

HOUSE BILL No. 5282

February 6, 2014, Introduced by Reps. Pscholka, LaVoy, Pagel, Rogers, Zorn, Johnson, Somerville, Pettalia, Nesbitt, Genetski, Kelly, Farrington, Schmidt, Bumstead, Brunner, Dillon, Geiss, Graves, Lane, Yonker, Victory, Callton, Haines, Shirkey, Price, MacGregor, Outman, VerHeulen, Muxlow, Poleski, Jenkins and Kowall and referred to the Committee on Energy and Technology.

A bill to create the security act for nuclear energy; and to clarify the rights and duties of officers providing security at nuclear generating facilities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) An officer providing security at a nuclear
2 generating facility may use physical force, other than deadly
3 physical force, against another individual if that officer
4 providing security honestly and reasonably believes that the
5 physical force, other than deadly physical force, is necessary to
6 prevent or terminate that other individual's unlawful trespass at
7 that nuclear generating facility under section 552 of the Michigan
8 penal code, 1931 PA 328, MCL 750.552.

9 (2) An officer providing security at a nuclear generating
10 facility may use physical force, including deadly physical force,

1 against another individual if the officer providing security
2 honestly and reasonably believes that the use of physical force,
3 including deadly physical force, is necessary to prevent or
4 terminate an individual from breaking and entering or attempting to
5 break and enter into the business premises of a nuclear generating
6 or nuclear storage building or structure with the intent to commit
7 a crime involving the infliction or threatened infliction of
8 serious physical harm to any individual, or to deter a threat of
9 radiological sabotage or a threat of theft or diversion of special
10 nuclear material.

11 (3) Notwithstanding any other provision of this act, an
12 officer providing security at a nuclear generating facility may
13 threaten to use physical force, including deadly physical force, if
14 the officer providing security honestly and reasonably believes it
15 is necessary to protect himself or herself or another individual
16 against another individual's potential use of physical force,
17 including deadly physical force, or to deter a threat of
18 radiological sabotage or a threat of theft or diversion of special
19 nuclear material.

20 (4) Notice of the authorization provided in subsection (2)
21 shall be conspicuously posted at all entrances to the business
22 premises of a nuclear generating or nuclear storage building or
23 structure and at intervals along the perimeter in such a manner as
24 to provide reasonable notice of that authorization to persons about
25 to enter.

26 (5) An officer providing security at a nuclear generating
27 facility, the employer of an officer providing security at a

1 nuclear generating facility, and the owner and the operator of a
2 nuclear generating facility are immune from civil liability for the
3 conduct of an officer providing security at a nuclear generating
4 facility that is lawful under this section.

5 (6) Except as provided in this section, this section does not
6 modify the common law of this state in existence on the effective
7 date of this act regarding the use of deadly force.

8 (7) As used in this section:

9 (a) "Business premises of a nuclear generating or nuclear
10 storage building or structure" means a building or other structure
11 used to generate electricity using nuclear power, or that is used
12 to store special nuclear material associated with or resulting from
13 generating electricity using nuclear power. Business premises of a
14 nuclear generating or nuclear storage building or structure include
15 any appurtenant building or structure and any barrier or barrier
16 system surrounding that building or structure or appurtenant
17 building or structure that is designed to protect against
18 radiological sabotage or theft or diversion of special nuclear
19 material that is required to be designated and posted against
20 trespassing under 42 USC 2278a, or any other substantially
21 equivalent federal law.

22 (b) "Nuclear generating facility" means 1 or more of the
23 following:

24 (i) A facility that is located in this state that generates
25 electricity using nuclear power for sale, directly or indirectly,
26 to the public.

27 (ii) A facility that is located in this state that was formerly

1 used to generate electricity using nuclear power for sale, directly
2 or indirectly, to the public, and that stores special nuclear
3 material.

4 (iii) The land surrounding a facility described in subparagraph
5 (i) or (ii) that is in the possession of the facility owner or
6 operator.

7 (iv) Any nuclear generating or nuclear storage building or
8 structure on land described in subparagraph (iii).

9 (c) "Officer providing security at a nuclear generating
10 facility" includes all of the following:

11 (i) A police officer or peace officer acting in the performance
12 of his or her duties as a police officer or peace officer.

13 (ii) A security officer employed by or under contract with a
14 nuclear generating facility who is employed as part of any security
15 plan approved by the United States nuclear regulatory commission or
16 its successor agency and who is performing his or her duties under
17 that plan.

18 (d) "Special nuclear material" means material capable of a
19 self-sustaining fission chain reaction.