

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
6 fine of not more than \$2,000.00, or both.

7 (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.

24 (x) An individual engaged in a search and rescue operation as
25 that term is defined in section 50c.

26 (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.

20 (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.

25 (v) A probation officer.

26 (vi) A court officer.

27 (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.

13 (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

10 of the 95th Legislature is enacted into law.