

Act No. 98
Public Acts of 2018
Approved by the Governor
April 2, 2018
Filed with the Secretary of State
April 2, 2018
EFFECTIVE DATE: April 2, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Hoitenga, Cox, Whiteford, Alexander, Reilly, Lucido, Hornberger, Hughes, Glenn, Crawford, Griffin, Allor, Yanez, Chang, Pagan and Marino

ENROLLED HOUSE BILL No. 5220

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 criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 224d (MCL 750.224d), as amended by 2010 PA 365.

The People of the State of Michigan enact:

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 18% oleoresin capsicum.

(iii) A solution containing an ultraviolet dye and not more than 18% 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), (ii), or (iii).

(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 punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(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 18% 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 either of the following by a person in the protection of a person or property under circumstances that would justify the person's use of physical force:

(i) A self-defense spray or foam device containing not more than 18% oleoresin capsicum.

(ii) A self-defense spray or foam device containing an ultraviolet dye and not more than 18% oleoresin capsicum.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor