

Act No. 401  
Public Acts of 2006  
Approved by the Governor  
September 29, 2006  
Filed with the Secretary of State  
September 29, 2006  
EFFECTIVE DATE: December 28, 2006

**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2006**

Introduced by Reps. Ball, Jones and Schuitmaker

# **ENROLLED HOUSE BILL No. 4861**

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," 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:*

Sec. 224. (1) A person shall not manufacture, sell, offer for sale, or possess any of the following:

(a) A machine gun or firearm that shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger.

(b) A muffler or silencer.

(c) A bomb or bombshell.

(d) A blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, or bludgeon.

(e) A device, weapon, cartridge, container, or contrivance designed to render a person temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance.

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

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

(a) A self-defense spray or foam device as defined in section 224d.

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

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

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

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

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

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

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

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

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

(ii) A solution containing not more than 10% oleoresin capsicum.

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

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

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

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

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

(a) The reasonable use of a self-defense spray or foam device containing not more than 10% oleoresin capsicum by a person who is employed by a county sheriff or a chief of police and who is authorized in writing by the county sheriff or chief of police to carry and use a self-defense spray or foam device and has been trained in the use, effects, and risks of the device, while in performance of his or her official duties.

(b) The reasonable use of a self-defense spray or foam device containing not more than 2% oleoresin capsicum by a person in the protection of a person or property under circumstances which would justify the person’s use of physical force.

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

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

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

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

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

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

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

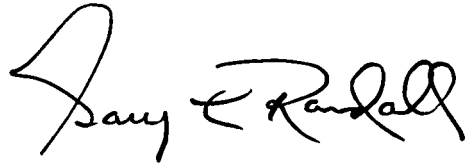
(g) A security employee employed by the state and granted limited arrest powers under section 6c of 1935 PA 59, MCL 28.6c.

(h) A motor carrier officer appointed under section 6d of 1935 PA 59, MCL 28.6d.

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

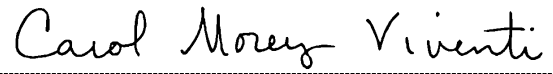
Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved \_\_\_\_\_

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Governor