

HOUSE BILL NO. 6152

May 26, 2022, Introduced by Reps. Bezotte, Mekoski, Carra, LaFave, Maddock, Marino and Berman and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 224a, 231a, and 237a (MCL 750.224a, 750.231a, and 750.237a), section 224a as amended by 2012 PA 122, section 231a as amended by 2012 PA 427, and section 237a as amended by 2017 PA 96.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 224a. (1) Except as otherwise provided in this section, a
2 person shall not sell, offer for sale, or possess in this state a
3 portable device or weapon from which an electrical current,
4 impulse, wave, or beam may be directed, which current, impulse,

1 wave, or beam is designed to incapacitate temporarily, injure, or
2 kill.

3 (2) This section does not prohibit any of the following:

4 (a) The possession and reasonable use of a device that uses
5 electro-muscular disruption technology by a peace officer, or by
6 any of the following individuals if the individual has been trained
7 in the use, effects, and risks of the device, and is using the
8 device while performing his or her official duties:

9 (i) An employee of the department of corrections who is
10 authorized in writing by the director of the department of
11 corrections to possess and use the device.

12 (ii) A local corrections officer authorized in writing by the
13 county sheriff to possess and use the device.

14 (iii) An individual employed by a local unit of government that
15 utilizes a jail or lockup facility who has custody of persons
16 detained or incarcerated in the jail or lockup facility and who is
17 authorized in writing by the chief of police, director of public
18 safety, or sheriff to possess and use the device.

19 (iv) A probation officer.

20 (v) A court officer.

21 (vi) A bail agent authorized under section 167b.

22 (vii) A licensed private investigator.

23 (viii) An aircraft pilot or aircraft crew member.

24 (ix) An individual employed as a private security police
25 officer. As used in this subparagraph, "private security police"
26 means that term as defined in section 2 of the private security
27 business and security alarm act, 1968 PA 330, MCL 338.1052.

28 (b) The possession and reasonable use of a device that uses
29 electro-muscular disruption technology by an individual who holds a

1 valid license to carry a concealed pistol under section 5b of 1927
2 PA 372, MCL ~~28.425~~, **28.425b**, and who has been trained under
3 subsection (5) in the use, effects, and risks of the device.

4 (c) Possession solely for the purpose of delivering a device
5 described in subsection (1) to any governmental agency or to a
6 laboratory for testing, with the prior written approval of the
7 governmental agency or law enforcement agency and under conditions
8 determined to be appropriate by that agency.

9 **(d) The possession and reasonable use of a device that uses**
10 **electro-muscular disruption technology by a school employee at the**
11 **school or on the school property where that employee is employed if**
12 **the chief executive officer of the school has authorized that**
13 **individual to carry a portable device that uses electro-muscular**
14 **disruption technology in that school or on that school property.**

15 (3) A manufacturer, authorized importer, or authorized dealer
16 may demonstrate, offer for sale, hold for sale, sell, give, lend,
17 or deliver a device that uses electro-muscular disruption
18 technology to a person authorized to possess a device that uses
19 electro-muscular disruption technology and may possess a device
20 that uses electro-muscular disruption technology for any of those
21 purposes.

22 (4) A person who violates subsection (1) is guilty of a felony
23 punishable by imprisonment for not more than 4 years or a fine of
24 not more than \$2,000.00, or both.

25 (5) An authorized dealer or other person who sells a device
26 that uses electro-muscular disruption technology to an individual
27 described in subsection (2)(b) shall verify the individual's
28 identity and verify that the individual holds a valid concealed
29 pistol license issued under section 5b of 1927 PA 372, MCL 28.425b,

1 and shall provide to the individual purchasing the device, at the
2 time of the sale, training on the use, effects, and risks of the
3 device. A person who violates this subsection is guilty of a
4 misdemeanor punishable by imprisonment for not more than 30 days or
5 a fine of not more than \$500.00, or both.

6 (6) An individual described in subsection (2) shall not use a
7 device that uses electro-muscular disruption technology against
8 another ~~person~~**individual** except under circumstances that would
9 justify the individual's lawful use of physical force. An
10 individual who violates this ~~subdivision~~**subsection** is guilty of a
11 misdemeanor punishable by imprisonment for not more than 2 years or
12 a fine of not more than \$2,000.00, or both.

13 (7) As used in this section:

14 (a) "A device that uses electro-muscular disruption
15 technology" means a device to which both of the following apply:

16 (i) The device is capable of creating an electro-muscular
17 disruption and is used or intended to be used as a defensive device
18 capable of temporarily incapacitating or immobilizing ~~a person~~**an**
19 **individual** by the direction or emission of conducted energy.

20 (ii) The device contains an identification and tracking system
21 that, when the device is initially used, dispenses coded material
22 traceable to the purchaser through records kept by the
23 manufacturer, and the manufacturer of the device has a policy of
24 providing that identification and tracking information to a police
25 agency upon written request by that agency. However, this
26 subdivision does not apply to a launchable device that is used only
27 by law enforcement agencies.

28 (b) "Local corrections officer" means that term as defined in
29 section 2 of the local corrections officers training act, 2003 PA

1 125, MCL 791.532.

2 (c) "Peace officer" means any of the following:

3 (i) A police officer or public safety officer of this state or
4 a political subdivision of this state, including motor carrier
5 officers appointed under section 6d of 1935 PA 59, MCL 28.6d, and
6 security personnel employed by the state under section 6c of 1935
7 PA 59, MCL 28.6c.

8 (ii) A sheriff or a sheriff's deputy.

9 (iii) A police officer or public safety officer of a junior
10 college, college, or university who is authorized by the governing
11 board of that junior college, college, or university to enforce
12 state law and the rules and ordinances of that junior college,
13 college, or university.

14 (iv) A township constable.

15 (v) A marshal of a city, village, or township.

16 (vi) A conservation officer of the department of natural
17 resources or the department of environmental quality.

18 (vii) A reserve peace officer, as that term is defined in
19 section 1 of 1927 PA 372, MCL 28.421.

20 (viii) A law enforcement officer of another state or of a
21 political subdivision of another state or a junior college,
22 college, or university in another state, substantially
23 corresponding to a law enforcement officer described in
24 subparagraphs (i) to (vii).

25 (ix) A federal law enforcement officer.

26 Sec. 231a. (1) Subsection (2) of section 227 does not apply to
27 any of the following:

28 (a) To a person holding a valid license to carry a pistol
29 concealed upon his or her person issued by his or her state of

1 residence except where the pistol is carried in nonconformance with
2 a restriction appearing on the license.

3 (b) To the regular and ordinary transportation of pistols as
4 merchandise by an authorized agent of a person licensed to
5 manufacture firearms.

6 (c) To a person carrying an antique firearm, completely
7 unloaded in a closed case or container designed for the storage of
8 firearms in the trunk of a vehicle.

9 (d) To a person while transporting a pistol for a lawful
10 purpose that is licensed by the owner or occupant of the motor
11 vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422,
12 and the pistol is unloaded in a closed case designed for the
13 storage of firearms in the trunk of the vehicle.

14 (e) To a person while transporting a pistol for a lawful
15 purpose that is licensed by the owner or occupant of the motor
16 vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422,
17 and the pistol is unloaded in a closed case designed for the
18 storage of firearms in a vehicle that does not have a trunk and is
19 not readily accessible to the occupants of the vehicle.

20 **(f) To a school employee who possesses a pistol at the school**
21 **or on school property where that employee is employed if both of**
22 **the following apply:**

23 **(i) The chief executive officer of the school has authorized**
24 **that individual to carry a pistol in that school or on that school**
25 **property.**

26 **(ii) The pistol is in a container that is securely locked to**
27 **prevent anyone other than that employee from gaining unauthorized**
28 **access to that pistol.**

29 (2) As used in this section, "antique firearm" means either of

1 the following:

2 (i) A firearm not designed or redesigned for using rimfire or
3 conventional center fire ignition with fixed ammunition and
4 manufactured in or before 1898, including a matchlock, flintlock,
5 percussion cap, or similar type of ignition system or replica of
6 such a firearm, whether actually manufactured before or after 1898.

7 (ii) A firearm using fixed ammunition manufactured in or before
8 1898, for which ammunition is no longer manufactured in the United
9 States and is not readily available in the ordinary channels of
10 commercial trade.

11 Sec. 237a. (1) An individual who engages in conduct proscribed
12 under section 224, 224a, 224b, 224c, 224e, 226, 227, 227a, 227f,
13 234a, 234b, or 234c, or who engages in conduct proscribed under
14 section 223(2) for a second or subsequent time, in a weapon free
15 school zone is guilty of a felony punishable by 1 or more of the
16 following:

17 (a) Imprisonment for not more than the maximum term of
18 imprisonment authorized for the section violated.

19 (b) Community service for not more than 150 hours.

20 (c) A fine of not more than 3 times the maximum fine
21 authorized for the section violated.

22 (2) An individual who engages in conduct proscribed under
23 section 223(1), 224d, 227c, 227d, 231c, 232a(1) or (4), 233, 234,
24 234e, 234f, 235, 236, or 237, or who engages in conduct proscribed
25 under section 223(2) for the first time, in a weapon free school
26 zone is guilty of a misdemeanor punishable by 1 or more of the
27 following:

28 (a) Imprisonment for not more than the maximum term of
29 imprisonment authorized for the section violated or 93 days,

1 whichever is greater.

2 (b) Community service for not more than 100 hours.

3 (c) A fine of not more than \$2,000.00 or the maximum fine
4 authorized for the section violated, whichever is greater.

5 (3) Subsections (1) and (2) do not apply to conduct proscribed
6 under a section enumerated in those subsections to the extent that
7 the proscribed conduct is otherwise exempted or authorized under
8 this chapter.

9 (4) Except as provided in subsection (5), an individual who
10 possesses a weapon in a weapon free school zone is guilty of a
11 misdemeanor punishable by 1 or more of the following:

12 (a) Imprisonment for not more than 93 days.

13 (b) Community service for not more than 100 hours.

14 (c) A fine of not more than \$2,000.00.

15 (5) Subsection (4) does not apply to any of the following:

16 (a) An individual employed by or contracted by a school if the
17 possession of that weapon is to provide security services for the
18 school.

19 (b) A peace officer.

20 (c) An individual licensed by this state or another state to
21 carry a concealed weapon.

22 (d) An individual who possesses a weapon provided by a school
23 or a school's instructor on school property for purposes of
24 providing or receiving instruction in the use of that weapon.

25 (e) An individual who possesses a firearm on school property
26 if that possession is with the permission of the school's principal
27 or an agent of the school designated by the school's principal or
28 the school board.

29 (f) An individual who is 18 years of age or older who is not a

1 student at the school and who possesses a firearm on school
2 property while transporting a student to or from the school if any
3 of the following apply:

4 (i) The individual is carrying an antique firearm, completely
5 unloaded, in a wrapper or container in the trunk of a vehicle while
6 en route to or from a hunting or target shooting area or function
7 involving the exhibition, demonstration or sale of antique
8 firearms.

9 (ii) The individual is carrying a firearm unloaded in a wrapper
10 or container in the trunk of the ~~person's~~**individual's** vehicle,
11 while in possession of a valid Michigan hunting license or proof of
12 valid membership in an organization having shooting range
13 facilities, and while en route to or from a hunting or target
14 shooting area.

15 (iii) The individual is carrying a firearm unloaded in a wrapper
16 or container in the trunk of the individual's vehicle from the
17 place of purchase to his or her home or place of business or to a
18 place of repair or back to his or her home or place of business, or
19 in moving goods from one place of abode or business to another
20 place of abode or business.

21 (iv) The individual is carrying an unloaded firearm in the
22 passenger compartment of a vehicle that does not have a trunk, if
23 the individual is otherwise complying with the requirements of
24 subparagraph (ii) or (iii) and the wrapper or container is not readily
25 accessible to the occupants of the vehicle.

26 **(g) A school employee who possesses a firearm or a device that**
27 **uses electro-muscular disruption technology at the school or on**
28 **school property where that employee is employed if both of the**
29 **following apply:**

1 (i) The chief executive officer of the school has authorized
2 that individual to possess a firearm or a device that uses electro-
3 muscular disruption technology in that school or on that school
4 property. A chief executive officer shall allow at least 3 school
5 employees to possess a firearm or a device that uses electro-
6 muscular disruption technology in that school or on that school
7 property.

8 (ii) The firearm or device is in a container that is securely
9 locked to prevent anyone other than that employee from gaining
10 unauthorized access to that device. Any container used must contain
11 2 separate unlocking mechanisms.

12 (6) As used in this section:

13 (a) "Antique firearm" means either of the following:

14 (i) A firearm not designed or redesigned for using rimfire or
15 conventional center fire ignition with fixed ammunition and
16 manufactured in or before 1898, including a matchlock, flintlock,
17 percussion cap, or similar type of ignition system or a replica of
18 such a firearm, whether actually manufactured before or after the
19 year 1898.

20 (ii) A firearm using fixed ammunition manufactured in or before
21 1898, for which ammunition is no longer manufactured in the United
22 States and is not readily available in the ordinary channels of
23 commercial trade.

24 (b) "A device that uses electro-muscular disruption
25 technology" means that term as defined in section 224a.

26 (c) ~~(b)~~—"School" means a public, private, denominational, or
27 parochial school offering developmental kindergarten, kindergarten,
28 or any grade from 1 through 12.

29 (d) ~~(e)~~—"School property" means a building, playing field, or

1 property used for school purposes to impart instruction to children
2 or used for functions and events sponsored by a school, except a
3 building used primarily for adult education or college extension
4 courses.

5 **(e)** ~~(d)~~—"Weapon" includes, but is not limited to, a pneumatic
6 gun.

7 **(f)** ~~(e)~~—"Weapon free school zone" means school property and a
8 vehicle used by a school to transport students to or from school
9 property.