

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**

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

(i) A peace officer. ~~—an~~

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

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

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

(v) A probation officer. ~~—a~~

(vi) A court officer. ~~—a~~

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

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

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

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

(b) Possession solely for the purpose of delivering a device  
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.