

# HOUSE BILL No. 5902

March 21, 2006, Introduced by Rep. Hildenbrand and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 224d (MCL 750.224d), as amended by 1992 PA 4.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 224d. (1) As used in this section and section 224, "self-  
2       defense spray device" means a device to which all of the following  
3       apply:

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

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

8       (ii) A solution containing not more than 2% oleoresin capsicum  
9       OR, FOR A PERSON DESCRIBED IN SUBSECTION (5)(A) OR (C), NOT MORE  
10      THAN 10% OLEORESIN CAPSICUM.

1 (b) The device does not eject, release, or emit any gas or  
2 substance that will temporarily or permanently disable,  
3 incapacitate, injure, or harm a person with whom the gas or  
4 substance comes in contact, other than the substance described in  
5 subdivision (a)(i) or (ii).

6 (2) Except as otherwise provided in this section, a person who  
7 uses a self-defense spray device to eject, release, or emit  
8 orthochlorobenzalmalononitrile or oleoresin capsicum at another  
9 person is guilty of a misdemeanor, punishable by imprisonment for  
10 not more than 2 years, or a fine of not more than \$2,000.00, or  
11 both.

12 (3) If a person uses a self-defense spray device during the  
13 commission of a crime to eject, release, or emit  
14 orthochlorobenzalmalononitrile or oleoresin capsicum or threatens  
15 to use a self-defense spray device during the commission of a crime  
16 to temporarily or permanently disable another person, the judge who  
17 imposes sentence upon a conviction for that crime shall consider  
18 the defendant's use or threatened use of the self-defense spray  
19 device as a reason for enhancing the sentence.

20 (4) A person shall not sell a self-defense spray device to a  
21 minor. A person who violates this subsection is guilty of a  
22 misdemeanor.

23 (5) Subsection (2) does not prohibit ~~either~~ **ANY** of the  
24 following:

25 (a) The reasonable use of a self-defense spray device by a law  
26 enforcement officer in the performance of the law enforcement  
27 officer's duty.

1 (b) The reasonable use of a self-defense spray device by a  
2 person in the protection of a person or property under  
3 circumstances ~~which~~ **THAT** would justify the person's use of  
4 physical force.

5 (C) THE REASONABLE USE OF A SELF-DEFENSE SPRAY BY A PRIVATE  
6 DETECTIVE OR PRIVATE INVESTIGATOR AS DEFINED IN SECTION 2 OF THE  
7 PRIVATE DETECTIVE LICENSE ACT, 1965 PA 285, MCL 338.822, OR BY A  
8 PRIVATE SECURITY GUARD AS DEFINED IN SECTION 2 OF THE PRIVATE  
9 SECURITY BUSINESS AND SECURITY ALARM ACT, 1968 PA 330, MCL  
10 338.1052, IF THE PRIVATE DETECTIVE, PRIVATE INVESTIGATOR, OR  
11 PRIVATE SECURITY GUARD SUCCESSFULLY COMPLETED A COURSE IN THE USE  
12 OF A SELF-DEFENSE SPRAY THAT WAS PROVIDED BY A PRIVATE ENTITY AND  
13 APPROVED BY THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH FOR  
14 PURPOSES OF THIS SUBDIVISION.