

HOUSE BILL No. 4312

February 26, 2013, Introduced by Reps. Oakes, Kelly, Ananich and Lane and referred to the Committee on Criminal Justice.

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.

8 (2) **AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IN A MANNER THAT**
 9 **CAUSES ANY PHYSICAL INJURY TO ANOTHER INDIVIDUAL IS GUILTY OF A**

1 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS, OR A
2 FINE OF NOT MORE THAN \$15,000.00, OR BOTH.

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

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

10 (5) ~~(2) Subsection (1) does~~ SUBSECTIONS (1), (2), (3), AND (4)
11 DO not apply to a ~~ANY OF THE FOLLOWING:~~

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

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

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

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

1 (8) AS USED IN THIS SECTION:

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

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

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

14 (2) An individual who intentionally discharges a firearm in a
15 facility that he or she knows or has reason to believe is ~~an~~ A
16 DWELLING OR A POTENTIALLY occupied structure, in reckless disregard
17 for the safety of any individual AND WHETHER OR NOT THE DWELLING OR
18 STRUCTURE IS ACTUALLY OCCUPIED AT THE TIME THE FIREARM IS
19 DISCHARGED, is guilty of a felony ~~—~~ punishable by imprisonment for
20 not more than ~~4~~ 15 years ~~—~~ or a fine of not more than ~~\$2,000.00~~
21 \$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) ~~(e)~~—"Peace officer" means that term as defined in section
24 215.

25 (C) "POTENTIALLY OCCUPIED STRUCTURE" MEANS A STRUCTURE THAT A
26 REASONABLE PERSON KNOWS OR SHOULD KNOW IS LIKELY TO BE OCCUPIED BY
27 1 OR MORE INDIVIDUALS DUE TO ITS NATURE, FUNCTION, OR LOCATION.

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

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