

# HOUSE BILL No. 5220

November 2, 2017, Introduced by Reps. Hoitenga, Cox, Whiteford, Alexander, Reilly, Lucido, Hornberger, Hughes, Glenn, Crawford, Griffin, Allor, Yanez, Chang, Pagan and Marino 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 2010 PA 365.

## 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 1 of the following:

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

8       (ii) A solution containing not more than ~~10%~~ **18%** oleoresin  
9       capsicum.

10       (iii) **A SOLUTION CONTAINING AN ULTRAVIOLET DYE AND NOT MORE**  
11       **THAN 18% OLEORESIN CAPSICUM.**

1 (b) The device does not eject, release, or emit any gas or  
2 substance that will temporarily or permanently disable,  
3 incapacitate, injure, or harm a person with whom the gas or  
4 substance comes in contact, other than the substance described in  
5 subdivision (a) (i) , ~~or~~ (ii) , **OR (iii)** .

6 (2) Except as otherwise provided in this section, a person who  
7 uses a self-defense spray or foam device to eject, release, or emit  
8 orthochlorobenzalmalononitrile or oleoresin capsicum at another  
9 person is guilty of a misdemeanor, punishable by imprisonment for  
10 not more than 2 years, or a fine of not more than \$2,000.00, or  
11 both.

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

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

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

25 (a) The reasonable use of a self-defense spray or foam device  
26 containing not more than ~~10%~~ **18%** oleoresin capsicum by a person who  
27 is employed by a county sheriff or a chief of police and who is

1 authorized in writing by the county sheriff or chief of police to  
2 carry and use a self-defense spray or foam device and has been  
3 trained in the use, effects, and risks of the device, while in  
4 performance of his or her official duties.

5 (b) The reasonable use of ~~a self-defense spray or foam device~~  
6 ~~containing not more than 10% oleoresin capsicum~~ **EITHER OF THE**  
7 **FOLLOWING** by a person in the protection of a person or property  
8 under circumstances that would justify the person's use of physical  
9 force: -

10 (i) **A SELF-DEFENSE SPRAY OR FOAM DEVICE CONTAINING NOT MORE**  
11 **THAN 18% OLEORESIN CAPSICUM.**

12 (ii) **A SELF-DEFENSE SPRAY OR FOAM DEVICE CONTAINING AN**  
13 **ULTRAVIOLET DYE AND NOT MORE THAN 18% OLEORESIN CAPSICUM.**