

SENATE BILL No. 1328

June 29, 2004, Introduced by Senator CROPSEY 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 2002 PA
709.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 224a. (1) Except as otherwise provided in this
2 section, a person shall not sell, offer for sale, or possess in
3 this state a portable device or weapon from which an electrical
4 current, impulse, wave, or beam may be directed, which current,
5 impulse, wave, or beam is designed to incapacitate temporarily,
6 injure, or 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 a peace officer, an
10 employee of the department of corrections authorized in writing

1 by the director of the department of corrections, **a local**
 2 **corrections officer authorized in writing by the county sheriff,**
 3 **a** probation officer, **a** court officer, **a** bail agent authorized
 4 under section 167b, **a** licensed private investigator, **or an**
 5 aircraft pilot ~~—~~ or aircraft crew member ~~—~~ who has been
 6 trained in the use, effects, and risks of the device, while
 7 performing his or her official duties.

8 (b) Possession solely for the purpose of delivering a device
 9 described in subsection (1) to any governmental agency or to a
 10 laboratory for testing, with the prior written approval of the
 11 governmental agency or law enforcement agency and under
 12 conditions determined to be appropriate by that agency.

13 (3) A manufacturer, authorized importer, or authorized dealer
 14 may demonstrate, offer for sale, hold for sale, sell, give, lend,
 15 or deliver a device that uses electro-muscular disruption
 16 technology to a person authorized to possess a device that uses
 17 electro-muscular disruption technology and may possess a device
 18 that uses electro-muscular disruption technology for any of those
 19 purposes.

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

23 (5) As used in this section: ~~—~~"a

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

26 (i) ~~—(a)—~~ The device is capable of creating an
 27 electro-muscular disruption and is used or intended to be used as

1 a defensive device capable of temporarily incapacitating or
2 immobilizing a person by the direction or emission of conducted
3 energy.

4 (ii) ~~—(b)—~~ The device contains an identification and tracking
5 system that, when the device is initially used, dispenses coded
6 material traceable to the purchaser through records kept by the
7 manufacturer.

8 (iii) ~~—(c)—~~ The manufacturer of the device has a policy of
9 providing the identification and tracking information described
10 in ~~subdivision (b)~~ **subparagraph (ii)** to a police agency upon
11 written request by that agency.

12 (b) "Local corrections officer" means that term as defined in
13 section 2 of the local corrections officers training act, 2003 PA
14 125, MCL 791.532.

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

16 (i) A police officer or public safety officer of this state
17 or a political subdivision of this state, including motor carrier
18 officers appointed under section 6c of 1935 PA 59, MCL 28.6c, and
19 security personnel employed by the state under section 6c of 1935
20 PA 59, MCL 28.6c.

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

22 (iii) A police officer or public safety officer of a junior
23 college, college, or university who is authorized by the
24 governing board of that junior college, college, or university to
25 enforce state law and the rules and ordinances of that junior
26 college, college, or university.

27 (iv) A township constable.

- 1 (v) A marshal of a city, village, or township.
- 2 (vi) A conservation officer of the department of natural
3 resources or the department of environmental quality.
- 4 (vii) A law enforcement officer of another state or of a
5 political subdivision of another state or a junior college,
6 college, or university in another state, substantially
7 corresponding to a law enforcement officer described in
8 subparagraphs (i) to (vi).
- 9 (viii) A federal law enforcement officer.