

HOUSE BILL No. 5124

June 17, 2009, Introduced by Rep. LeBlanc and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 224a (MCL 750.224a), as amended by 2006 PA 457.

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 device that uses
9 electro-muscular disruption technology by any of the following
10 individuals, if the individual has been trained in the use,
11 effects, and risks of the device, and is using the device while

1 performing his or her official duties:

2 (i) A peace officer.

3 (ii) An employee of the department of corrections who is
4 authorized in writing by the director of the department of
5 corrections to possess and use the device.

6 (iii) A local corrections officer authorized in writing by the
7 county sheriff to possess and use the device.

8 (iv) An individual employed by a local unit of government that
9 utilizes a jail or lockup facility who has custody of persons
10 detained or incarcerated in the jail or lockup facility and who is
11 authorized in writing by the chief of police, director of public
12 safety, or sheriff to possess and use the device.

13 (v) A probation officer.

14 (vi) A court officer.

15 (vii) A bail agent authorized under section 167b.

16 (viii) A licensed private investigator.

17 (ix) An aircraft pilot or aircraft crew member.

18 (x) An individual employed as a private security police
19 officer. As used in this subparagraph, "private security police"
20 means that term as defined in section 2 of the private security
21 business and security alarm act, 1968 PA 330, MCL 338.1052.

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

27 (3) A manufacturer, authorized importer, or authorized dealer

1 may demonstrate, offer for sale, hold for sale, sell, give, lend,
2 or deliver a device that uses electro-muscular disruption
3 technology to a person authorized to possess a device that uses
4 electro-muscular disruption technology and may possess a device
5 that uses electro-muscular disruption technology for any of those
6 purposes.

7 (4) A person who violates this section is guilty of a felony
8 punishable by imprisonment for not more than 4 years or a fine of
9 not more than \$2,000.00, or both.

10 (5) As used in this section:

11 (a) "A device that uses electro-muscular disruption
12 technology" means a device to which all of the following apply:

13 (i) The device is capable of creating an electro-muscular
14 disruption and is used or intended to be used as a defensive device
15 capable of temporarily incapacitating or immobilizing a person by
16 the direction or emission of conducted energy.

17 (ii) The device contains an identification and tracking system
18 that, when the device is initially used, dispenses coded material
19 traceable to the purchaser through records kept by the
20 manufacturer.

21 (iii) The manufacturer of the device has a policy of providing
22 the identification and tracking information described in
23 subparagraph (ii) to a police agency upon written request by that
24 agency.

25 (b) "Local corrections officer" means that term as defined in
26 section 2 of the local corrections officers training act, 2003 PA
27 125, MCL 791.532.

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

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

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

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

13 (iv) A township constable.

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

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

17 **(vii) A RESERVE PEACE OFFICER, AUXILIARY OFFICER, OR RESERVE**
18 **OFFICER, AS THOSE TERMS ARE DEFINED IN SECTION 1 OF 1927 PA 372,**
19 **MCL 28.421.**

20 **(viii)** ~~(vii)~~—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 ~~(vi)~~ **(vii)** .

25 **(ix)** ~~(viii)~~—A federal law enforcement officer.