

SUBSTITUTE FOR
HOUSE BILL NO. 5435

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 224a (MCL 750.224a), as amended by 2004 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 224a. (1) Except as otherwise provided in this section, a
2 person shall not sell, offer for sale, or possess in this state a
3 portable device or weapon from which an electrical current,
4 impulse, wave, or beam may be directed, which current, impulse,
5 wave, or beam is designed to incapacitate temporarily, injure, or
6 kill.

7 (2) This section does not prohibit any of the following:

8 (a) The possession and reasonable use of a device that uses
9 electro-muscular disruption technology by ~~a~~ **ANY OF THE FOLLOWING**

1 INDIVIDUALS, IF THE INDIVIDUAL HAS BEEN TRAINED IN THE USE,
2 EFFECTS, AND RISKS OF THE DEVICE, AND IS USING THE DEVICE WHILE
3 PERFORMING HIS OR HER OFFICIAL DUTIES:

4 (i) A peace officer. ~~—,an~~

5 (ii) AN employee of the department of corrections WHO IS
6 authorized in writing by the director of the department of
7 corrections ~~—a~~ TO POSSESS AND USE THE DEVICE.

8 (iii) A local corrections officer authorized in writing by the
9 county sheriff ~~—,a~~ TO POSSESS AND USE THE DEVICE.

10 (iv) AN INDIVIDUAL EMPLOYED BY A LOCAL UNIT OF GOVERNMENT THAT
11 UTILIZES A JAIL OR LOCKUP FACILITY WHO HAS CUSTODY OF PERSONS
12 DETAINED OR INCARCERATED IN THE JAIL OR LOCKUP FACILITY AND WHO IS
13 AUTHORIZED IN WRITING BY THE CHIEF OF POLICE, DIRECTOR OF PUBLIC
14 SAFETY, OR SHERIFF TO POSSESS AND USE THE DEVICE.

15 (v) A probation officer. ~~—,a~~

16 (vi) A court officer. ~~—,a~~

17 (vii) A bail agent authorized under section 167b. ~~—,a~~

18 (viii) A licensed private investigator. ~~—,or an~~

19 (ix) AN aircraft pilot or aircraft crew member. ~~—, who has been~~
20 ~~trained in the use, effects, and risks of the device, while~~
21 ~~performing his or her official duties.~~

22 (x) AN INDIVIDUAL EMPLOYED AS A PRIVATE SECURITY POLICE
23 OFFICER. AS USED IN THIS SUBPARAGRAPH, "PRIVATE SECURITY POLICE"
24 MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE PRIVATE SECURITY
25 BUSINESS AND SECURITY ALARM ACT, 1968 PA 330, MCL 338.1052.

26 (b) Possession solely for the purpose of delivering a device
27 described in subsection (1) to any governmental agency or to a

1 laboratory for testing, with the prior written approval of the
2 governmental agency or law enforcement agency and under conditions
3 determined to be appropriate by that agency.

4 (3) A manufacturer, authorized importer, or authorized dealer
5 may demonstrate, offer for sale, hold for sale, sell, give, lend,
6 or deliver a device that uses electro-muscular disruption
7 technology to a person authorized to possess a device that uses
8 electro-muscular disruption technology and may possess a device
9 that uses electro-muscular disruption technology for any of those
10 purposes.

11 (4) A person who violates this section is guilty of a felony
12 punishable by imprisonment for not more than 4 years or a fine of
13 not more than \$2,000.00, or both.

14 (5) As used in this section:

15 (a) "A device that uses electro-muscular disruption
16 technology" means a device to which all of the following apply:

17 (i) The device is capable of creating an electro-muscular
18 disruption and is used or intended to be used as a defensive device
19 capable of temporarily incapacitating or immobilizing a person by
20 the direction or emission of conducted energy.

21 (ii) The device contains an identification and tracking system
22 that, when the device is initially used, dispenses coded material
23 traceable to the purchaser through records kept by the
24 manufacturer.

25 (iii) The manufacturer of the device has a policy of providing
26 the identification and tracking information described in
27 subparagraph (ii) to a police agency upon written request by that

1 agency.

2 (b) "Local corrections officer" means that term as defined in
3 section 2 of the local corrections officers training act, 2003 PA
4 125, MCL 791.532.

5 (c) "Peace officer" means any of the following:

6 (i) A police officer or public safety officer of this state or
7 a political subdivision of this state, including motor carrier
8 officers appointed under section 6d of 1935 PA 59, MCL 28.6d, and
9 security personnel employed by the state under section 6c of 1935
10 PA 59, MCL 28.6c.

11 (ii) A sheriff or a sheriff's deputy.

12 (iii) A police officer or public safety officer of a junior
13 college, college, or university who is authorized by the governing
14 board of that junior college, college, or university to enforce
15 state law and the rules and ordinances of that junior college,
16 college, or university.

17 (iv) A township constable.

18 (v) A marshal of a city, village, or township.

19 (vi) A conservation officer of the department of natural
20 resources or the department of environmental quality.

21 (vii) A law enforcement officer of another state or of a
22 political subdivision of another state or a junior college,
23 college, or university in another state, substantially
24 corresponding to a law enforcement officer described in
25 subparagraphs (i) to (vi).

26 (viii) A federal law enforcement officer.