

# HOUSE BILL No. 4167

January 30, 2007, Introduced by Reps. Clack, Dean, Hammel, Hammon, Constan, Meadows, Lemmons, Vagnozzi, Johnson, Bieda, Gonzales, Sheltroun, Condino, Bauer, Espinoza, Kathleen Law, Sak, Accavitti, Spade, Warren, Young, Virgil Smith, Green, Donigan, Brown, Jackson, Hopgood, Wojno, Polidori, Leland, Mayes, Nitz, Shaffer and Cheeks and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 234a and 234b (MCL 750.234a and 750.234b), as amended by 2005 PA 303.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 234a. (1) Except as ~~provided in subsection (2) or (3)~~  
2 **OTHERWISE PROVIDED IN THIS SECTION**, an individual who intentionally  
3 discharges a firearm from a motor vehicle, a snowmobile, or an off-  
4 road vehicle in such a manner as to endanger the safety of another  
5 individual is guilty of a felony, punishable by imprisonment for  
6 not more than ~~4-10~~ years ~~, or a fine of not more than \$2,000.00~~  
7 **\$10,000.00**, or both.

1           (2) AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IN A MANNER THAT  
2 CAUSES ANY PHYSICAL INJURY OF ANOTHER INDIVIDUAL IS GUILTY OF A  
3 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS, OR A  
4 FINE OF NOT MORE THAN \$15,000.00, OR BOTH.

5           (3) AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IN A MANNER THAT  
6 CAUSES THE SERIOUS IMPAIRMENT OF A BODY FUNCTION OF ANOTHER  
7 INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
8 MORE THAN 20 YEARS, OR A FINE OF NOT MORE THAN \$25,000.00, OR BOTH.

9           (4) AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IN A MANNER THAT  
10 CAUSES THE DEATH OF ANOTHER IS GUILTY OF A FELONY PUNISHABLE BY  
11 IMPRISONMENT FOR LIFE OR ANY TERM OF YEARS.

12           (5) ~~(2) Subsection (1) does~~ SUBSECTIONS (1), (2), (3), AND (4)  
13 DO not apply to a ~~ANY OF THE FOLLOWING:~~

14           (A) A peace officer of this state or another state, or of a  
15 local unit of government of this state or another state, or of the  
16 United States, performing his or her duties as a peace officer  
17 while on or off a scheduled work shift as a peace officer. ~~As used~~  
18 ~~in this subsection, "peace officer" means that term as defined in~~  
19 ~~section 215.~~

20           (B) ~~(3) Subsection (1) does not apply to an~~ AN individual who  
21 discharges a firearm in self-defense or the defense of another  
22 individual.

23           (6) THIS SECTION DOES NOT PROHIBIT AN INDIVIDUAL FROM BEING  
24 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF  
25 LAW THAT IS COMMITTED BY THAT INDIVIDUAL WHILE VIOLATING THIS  
26 SECTION.

27           (7) AS USED IN THIS SECTION:

1 (A) "PEACE OFFICER" MEANS THAT TERM AS DEFINED IN SECTION 215.

2 (B) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM AS  
3 DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,  
4 MCL 257.58C.

5 (8) A TERM OF IMPRISONMENT IMPOSED FOR A VIOLATION OF THIS  
6 SECTION MAY RUN CONSECUTIVELY TO ANY TERM OF IMPRISONMENT IMPOSED  
7 FOR ANOTHER VIOLATION ARISING FROM THE SAME TRANSACTION.

8 Sec. 234b. (1) Except as **OTHERWISE** provided in ~~subsection (3)~~  
9 ~~or (4)~~ **THIS SECTION**, an individual who intentionally discharges a  
10 firearm at a facility that he or she knows or has reason to believe  
11 is a dwelling or an occupied structure, **WHETHER OR NOT THE DWELLING**  
12 **OR STRUCTURE WAS ACTUALLY OCCUPIED AT THE TIME THE FIREARM IS**  
13 **DISCHARGED**, is guilty of a felony ~~punishable~~ by imprisonment for  
14 not more than ~~4-10~~ years ~~or~~ a fine of not more than ~~\$2,000.00~~  
15 **\$10,000.00**, or both.

16 (2) An individual who intentionally discharges a firearm in a  
17 facility that he or she knows or has reason to believe is **A**  
18 **DWELLING OR** an occupied structure ~~in reckless disregard for the~~  
19 ~~safety of any individual~~ is guilty of a felony ~~punishable~~ by  
20 imprisonment for not more than ~~4-15~~ years ~~or~~ a fine of not more  
21 than ~~\$2,000.00-15,000.00~~ **\$15,000.00**, or both.

22 (3) **AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) OR (2) IN A**  
23 **MANNER THAT CAUSES THE SERIOUS IMPAIRMENT OF A BODY FUNCTION OF**  
24 **ANOTHER INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT**  
25 **FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN \$25,000.00,**  
26 **OR BOTH.**

27 (4) **AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) OR (2) IN A**

1 MANNER THAT CAUSES THE DEATH OF ANOTHER IS GUILTY OF A FELONY  
2 PUNISHABLE BY IMPRISONMENT FOR LIFE OR ANY TERM OF YEARS.

3 (5) ~~(3)~~—Subsections (1) and (2) do not apply to a peace  
4 officer of this state or another state, or of a local unit of  
5 government of this state or another state, or of the United States,  
6 performing his or her duties as a peace officer.

7 (6) ~~(4)~~—Subsections (1) and (2) do not apply to an individual  
8 who discharges a firearm in self-defense or the defense of another  
9 individual.

10 (7) THIS SECTION DOES NOT PROHIBIT AN INDIVIDUAL FROM BEING  
11 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF  
12 LAW THAT IS COMMITTED BY THAT INDIVIDUAL WHILE VIOLATING THIS  
13 SECTION.

14 (8) A TERM OF IMPRISONMENT IMPOSED FOR A VIOLATION OF THIS  
15 SECTION MAY RUN CONSECUTIVELY TO ANY TERM OF IMPRISONMENT IMPOSED  
16 FOR ANOTHER VIOLATION ARISING FROM THE SAME TRANSACTION.

17 (9) ~~(5)~~—As used in this section:

18 (a) "Dwelling" means a facility habitually used by 1 or more  
19 individuals as a place of abode, whether or not an individual is  
20 present in the facility.

21 ~~—(b) "Occupied structure" means a facility in which 1 or more~~  
22 ~~individuals are present.~~

23 (B) ~~(c)~~—"Peace officer" means that term as defined in section  
24 215.

25 (C) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM AS  
26 DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,  
27 MCL 257.58C.

1           Enacting section 1. This amendatory act takes effect 90 days  
2 after the date it is enacted.