOGUE, MOSQUE, OR OTHER PLACE OF RELI-
21 GIOUS WORSHIP.

22 (v) A PUBLIC, PRIVATE, DENOMINATIONAL, OR PAROCHIAL SCHOOL
23 OFFERING DEVELOPMENTAL KINDERGARTEN, KINDERGARTEN, OR ANY GRADE 1
24 THROUGH 12.

25 (vi) AN INSTITUTION OF HIGHER EDUCATION.

26 Enacting section 1. This amendatory act does not take
27 effect unless Senate Bill No. _____ or House Bill No. _____

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1 (request no. 02149'97 a *) of the 89th Legislature is enacted
2 into law.