

HOUSE BILL No. 5535

February 8, 2018, Introduced by Rep. Hoytenga 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 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 STUN GUN BY AN**
 9 **INDIVIDUAL 21 YEARS OF AGE OR OLDER.**

10 **(B) ~~(a)~~**The possession and reasonable use of a device that
 11 uses electro-muscular disruption technology by a peace officer, or

1 by any of the following individuals if the individual has been
2 trained in the use, effects, and risks of the device, and is using
3 the device while performing his or her official duties:

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

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

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

14 (iv) A probation officer.

15 (v) A court officer.

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

17 (vii) A licensed private investigator.

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

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

23 (C) ~~(b)~~ The possession and reasonable use of a device that
24 uses electro-muscular disruption technology by an individual who
25 holds a valid license to carry a concealed pistol under section 5b
26 of 1927 PA 372, ~~MCL 28.425~~, **MCL 28.425B**, and who has been trained
27 under subsection (5) in the use, effects, and risks of the device.

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

6 (3) A manufacturer, authorized importer, or authorized dealer
7 may demonstrate, offer for sale, hold for sale, sell, give, lend,
8 or deliver a **STUN GUN OR A** device that uses electro-muscular
9 disruption technology to a person authorized to possess a **STUN GUN**
10 **OR A** device that uses electro-muscular disruption technology and
11 may possess a **STUN GUN OR A** device that uses electro-muscular
12 disruption technology for any of those purposes.

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

16 (5) An authorized dealer or other person who sells a device
17 that uses electro-muscular disruption technology to an individual
18 described in subsection ~~(2)(b)~~—**(2) (C)** shall verify the individual's
19 identity and verify that the individual holds a valid concealed
20 pistol license issued under section 5b of 1927 PA 372, MCL 28.425b,
21 and shall provide to the individual purchasing the device, at the
22 time of the sale, training on the use, effects, and risks of the
23 device. A person who violates this subsection is guilty of a
24 misdemeanor punishable by imprisonment for not more than 30 days or
25 a fine of not more than \$500.00, or both.

26 (6) An individual described in subsection (2) shall not use a
27 **STUN GUN OR A** device that uses electro-muscular disruption

1 technology against another ~~person~~**INDIVIDUAL** except under
2 circumstances that would justify the individual's lawful use of
3 physical force. An individual who violates this ~~subdivision~~
4 **SUBSECTION** is guilty of a misdemeanor punishable by imprisonment
5 for not more than 2 years or a fine of not more than \$2,000.00, or
6 both.

7 (7) As used in this section:

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

10 (i) The device is capable of creating an electro-muscular
11 disruption and is used or intended to be used as a defensive device
12 capable of temporarily incapacitating or immobilizing a ~~person~~**AN**
13 **INDIVIDUAL** by the direction or emission of conducted energy.

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

22 (b) "Local corrections officer" means that term as defined in
23 section 2 of the local corrections officers training act, 2003 PA
24 125, MCL 791.532.

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

26 (i) A police officer or public safety officer of this state or
27 a political subdivision of this state, including motor carrier

1 officers appointed under section 6d of 1935 PA 59, MCL 28.6d, and
2 security personnel employed by the state under section 6c of 1935
3 PA 59, MCL 28.6c.

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

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

10 (iv) A township constable.

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

12 (vi) A conservation officer of the department of natural
13 resources or the department of environmental quality.

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

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

21 (ix) A federal law enforcement officer.

22 (D) "STUN GUN" MEANS A DEVICE THAT IS CAPABLE OF CREATING AN
23 ELECTRO-MUSCULAR DISRUPTION AND IS USED OR INTENDED TO BE USED AS A
24 DEFENSIVE DEVICE CAPABLE OF TEMPORARILY INCAPACITATING OR
25 IMMOBILIZING AN INDIVIDUAL BY THE DIRECTION OR EMISSION OF
26 CONDUCTED ENERGY. STUN GUN DOES NOT INCLUDE A LAUNCHABLE DEVICE.