

SUBSTITUTE FOR
HOUSE BILL NO. 4843

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 224a (MCL 750.224a), as amended by 2012 PA 122.

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,
5 wave, or beam is designed to incapacitate temporarily, injure, or
6 kill.

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

8 (a) The possession and reasonable use of ~~a~~**an electronic**
9 **control** device that uses electro-muscular disruption technology **or**

1 **an electronic control device that uses conducted electrical energy**
2 **technology** by a peace officer, or by any of the following
3 individuals if the individual has been trained in the use, effects,
4 and risks of the device, and is using the device while performing
5 ~~his or her~~ **that individual's** official duties:

6 (i) An employee of the department of corrections who is
7 authorized in writing by the director of the department of
8 corrections to possess and use the device.

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

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

16 (iv) A probation officer.

17 (v) A court officer.

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

19 (vii) A licensed private investigator.

20 (viii) An aircraft pilot or aircraft crew member **who is**
21 **authorized in writing by the pilot or crew member's employer to**
22 **possess and use the device and who uses the device in the course of**
23 **employment and the performance of the pilot's or crew member's**
24 **duties.**

25 (ix) An individual employed as a private security police
26 officer **who is authorized in writing by that individual's employer**
27 **to possess and use the device and who uses the device in the course**
28 **of employment and the performance of that individual's duties.** As
29 used in this subparagraph, "private security police" means that

1 term as defined in section 2 of the private security business and
2 security alarm act, 1968 PA 330, MCL 338.1052.

3 (x) **An individual who possesses a valid concealed pistol**
4 **license issued under section 5b of 1927 PA 372, MCL 28.425b, and is**
5 **employed as a private security guard. The individual must be**
6 **authorized in writing by that individual's employer to possess and**
7 **use the device and must use the device in the course of employment**
8 **and the performance of the individual's duties. The device must be**
9 **owned by the private security guard's employer and issued to the**
10 **private security guard as part of the private security guard's**
11 **equipment. As used in this subparagraph, "private security guard"**
12 **means that term as defined in section 2 of the private security**
13 **business and security alarm act, 1968 PA 330, MCL 338.1052.**

14 (b) The possession and reasonable use of ~~a~~**an electronic**
15 **control** device that uses electro-muscular disruption technology by
16 an individual who holds a valid license to carry a concealed pistol
17 under section 5b of 1927 PA 372, MCL ~~28.425,~~**28.425b**, and who has
18 been trained under subsection (5) in the use, effects, and risks of
19 the device.

20 (c) Possession solely for the purpose of delivering a device
21 described in subsection (1) to any governmental agency or to a
22 laboratory for testing, with the prior written approval of the
23 governmental agency or law enforcement agency and under conditions
24 determined to be appropriate by that agency.

25 (3) A manufacturer, authorized importer, or authorized dealer
26 may demonstrate, offer for sale, hold for sale, sell, give, lend,
27 or deliver a device ~~that uses electro-muscular disruption~~
28 ~~technology~~**described in subsection (2)** to a person authorized to
29 possess a device ~~that uses electro-muscular disruption technology~~

1 **described in subsection (2)** and may possess a device ~~that uses~~
2 ~~electro-muscular disruption technology~~ **described in subsection (2)**
3 for any of those purposes.

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

7 (5) An authorized dealer or other person who sells a device
8 that uses electro-muscular disruption technology to an individual
9 described in subsection (2)(b) shall verify the individual's
10 identity and verify that the individual holds a valid concealed
11 pistol license issued under section 5b of 1927 PA 372, MCL 28.425b,
12 and shall provide to the individual purchasing the device, at the
13 time of the sale, training on the use, effects, and risks of the
14 device. A person who violates this subsection is guilty of a
15 misdemeanor punishable by imprisonment for not more than 30 days or
16 a fine of not more than \$500.00, or both.

17 (6) An individual described in subsection (2) shall not use a
18 **an electronic control** device that uses electro-muscular disruption
19 technology **or an electronic control device that uses conducted**
20 **electrical energy technology** against another ~~person~~ individual
21 except under circumstances that would justify the individual's
22 lawful use of physical force **including to de-escalate a situation,**
23 **to temporarily incapacitate the individual receiving the electrical**
24 **impulse, to deter an illegal assault or an assault and battery from**
25 **being committed or continued by the individual receiving the**
26 **electrical impulse, to overcome illegal resistance being employed**
27 **by the individual receiving the electrical impulse, or for any**
28 **other objectively reasonable purpose.** An individual who violates
29 this ~~subdivision~~ **subsection** is guilty of a misdemeanor punishable

1 by imprisonment for not more than 2 years or a fine of not more
2 than \$2,000.00, or both.

3 (7) As used in this section:

4 (a) **"Electronic control device that uses conducted electrical**
5 **energy technology"** means a device to which both of the following
6 **apply:**

7 (i) **The device delivers an electrical impulse to stimulate**
8 **nerve endings on the surface of human skin to another individual.**

9 (ii) **The device is equipped with a downloadable memory storage**
10 **device capable of recording the date, time, and duration of each**
11 **electrical impulse that was delivered from the device using**
12 **conducted electrical energy technology.**

13 (b) ~~(a) "A~~ **"Electronic control device that uses electro-**
14 **muscular disruption technology"** means a device to which ~~both~~ **either**
15 **of the following apply:applies:**

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 is capable of creating an electro-muscular**
21 **disruption, is used or intended to be used as a defensive device**
22 **capable of temporarily incapacitating, immobilizing, or causing**
23 **lawful compliance of an individual by the direction or emission of**
24 **conducted energy, and contains an identification and tracking**
25 **system that, when the device is initially used, dispenses coded**
26 **material traceable to the purchaser through records kept by the**
27 **manufacturer, and the manufacturer of the device has a policy of**
28 **providing that identification and tracking information to a police**
29 **agency upon written request by that agency. However, this**

subdivision does not apply to a launchable device that is used only by law enforcement agencies.

(c) ~~(b)~~—"Local corrections officer" means that term as defined in section 2 of the local corrections officers training act, 2003 PA 125, MCL 791.532.

(d) ~~(c)~~—"Peace officer" means any of the following:

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

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

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

(iv) A township constable.

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

(vi) A conservation officer of the department of natural resources or the department of ~~environmental quality~~ **environment, Great Lakes, and energy**.

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

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

1 (ix) A federal law enforcement officer.