

HOUSE BILL No. 5475

February 14, 1990, Introduced by Rep. Sikkema and referred to the Committee on Judiciary.

A bill to amend sections 224 and 224d of Act No. 328 of the Public Acts of 1931, entitled "The Michigan penal code," section 224 as amended and section 224d as added by Act No. 346 of the Public Acts of 1980, being sections 750.224 and 750.224d of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 224 and 224d of Act No. 328 of the
2 Public Acts of 1931, section 224 as amended and section 224d as
3 added by Act No. 346 of the Public Acts of 1980, being sections
4 750.224 and 750.224d of the Michigan Compiled Laws, are amended
5 to read as follows:

6 Sec. 224. (1) A person shall not manufacture, sell, offer
7 for sale, or possess ~~a~~ ANY OF THE FOLLOWING:

1 (A) A machine gun or firearm ~~which~~ THAT shoots or is
2 designed to shoot automatically more than 1 shot without manual
3 reloading, by a single function of the trigger. ~~or a~~

4 (B) A muffler, silencer, or device for deadening or muffling
5 the sound of a discharged firearm. ~~or a~~

6 (C) A bomb or bombshell. ~~or a~~

7 (D) A blackjack, slungshot, billy, metallic knuckles, sand
8 club, sand bag, or bludgeon. ~~or any type of~~

9 (E) ANY device, weapon, cartridge, container, or contrivance
10 designed ~~for the purpose of rendering~~ TO RENDER a person
11 ~~either~~ temporarily or permanently disabled by the ejection,
12 release, or emission of a gas or other substance.

13 (2) A person who violates ~~this section~~ SUBSECTION (1) is
14 guilty of a felony, punishable by imprisonment for not more than
15 5 years, or a fine of not more than \$2,500.00, or both.

16 (3) ~~(2)~~ Subsection (1) does not apply to ~~aes~~ ANY OF THE
17 FOLLOWING:

18 (A) A SELF-DEFENSE SPRAY device as defined in section 224d.
19 ~~or to a~~

20 (B) A person manufacturing firearms, explosives, or muni-
21 tions of war by virtue of a contract with a department of the
22 government of the United States. ~~or to a~~

23 (C) A person licensed by the secretary of the treasury of
24 the United States or the secretary's delegate to manufacture,
25 sell, or possess a machine gun, or ~~the type of~~ A device,
26 weapon, cartridge, container, or contrivance ~~mentioned~~
27 DESCRIBED in subsection (1).

1 Sec. 224d. (1) As used in this section and section 224,
2 ~~"cs device" means a device which is capable of carrying not more~~
3 ~~than 35 grams of any combination of active and inert ingredients~~
4 ~~and which ejects, releases, or emits orthochlorobenzalmalonit-~~
5 ~~rile but which does not eject, release, or emit any other gas or~~
6 ~~substance which will either temporarily or permanently disable,~~
7 ~~incapacitate, injure, or harm a person with whom the gas or sub-~~
8 ~~stance comes in contact.~~ "SELF-DEFENSE SPRAY DEVICE" MEANS A
9 DEVICE TO WHICH ALL OF THE FOLLOWING APPLY:

10 (A) THE DEVICE IS CAPABLE OF CARRYING NOT MORE THAN 35 GRAMS
11 OF ANY COMBINATION OF ACTIVE AND INERT INGREDIENTS.

12 (B) THE DEVICE EJECTS, RELEASES, OR EMITS 1 OF THE
13 FOLLOWING:

14 (i) ORTHOCHLOROBENZALMALONONITRILE.

15 (ii) A SOLUTION CONTAINING NOT MORE THAN 1% OLEORESIN
16 CAPSICUM.

17 (C) THE DEVICE DOES NOT EJECT, RELEASE, OR EMIT ANY GAS OR
18 SUBSTANCE THAT WILL TEMPORARILY OR PERMANENTLY DISABLE, INCAPACI-
19 TATE, INJURE, OR HARM A PERSON WITH WHOM THE GAS OR SUBSTANCE
20 COMES IN CONTACT, OTHER THAN THE SUBSTANCE DESCRIBED IN SUBDIVI-
21 SION (B)(i) OR (ii).

22 (2) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A
23 person who uses a ~~cs~~ SELF-DEFENSE SPRAY device to eject,
24 release, or emit orthochlorobenzalmalononitrile OR OLEORESIN
25 CAPSICUM at another person is guilty of a misdemeanor, punishable
26 by imprisonment for not more than 2 years, or a fine of not more
27 than \$2,000.00, or both.

1 (3) If a person uses a ~~cs~~ SELF-DEFENSE SPRAY device during
2 the commission of a crime to eject, release, or emit orthochloro-
3 benzalmalononitrile OR OLEORESIN CAPSICUM or threatens to use a
4 ~~cs~~ SELF-DEFENSE SPRAY device during the commission of a crime
5 to temporarily or permanently disable another person, the judge
6 who imposes sentence upon a conviction for that crime shall con-
7 sider the defendant's use or threatened use of the ~~cs~~
8 SELF-DEFENSE SPRAY device as a reason for enhancing the
9 sentence.

10 (4) A person shall not sell a ~~cs~~ SELF-DEFENSE SPRAY device
11 to a minor. A person who violates this subsection is guilty of a
12 misdemeanor.

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

15 (a) The reasonable use of a ~~cs~~ SELF-DEFENSE SPRAY device by
16 a law enforcement officer in the performance of the law enforce-
17 ment officer's duty.

18 (b) The reasonable use of a ~~cs~~ SELF-DEFENSE SPRAY device by
19 a person in the protection of a person or property under circum-
20 stances which would justify ~~that~~ THE person's use of physical
21 force.

22 Section 2. This amendatory act shall not take effect unless
23 Senate Bill No. _____ or House Bill No. 5476 (request
24 no. 04820'90 a) of the 85th Legislature is enacted into law.