

SUBSTITUTE FOR
HOUSE BILL NO. 6053

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 224d (MCL 750.224d), as amended by 2006 PA 401.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 224d. (1) As used in this section and section 224, "self-
2 defense spray or foam device" means a device to which all of the
3 following 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 10% oleoresin
9 capsicum.

10 (b) The device does not eject, release, or emit any gas or

1 substance that will temporarily or permanently disable,
2 incapacitate, injure, or harm a person with whom the gas or
3 substance comes in contact, other than the substance described in
4 subdivision (a)(i) or (ii).

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

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

19 (4) A person shall not sell a self-defense spray or foam
20 device to a minor. A person who violates this subsection is guilty
21 of a misdemeanor **PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90**
22 **DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.**

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

24 (a) The reasonable use of a self-defense spray or foam device
25 containing not more than 10% oleoresin capsicum by a person who is
26 employed by a county sheriff or a chief of police and who is
27 authorized in writing by the county sheriff or chief of police to

1 carry and use a self-defense spray or foam device and has been
2 trained in the use, effects, and risks of the device, while in
3 performance of his or her official duties.

4 (b) The reasonable use of a self-defense spray or foam device
5 containing not more than ~~2%~~**10%** oleoresin capsicum by a person in
6 the protection of a person or property under circumstances ~~which~~
7 **THAT** would justify the person's use of physical force.