

HOUSE BILL No. 5435

November 22, 2005, Introduced by Rep. Jones and referred to the Committee on Judiciary.

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 IN A CITY JAIL OR LOCKUP WHO HAS
 11 CUSTODY OF PERSONS DETAINED OR INCARCERATED IN THE JAIL OR LOCKUP
 12 AND WHO IS AUTHORIZED IN WRITING BY THE CHIEF OF POLICE OR SHERIFF
 13 TO POSSESS AND USE THE DEVICE.

14 (v) A probation officer. ~~—, a~~

15 (vi) A court officer. ~~—, a~~

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

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

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

21 (b) Possession solely for the purpose of delivering a device
 22 described in subsection (1) to any governmental agency or to a
 23 laboratory for testing, with the prior written approval of the
 24 governmental agency or law enforcement agency and under conditions
 25 determined to be appropriate by that agency.

26 (3) A manufacturer, authorized importer, or authorized dealer
 27 may demonstrate, offer for sale, hold for sale, sell, give, lend,

1 or deliver a device that uses electro-muscular disruption
2 technology to a person authorized to possess a device that uses
3 electro-muscular disruption technology and may possess a device
4 that uses electro-muscular disruption technology for any of those
5 purposes.

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

9 (5) As used in this section:

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

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

16 (ii) The device contains an identification and tracking system
17 that, when the device is initially used, dispenses coded material
18 traceable to the purchaser through records kept by the
19 manufacturer.

20 (iii) The manufacturer of the device has a policy of providing
21 the identification and tracking information described in
22 subparagraph (ii) to a police agency upon written request by that
23 agency.

24 (b) "Local corrections officer" means that term as defined in
25 section 2 of the local corrections officers training act, 2003 PA
26 125, MCL 791.532.

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

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

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

7 (iii) A police officer or public safety officer of a junior
8 college, college, or university who is authorized by the governing
9 board of that junior college, college, or university to enforce
10 state law and the rules and ordinances of that junior college,
11 college, or university.

12 (iv) A township constable.

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

14 (vi) A conservation officer of the department of natural
15 resources or the department of environmental quality.

16 (vii) A law enforcement officer of another state or of a
17 political subdivision of another state or a junior college,
18 college, or university in another state, substantially
19 corresponding to a law enforcement officer described in
20 subparagraphs (i) to (vi).

21 (viii) A federal law enforcement officer.