

**SUBSTITUTE FOR
HOUSE BILL NO. 4861**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 224, 224d, and 231 (MCL 750.224, 750.224d, and
750.231), section 224 as amended by 1991 PA 33, section 224d as
amended by 1992 PA 4, and section 231 as amended by 2002 PA 536.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 224. (1) A person shall not manufacture, sell, offer for
2 sale, or possess any of the following:
- 3 (a) A machine gun or firearm that shoots or is designed to
4 shoot automatically more than 1 shot without manual reloading, by a
5 single function of the trigger.
- 6 (b) A muffler or silencer.
- 7 (c) A bomb or bombshell.
- 8 (d) A blackjack, slungshot, billy, metallic knuckles, sand
9 club, sand bag, or bludgeon.
- 10 (e) A device, weapon, cartridge, container, or contrivance

1 designed to render a person temporarily or permanently disabled by
2 the ejection, release, or emission of a gas or other substance.

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

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

7 (a) A self-defense spray **OR FOAM** device as defined in section
8 224d.

9 (b) A person manufacturing firearms, explosives, or munitions
10 of war by virtue of a contract with a department of the government
11 of the United States.

12 (c) A person licensed by the secretary of the treasury of the
13 United States or the secretary's delegate to manufacture, sell, or
14 possess a machine gun, or a device, weapon, cartridge, container,
15 or contrivance described in subsection (1).

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

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

20 (b) A combination of parts, designed or redesigned, and
21 intended for use in assembling or fabricating a muffler or
22 silencer.

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

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

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

3 (i) Not more than 35 grams of any combination of
4 orthochlorobenzalmalononitrile and inert ingredients.

5 (ii) A solution containing ~~not more than 2%~~ 10% oleoresin
6 capsicum.

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

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

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

26 (4) A person shall not sell a self-defense spray **OR FOAM**
27 device to a minor. A person who violates this subsection is guilty

1 of a misdemeanor.

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

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

6 (A) THE REASONABLE USE OF A SELF-DEFENSE SPRAY OR FOAM DEVICE
7 CONTAINING NOT MORE THAN 10% OLEORESIN CAPSICUM BY A PERSON WHO IS
8 EMPLOYED BY A COUNTY SHERIFF OR A CHIEF OF POLICE AND WHO IS
9 AUTHORIZED IN WRITING BY THE COUNTY SHERIFF OR CHIEF OF POLICE TO
10 CARRY AND USE A SELF-DEFENSE SPRAY OR FOAM DEVICE AND HAS BEEN
11 TRAINED IN THE USE, EFFECTS, AND RISKS OF THE DEVICE, WHILE IN
12 PERFORMANCE OF HIS OR HER OFFICIAL DUTIES.

13 (b) The reasonable use of a self-defense spray **OR FOAM** device
14 **CONTAINING NOT MORE THAN 2% OLEORESIN CAPSICUM** by a person in the
15 protection of a person or property under circumstances which would
16 justify the person's use of physical force.

17 Sec. 231. (1) Except as provided in subsection (2), sections
18 224, 224a, 224b, **224D**, 226a, 227, 227c, and 227d do not apply to
19 any of the following:

20 (a) A peace officer of an authorized police agency of the
21 United States, of this state, or of a political subdivision of this
22 state, who is regularly employed and paid by the United States,
23 this state, or a political subdivision of this state.

24 (b) A person who is regularly employed by the state department
25 of corrections and who is authorized in writing by the director of
26 the department of corrections to carry a concealed weapon while in
27 the official performance of his or her duties or while going to or

1 returning from those duties.

2 (c) A person employed by a private vendor that operates a
3 youth correctional facility authorized under section 20g of 1953 PA
4 232, MCL 791.220g, who meets the same criteria established by the
5 director of the state department of corrections for departmental
6 employees described in subdivision (b) and who is authorized in
7 writing by the director of the department of corrections to carry a
8 concealed weapon while in the official performance of his or her
9 duties or while going to or returning from those duties.

10 (d) A member of the United States army, air force, navy, or
11 marine corps or the United States coast guard while carrying
12 weapons in the line of or incidental to duty.

13 (e) An organization authorized by law to purchase or receive
14 weapons from the United States or from this state.

15 (f) A member of the national guard, armed forces reserve, the
16 United States coast guard reserve, or any other authorized military
17 organization while on duty or drill, or in going to or returning
18 from a place of assembly or practice, while carrying weapons used
19 for a purpose of the national guard, armed forces reserve, United
20 States coast guard reserve, or other duly authorized military
21 organization.

22 (2) As applied to section 224a(1) only, subsection (1) is not
23 applicable to an individual included under subsection (1)(a), (b),
24 or (c) unless he or she has been trained on the use, effects, and
25 risks of using a portable device or weapon described in section
26 224a(1).

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted.