

HOUSE BILL NO. 5694

January 26, 2022, Introduced by Rep. Wendzel 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 2018 PA 98.

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~~ **ejecting, releasing, or emitting, including through a**
6 **cartridge or projectile,** 1 of the following:

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

3 (ii) A solution containing not more than 18% oleoresin
4 capsicum.

5 (iii) A solution containing an ultraviolet dye and not more than
6 18% oleoresin capsicum.

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

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

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

26 (4) A person shall not sell a self-defense spray or foam
27 device to a minor. A person who violates this subsection is guilty
28 of a misdemeanor punishable by imprisonment for not more than 90
29 days or a fine of not more than \$500.00, or both.

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

2 (a) The reasonable use of a self-defense spray or foam device
3 containing not more than 18% oleoresin capsicum by a person who is
4 employed by a county sheriff or a chief of police and who is
5 authorized in writing by the county sheriff or chief of police to
6 carry and use a self-defense spray or foam device and has been
7 trained in the use, effects, and risks of the device, while in
8 performance of his or her official duties.

9 (b) The reasonable use of either of the following by a person
10 in the protection of a person or property under circumstances that
11 would justify the person's use of physical force:

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

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

16 **(6) The definition of self-defense spray or foam device under**
17 **subsection (1) includes a cartridge or projectile that contains a**
18 **substance described under subsection (1) (a) (i) to (iii) capable of**
19 **being fired from a pneumatic gun.**

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