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SENATE BILL No. 910

October 20, 2009, Introduced by Senator McMANUS and referred to the Committee on Appropriations.

A bill to amend 1931 PA 328, entitled "The Michigan penal code,"

by amending sections 81d and 224a (MCL 750.81d and 750.224a), section 81d as amended by 2006 PA 517 and section 224a as amended by 2006 PA 457.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 81d. (1) Except as provided in subsections (2), (3), and
- 2 (4), an individual who assaults, batters, wounds, resists,
- 3 obstructs, opposes, or endangers a person who the individual knows
- 4 or has reason to know is performing his or her duties is guilty of
- 5 a felony punishable by imprisonment for not more than 2 years or a
- fine of not more than \$2,000.00, or both.
 - (2) An individual who assaults, batters, wounds, resists,

- 1 obstructs, opposes, or endangers a person who the individual knows
- 2 or has reason to know is performing his or her duties causing a
- 3 bodily injury requiring medical attention or medical care to that
- 4 person is guilty of a felony punishable by imprisonment for not
- 5 more than 4 years or a fine of not more than \$5,000.00, or both.
- 6 (3) An individual who assaults, batters, wounds, resists,
- 7 obstructs, opposes, or endangers a person who the individual knows
- 8 or has reason to know is performing his or her duties causing a
- 9 serious impairment of a body function of that person is guilty of a
- 10 felony punishable by imprisonment for not more than 15 years or a
- 11 fine of not more than \$10,000.00, or both.
- 12 (4) An individual who assaults, batters, wounds, resists,
- 13 obstructs, opposes, or endangers a person who the individual knows
- 14 or has reason to know is performing his or her duties causing the
- 15 death of that person is guilty of a felony punishable by
- 16 imprisonment for not more than 20 years or a fine of not more than
- 17 \$20,000.00, or both.
- 18 (5) This section does not prohibit an individual from being
- 19 charged with, convicted of, or punished for any other violation of
- 20 law that is committed by that individual while violating this
- 21 section.
- 22 (6) A term of imprisonment imposed for a violation of this
- 23 section may run consecutively to any term of imprisonment imposed
- 24 for another violation arising from the same transaction.
- 25 (7) As used in this section:
- 26 (a) "Obstruct" includes the use or threatened use of physical
- 27 interference or force or a knowing failure to comply with a lawful

- 1 command.
- 2 (b) "Person" means any of the following:
- 3 (i) A police officer of this state or of a political
- 4 subdivision of this state including, but not limited to, a motor
- 5 carrier officer or capitol security officer of the department of
- 6 state police.
- 7 (ii) A police officer of a junior college, college, or
- 8 university who is authorized by the governing board of that junior
- 9 college, college, or university to enforce state law and the rules
- 10 and ordinances of that junior college, college, or university.
- 11 (iii) A conservation officer of the department of natural
- 12 resources. or the department of environmental quality.
- 13 (iv) A conservation officer of the United States department of
- 14 the interior.
- 15 (v) A sheriff or deputy sheriff.
- 16 (vi) A constable.
- 17 (vii) A peace officer of a duly authorized police agency of the
- 18 United States, including, but not limited to, an agent of the
- 19 secret service or department of justice.
- 20 (viii) A firefighter.
- 21 (ix) Any emergency medical service personnel described in
- 22 section 20950 of the public health code, 1978 PA 368, MCL
- **23** 333.20950.
- (x) An individual engaged in a search and rescue operation as
- 25 that term is defined in section 50c.
- (c) "Serious impairment of a body function" means that term as
- 27 defined in section 58c of the Michigan vehicle code, 1949 PA 300,

- **1** MCL 257.58c.
- 2 Sec. 224a. (1) Except as otherwise provided in this section, a
- 3 person shall not sell, offer for sale, or possess in this state a
- 4 portable device or weapon from which an electrical current,
- 5 impulse, wave, or beam may be directed, which current, impulse,
- 6 wave, or beam is designed to incapacitate temporarily, injure, or
- 7 kill.
- 8 (2) This section does not prohibit any of the following:
- 9 (a) The possession and reasonable use of a device that uses
- 10 electro-muscular disruption technology by any of the following
- 11 individuals, if the individual has been trained in the use,
- 12 effects, and risks of the device, and is using the device while
- 13 performing his or her official duties:
- 14 (i) A peace officer.
- 15 (ii) An employee of the department of corrections who is
- 16 authorized in writing by the director of the department of
- 17 corrections to possess and use the device.
- 18 (iii) A local corrections officer authorized in writing by the
- 19 county sheriff to possess and use the device.
- (iv) An individual employed by a local unit of government that
- 21 utilizes a jail or lockup facility who has custody of persons
- 22 detained or incarcerated in the jail or lockup facility and who is
- 23 authorized in writing by the chief of police, director of public
- 24 safety, or sheriff to possess and use the device.
- (v) A probation officer.
- 26 (vi) A court officer.
- (vii) A bail agent authorized under section 167b.

- 1 (viii) A licensed private investigator.
- 2 (ix) An aircraft pilot or aircraft crew member.
- 3 (x) An individual employed as a private security police
- 4 officer. As used in this subparagraph, "private security police"
- 5 means that term as defined in section 2 of the private security
- 6 business and security alarm act, 1968 PA 330, MCL 338.1052.
- 7 (b) Possession solely for the purpose of delivering a device
- 8 described in subsection (1) to any governmental agency or to a
- 9 laboratory for testing, with the prior written approval of the
- 10 governmental agency or law enforcement agency and under conditions
- 11 determined to be appropriate by that agency.
- 12 (3) A manufacturer, authorized importer, or authorized dealer
- 13 may demonstrate, offer for sale, hold for sale, sell, give, lend,
- 14 or deliver a device that uses electro-muscular disruption
- 15 technology to a person authorized to possess a device that uses
- 16 electro-muscular disruption technology and may possess a device
- 17 that uses electro-muscular disruption technology for any of those
- 18 purposes.
- 19 (4) A person who violates this section is guilty of a felony
- 20 punishable by imprisonment for not more than 4 years or a fine of
- 21 not more than \$2,000.00, or both.
- 22 (5) As used in this section:
- 23 (a) "A device that uses electro-muscular disruption
- 24 technology" means a device to which all of the following apply:
- 25 (i) The device is capable of creating an electro-muscular
- 26 disruption and is used or intended to be used as a defensive device
- 27 capable of temporarily incapacitating or immobilizing a person by

- 1 the direction or emission of conducted energy.
- 2 (ii) The device contains an identification and tracking system
- 3 that, when the device is initially used, dispenses coded material
- 4 traceable to the purchaser through records kept by the
- 5 manufacturer.
- 6 (iii) The manufacturer of the device has a policy of providing
- 7 the identification and tracking information described in
- 8 subparagraph (ii) to a police agency upon written request by that
- 9 agency.
- 10 (b) "Local corrections officer" means that term as defined in
- 11 section 2 of the local corrections officers training act, 2003 PA
- 12 125, MCL 791.532.
- (c) "Peace officer" means any of the following:
- 14 (i) A police officer or public safety officer of this state or
- 15 a political subdivision of this state, including motor carrier
- 16 officers appointed under section 6d of 1935 PA 59, MCL 28.6d, and
- 17 security personnel employed by the state under section 6c of 1935
- **18** PA 59, MCL 28.6c.
- 19 (ii) A sheriff or a sheriff's deputy.
- 20 (iii) A police officer or public safety officer of a junior
- 21 college, college, or university who is authorized by the governing
- 22 board of that junior college, college, or university to enforce
- 23 state law and the rules and ordinances of that junior college,
- 24 college, or university.
- 25 (iv) A township constable.
- 26 (v) A marshal of a city, village, or township.
- 27 (vi) A conservation officer of the department of natural

- 1 resources. or the department of environmental quality.
- 2 (vii) A law enforcement officer of another state or of a
- 3 political subdivision of another state or a junior college,
- 4 college, or university in another state, substantially
- 5 corresponding to a law enforcement officer described in
- 6 subparagraphs (i) to (vi).
- 7 (viii) A federal law enforcement officer.
- 8 Enacting section 1. This amendatory act does not take effect
- 9 unless Senate Bill No. 807
- of the 95th Legislature is enacted into law.

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