

**SUBSTITUTE FOR
HOUSE BILL NO. 4514**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 200i, 200k, 200l, 204, 207, 209, 210, 211a, and 212a (MCL 750.200i, 750.200k, 750.200l, 750.204, 750.207, 750.209, 750.210, 750.211a, and 750.212a), sections 200i and 200k as added by 1998 PA 207, section 200l as added by 2001 PA 135, sections 204 and 211a as amended by 1998 PA 206, sections 207, 209, and 210 as amended by 1998 PA 208, and section 212a as amended by 2002 PA 140, and by adding section 200m.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 200i. (1) A person shall not manufacture, deliver,
2 possess, transport, place, use, or release any of the following
3 for an unlawful purpose:

4 (a) A harmful biological substance or a harmful biological
5 device.

1 (b) A harmful chemical substance or a harmful chemical
2 device.

3 (c) A harmful radioactive material or a harmful radioactive
4 device.

5 **(d) A harmful electronic or electromagnetic device.**

6 (2) A person who violates subsection (1) is guilty of a crime
7 as follows:

8 (a) Except as provided in subdivisions (b) to (e), the person
9 is guilty of a felony punishable by imprisonment for not more
10 than 15 years or a fine of not more than \$10,000.00, or both.

11 (b) If the violation **directly or indirectly** results in
12 property damage, the person is guilty of a felony punishable by
13 imprisonment for not more than 20 years or a fine of not more
14 than \$15,000.00, or both.

15 (c) If the violation **directly or indirectly** results in
16 personal injury to another individual other than serious
17 impairment of a body function or death, the person is guilty of a
18 felony punishable by imprisonment for not more than 25 years or a
19 fine of not more than \$20,000.00, or both.

20 (d) If the violation **directly or indirectly** results in
21 serious impairment of a body function to another individual, the
22 person is guilty of a felony punishable by imprisonment for life
23 or any term of years or a fine of not more than \$25,000.00, or
24 both.

25 (e) If the violation **directly or indirectly** results in the
26 death of another individual, the person is guilty of a felony and
27 shall be punished by imprisonment for life without eligibility

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1 for parole and may be fined not more than \$40,000.00, or both.

2 Sec. 200k. (1) Sections 200h to 200j do not apply to any of
3 the following:

4 (a) A member of the military forces of the United States or
5 of this state acting under a lawful order or while engaged in a
6 lawful military activity.

7 (b) A law enforcement officer enforcing the laws of the
8 United States or of this state or while engaged in a lawful law
9 enforcement activity.

10 (c) A person engaged in self-defense or the lawful defense of
11 another person.

12 (d) Unless acting with an unlawful purpose, a person acting
13 within the scope of his or her employment under a rule or a
14 permit or license of the United States or of this state.

15 (2) Unless acting with an unlawful purpose, a person who
16 within the scope of his or her employment violates a rule or a
17 provision of a permit or license issued by the United States or
18 this state to manufacture, deliver, possess, transport, place,
19 classify, label, use, or release a substance or device shall not
20 be prosecuted under this chapter.

21 (3) **This chapter does not prohibit the possession and use of**
22 **a device that uses electro-muscular disruption technology [as permitted**
23 **under section 224a.**

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25 Sec. 200/. (1) A person shall not commit an act with the
26 intent to cause an individual to falsely believe that the
27 individual has been exposed to a harmful biological substance,

1 harmful biological device, harmful chemical substance, harmful
2 chemical device, harmful radioactive material, ~~or~~ harmful
3 radioactive device, **or harmful electronic or electromagnetic**
4 **device.**

5 (2) A person who violates subsection (1) is guilty of a
6 felony punishable by imprisonment for not more than 5 years or a
7 fine of not more than \$10,000.00, or both.

8 ~~(3) The court also shall impose costs on a person who~~
9 ~~violates subsection (1) to reimburse any governmental agency for~~
10 ~~its expenses incurred as a result of the violation, in the manner~~
11 ~~provided in section 1f of chapter IX of the code of criminal~~
12 ~~procedure, 1927 PA 175, MCL 769.1f.~~

13 **Sec. 200m. A charge under or a conviction or punishment for**
14 **a violation of this chapter does not prevent a person from being**
15 **charged with, convicted of, or punished for any other violation**
16 **of law arising from the same transaction.**

17 Sec. 204. (1) A person shall not send or deliver to another
18 person or cause to be taken or received by any person any kind of
19 explosive substance or any other dangerous thing with the intent
20 to frighten, terrorize, intimidate, threaten, harass, injure, or
21 kill any person, or with the intent to damage or destroy any real
22 or personal property without the permission of the property owner
23 or, if the property is public property, without the permission of
24 the governmental agency having authority over that property.

25 (2) A person who violates this section is guilty of a crime
26 as follows:

27 (a) Except as otherwise provided in subdivisions (b) to (e),

1 the person is guilty of a felony punishable by imprisonment for
 2 not more than 15 years or a fine of not more than \$10,000.00, or
 3 both.

4 (b) If the violation damages the property of another person,
 5 the person is guilty of a felony punishable by imprisonment for
 6 not more than 20 years or a fine of not more than \$15,000.00, or
 7 both.

8 (c) If the violation causes physical injury to another
 9 individual, other than serious impairment of a body function, the
 10 person is guilty of a felony punishable by imprisonment for not
 11 more than 25 years or a fine of not more than \$20,000.00, or
 12 both.

13 (d) If the violation causes serious impairment of a body
 14 function to another individual, the person is guilty of a felony
 15 punishable by imprisonment for life or any term of years or a
 16 fine of not more than \$25,000.00, or both. ~~As used in this~~
 17 ~~subdivision, "serious impairment of a body function" includes,~~
 18 ~~but is not limited to, 1 or more of the following:~~

19 ~~—— (i) Loss of a limb or use of a limb.~~

20 ~~—— (ii) Loss of a hand, foot, finger, or thumb or use of a hand,~~
 21 ~~foot, finger, or thumb.~~

22 ~~—— (iii) Loss of an eye or ear or use of an eye or ear.~~

23 ~~—— (iv) Loss or substantial impairment of a bodily function.~~

24 ~~—— (v) Serious visible disfigurement.~~

25 ~~—— (vi) A comatose state that lasts for more than 3 days.~~

26 ~~—— (vii) Measurable brain damage or mental impairment.~~

27 ~~—— (viii) A skull fracture or other serious bone fracture.~~

1 ~~—— (ix) Subdural hemorrhage or subdural hematoma.~~

2 (e) If the violation causes the death of another individual,
3 the person is guilty of a felony and shall be imprisoned for life
4 without eligibility for parole and may be fined not more than
5 \$40,000.00, or both.

6 Sec. 207. (1) A person shall not place an explosive
7 substance in or near any real or personal property with the
8 intent to frighten, terrorize, intimidate, threaten, harass,
9 injure, or kill any person, or with the intent to damage or
10 destroy any real or personal property without the permission of
11 the property owner or, if the property is public property,
12 without the permission of the governmental agency having
13 authority over that property.

14 (2) A person who violates this section is guilty of a crime
15 as follows:

16 (a) Except as otherwise provided in subdivisions (b) to (e),
17 the person is guilty of a felony punishable by imprisonment for
18 not more than 15 years or a fine of not more than \$10,000.00, or
19 both.

20 (b) If the violation damages the property of another person,
21 the person is guilty of a felony punishable by imprisonment for
22 not more than 20 years or a fine of not more than \$15,000.00, or
23 both.

24 (c) If the violation causes physical injury to another
25 individual, other than serious impairment of a body function, the
26 person is guilty of a felony punishable by imprisonment for not
27 more than 25 years or a fine of not more than \$20,000.00, or

1 both.

2 (d) If the violation causes serious impairment of a body
3 function to another individual, the person is guilty of a felony
4 punishable by imprisonment for life or for any term of years or a
5 fine of not more than \$25,000.00, or both. ~~As used in this~~
6 ~~subdivision, "serious impairment of a body function" includes,~~
7 ~~but is not limited to, 1 or more of the following:~~

8 ~~—— (i) Loss of a limb or use of a limb.~~

9 ~~—— (ii) Loss of a hand, foot, finger, or thumb or use of a hand,~~
10 ~~foot, finger, or thumb.~~

11 ~~—— (iii) Loss of an eye or ear or use of an eye or ear.~~

12 ~~—— (iv) Loss or substantial impairment of a bodily function.~~

13 ~~—— (v) Serious visible disfigurement.~~

14 ~~—— (vi) A comatose state that lasts for more than 3 days.~~

15 ~~—— (vii) Measurable brain damage or mental impairment.~~

16 ~~—— (viii) A skull fracture or other serious bone fracture.~~

17 ~~—— (ix) Subdural hemorrhage or subdural hematoma.~~

18 (e) If the violation causes the death of another individual,
19 the person is guilty of a felony and shall be imprisoned for life
20 without eligibility for parole and may be fined not more than
21 \$40,000.00, or both.

22 Sec. 209. (1) A person who places an offensive or injurious
23 substance or compound in or near to any real or personal property
24 with intent to wrongfully injure or coerce another person or to
25 injure the property or business of another person, or to
26 interfere with another person's use, management, conduct, or
27 control of his or her business or property is guilty of a crime

1 as follows:

2 (a) Except as otherwise provided in subdivisions (b) to (e),
3 the person is guilty of a felony punishable by imprisonment for
4 not more than 15 years or a fine of not more than \$10,000.00, or
5 both.

6 (b) If the violation damages the property of another person,
7 the person is guilty of a felony punishable by imprisonment for
8 not more than 20 years or a fine of not more than \$15,000.00, or
9 both.

10 (c) If the violation causes physical injury to another
11 individual, other than serious impairment of a body function, the
12 person is guilty of a felony punishable by imprisonment for not
13 more than 25 years or a fine of not more than \$20,000.00, or
14 both.

15 (d) If the violation causes serious impairment of a body
16 function to another individual, the person is guilty of a felony
17 punishable by imprisonment for life or for any term of years or a
18 fine of not more than \$25,000.00, or both. ~~As used in this~~
19 ~~subdivision, "serious impairment of a body function" includes,~~
20 ~~but is not limited to, 1 or more of the following:~~

21 ~~—— (i) Loss of a limb or use of a limb.~~

22 ~~—— (ii) Loss of a hand, foot, finger, or thumb or use of a hand,~~
23 ~~foot, finger, or thumb.~~

24 ~~—— (iii) Loss of an eye or ear or use of an eye or ear.~~

25 ~~—— (iv) Loss or substantial impairment of a bodily function.~~

26 ~~—— (v) Serious visible disfigurement.~~

27 ~~—— (vi) A comatose state that lasts for more than 3 days.~~

1 ~~—— (vii) Measurable brain damage or mental impairment.~~

2 ~~—— (viii) A skull fracture or other serious bone fracture.~~

3 ~~—— (ix) Subdural hemorrhage or subdural hematoma.~~

4 (e) If the violation causes the death of another individual,
5 the person is guilty of a felony and shall be imprisoned for life
6 without eligibility for parole and may be fined not more than
7 \$40,000.00, or both.

8 (2) A person who places an offensive or injurious substance
9 or compound in or near to any real or personal property with the
10 intent to annoy or alarm any person is guilty of a felony
11 punishable by imprisonment for not more than 5 years or a fine of
12 not more than \$3,000.00, or both.

13 Sec. 210. (1) A person shall not carry or possess an
14 explosive or combustible substance or a substance or compound
15 that when combined with another substance or compound will become
16 explosive or combustible or an article containing an explosive or
17 combustible substance or a substance or compound that when
18 combined with another substance or compound will become explosive
19 or combustible, with the intent to frighten, terrorize,
20 intimidate, threaten, harass, injure, or kill any person, or with
21 the intent to damage or destroy any real or personal property
22 without the permission of the property owner or, if the property
23 is public property, without the permission of the governmental
24 agency having authority over that property.

25 (2) A person who violates ~~this~~ subsection (1) is guilty of
26 a crime as follows:

27 (a) Except as provided in subdivisions (b) to (e), the

1 person is guilty of a felony punishable by imprisonment for not
2 more than 15 years or a fine of not more than \$10,000.00, or
3 both.

4 (b) If the violation damages the property of another person,
5 the person is guilty of a felony punishable by imprisonment for
6 not more than 20 years or a fine of not more than \$15,000.00, or
7 both.

8 (c) If the violation causes physical injury to another
9 individual, other than serious impairment of a body function, the
10 person is guilty of a felony punishable by imprisonment for not
11 more than 25 years or a fine of not more than \$20,000.00, or
12 both.

13 (d) If the violation causes serious impairment of a body
14 function to another individual, the person is guilty of a felony
15 punishable by imprisonment for life or for any term of years or a
16 fine of not more than \$25,000.00, or both. ~~As used in this~~
17 ~~subdivision, "serious impairment of a body function" includes,~~
18 ~~but is not limited to, 1 or more of the following:~~

19 ~~—— (i) Loss of a limb or use of a limb.~~

20 ~~—— (ii) Loss of a hand, foot, finger, or thumb or use of a hand,~~
21 ~~foot, finger, or thumb.~~

22 ~~—— (iii) Loss of an eye or ear or use of an eye or ear.~~

23 ~~—— (iv) Loss or substantial impairment of a bodily function.~~

24 ~~—— (v) Serious visible disfigurement.~~

25 ~~—— (vi) A comatose state that lasts for more than 3 days.~~

26 ~~—— (vii) Measurable brain damage or mental impairment.~~

27 ~~—— (viii) A skull fracture or other serious bone fracture.~~

1 ~~—— (ix) Subdural hemorrhage or subdural hematoma.~~

2 (e) If the violation causes the death of another individual,
3 the person is guilty of a felony and shall be imprisoned for life
4 without eligibility for parole and may be fined not more than
5 \$40,000.00, or both.

6 Sec. 211a. (1) A person shall not manufacture, buy, sell,
7 furnish, or have in his or her possession any device that is
8 designed to explode or that will explode upon impact or with the
9 application of heat or a flame, or that is highly incendiary,
10 with the intent to frighten, terrorize, intimidate, threaten,
11 harass, injure, or kill any person, or with the intent to damage
12 or destroy any real or personal property without the permission
13 of the property owner or, if the property is public property,
14 without the permission of the governmental agency having
15 authority over that property.

16 (2) A person who violates ~~this~~ subsection (1) is guilty of
17 a crime as follows:

18 (a) Except as provided in subdivisions (b) to (e), the
19 person is guilty of a felony punishable by imprisonment for not
20 more than 15 years or a fine of not more than \$10,000.00, or
21 both.

22 (b) If the violation damages the property of another person,
23 the person is guilty of a felony punishable by imprisonment for
24 not more than 20 years or a fine of not more than \$15,000.00, or
25 both.

26 (c) If the violation causes physical injury to another
27 individual, other than serious impairment of a body function, the

1 person is guilty of a felony punishable by imprisonment for not
2 more than 25 years or a fine of not more than \$20,000.00, or
3 both.

4 (d) If the violation causes serious impairment of a body
5 function to another individual, the person is guilty of a felony
6 punishable by imprisonment for life or any term of years or a
7 fine of not more than \$25,000.00, or both. ~~As used in this~~
8 ~~subdivision, "serious impairment of a body function" includes,~~
9 ~~but is not limited to, 1 or more of the following:~~

10 ~~—— (i) Loss of a limb or use of a limb.~~

11 ~~—— (ii) Loss of a hand, foot, finger, or thumb or use of a hand,~~
12 ~~foot, finger, or thumb.~~

13 ~~—— (iii) Loss of an eye or ear or use of an eye or ear.~~

14 ~~—— (iv) Loss or substantial impairment of a bodily function.~~

15 ~~—— (v) Serious visible disfigurement.~~

16 ~~—— (vi) A comatose state that lasts for more than 3 days.~~

17 ~~—— (vii) Measurable brain damage or mental impairment.~~

18 ~~—— (viii) A skull fracture or other serious bone fracture.~~

19 ~~—— (ix) Subdural hemorrhage or subdural hematoma.~~

20 (e) If the violation causes the death of another individual,
21 the person is guilty of a felony and shall be imprisoned for life
22 without eligibility for parole and may be fined not more than
23 \$40,000.00, or both.

24 Sec. 212a. (1) If a person violates this chapter and the
25 violation is committed in or is directed at a vulnerable target,
26 the person is guilty of a felony punishable by imprisonment for
27 not more than 20 years. The court may order a term of

1 imprisonment imposed under this section to be served
2 consecutively to the term of imprisonment for the underlying
3 violation.

4 (2) As used in this section, ~~—~~

5 ~~(a) "Serious impairment of a body function" means that term~~
6 ~~as defined in section 58e of the Michigan vehicle code, 1949 PA~~
7 ~~300, MCL 257.58e.~~

8 ~~——~~ (b) ~~"Vulnerable"~~ **"vulnerable** target" means any of the
9 following:

10 (a) ~~(i)~~ A child care center or day care center as defined
11 in section 1 of 1973 PA 116, MCL 722.111.

12 (b) ~~(ii)~~ A health care facility or agency as defined in
13 section 20106 of the public health code, 1978 PA 368, MCL
14 333.20106.

15 (c) ~~(iii)~~ A building or structure open to the general
16 public.

17 (d) ~~(iv)~~ A church, synagogue, mosque, or other place of
18 religious worship.

19 (e) ~~(v)~~ A public, private, denominational, or parochial
20 school offering developmental kindergarten, kindergarten, or any
21 grade 1 through 12.

22 (f) ~~(vi)~~ An institution of higher education.

23 (g) ~~(vii)~~ A stadium.

24 (h) ~~(viii)~~ A transportation structure or facility open to
25 the public, including, but not limited to, a bridge, a tunnel, a
26 public highway, or a railroad.

27 (i) ~~(ix)~~ An airport. As used in this ~~subparagraph~~

1 **subdivision**, "airport" means that term as defined in section 2
2 ~~or section 9~~ of the aeronautics code of the state of Michigan,
3 1945 PA 327, MCL 259.2. ~~and 259.9.~~

4 (j) ~~(x)~~ Port facilities. As used in this ~~subparagraph~~
5 **subdivision**, "port facilities" means that term as defined in
6 section 2 of the Hertel-Law-T. Stopczynski port authority act,
7 1978 PA 639, MCL 120.102.

8 (k) ~~(xi)~~ A public services facility. As used in this
9 ~~subparagraph~~ **subdivision**, "public services facility" means any
10 of the following facilities whether publicly or privately owned:

11 (i) ~~(A)~~ A natural gas refinery, natural gas storage
12 facility, or natural gas pipeline.

13 (ii) ~~(B)~~ An electric, steam, gas, telephone, power, water,
14 or pipeline facility.

15 (iii) ~~(C)~~ A nuclear power plant, nuclear reactor facility,
16 or nuclear waste storage facility.

17 (l) ~~(xii)~~ A petroleum refinery, petroleum storage facility,
18 or petroleum pipeline.

19 (m) ~~(xiii)~~ A vehicle, locomotive or railroad car, aircraft,
20 or watercraft used to provide transportation services to the
21 public or to provide for the movement of goods in commerce.

22 (n) ~~(xiv)~~ A building, structure, or other facility owned or
23 operated by the federal government, by this state, or by a
24 political subdivision or any other instrumentality of this state
25 or of a local unit of government.

26 ~~(3) This section does not prohibit an individual from being~~
27 ~~charged with, convicted of, or punished for any other violation~~

1 ~~of law committed by that individual while violating this~~
2 ~~section.~~

3 Enacting section 1. This amendatory act takes effect
4 October 1, 2003.

5 Enacting section 2. This amendatory act does not take
6 effect unless House Bill No. 4513 of the 92nd Legislature is
7 enacted into law.