

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 443

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
(MCL 750.1 to 750.568) by adding sections 200h, 200i, 200j, 200k,  
and 212a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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CHAPTER XXXIII

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EXPLOSIVES, ~~AND~~ BOMBS, AND HARMFUL DEVICES

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SEC. 200H. AS USED IN THIS SECTION AND SECTIONS 200I TO

4 200K:

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(A) "CHEMICAL IRRITANT" MEANS SOLID, LIQUID, OR GAS THAT

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THROUGH ITS CHEMICAL OR PHYSICAL PROPERTIES, ALONE OR IN COMBINA-

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TION WITH 1 OR MORE OTHER SUBSTANCES, CAN BE USED TO PRODUCE AN

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IRRITANT EFFECT IN HUMANS, ANIMALS, OR PLANTS.

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(B) "CHEMICAL IRRITANT DEVICE" MEANS A DEVICE DESIGNED OR

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INTENDED TO RELEASE A CHEMICAL IRRITANT.

**SB0443, As Passed House, June 4, 1998**

Sub. S.B. 443 (H-2) as amended June 3, 1998

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1 (C) "DELIVER" MEANS THE ACTUAL OR CONSTRUCTIVE TRANSFER OF A  
2 SUBSTANCE OR DEVICE FROM 1 PERSON TO ANOTHER REGARDLESS OF ANY  
3 AGENCY RELATIONSHIP.

4 (D) "FOR AN UNLAWFUL PURPOSE" INCLUDES, BUT IS NOT LIMITED  
5 TO, HAVING THE INTENT TO DO ANY OF THE FOLLOWING:

6 (i) FRIGHTEN, TERRORIZE, INTIMIDATE, THREATEN, HARASS,  
7 INJURE, OR KILL ANY PERSON.

8 (ii) DAMAGE OR DESTROY ANY REAL OR PERSONAL PROPERTY WITHOUT  
9 THE PERMISSION OF THE PROPERTY OWNER OR [ , IF THE PROPERTY IS PUBLIC  
10 PROPERTY, WITHOUT THE PERMISSION OF THE GOVERNMENTAL AGENCY HAVING  
AUTHORITY OVER THE PROPERTY.]

11 (E) "HARMFUL BIOLOGICAL DEVICE" MEANS A DEVICE DESIGNED OR  
12 INTENDED TO RELEASE A HARMFUL BIOLOGICAL SUBSTANCE.

13 (F) "HARMFUL BIOLOGICAL SUBSTANCE" MEANS A BACTERIA, VIRUS,  
14 OR OTHER MICROORGANISM OR A TOXIC SUBSTANCE DERIVED FROM OR  
15 PRODUCED BY AN ORGANISM THAT CAN BE USED TO CAUSE DEATH, INJURY,  
16 OR DISEASE IN HUMANS, ANIMALS, OR PLANTS.

17 (G) "HARMFUL CHEMICAL DEVICE" MEANS A DEVICE THAT IS  
18 DESIGNED OR INTENDED TO RELEASE A HARMFUL CHEMICAL SUBSTANCE.

19 (H) "HARMFUL CHEMICAL SUBSTANCE" MEANS A SOLID, LIQUID, OR  
20 GAS THAT THROUGH ITS CHEMICAL OR PHYSICAL PROPERTIES, ALONE OR IN  
21 COMBINATION WITH 1 OR MORE OTHER CHEMICAL SUBSTANCES, CAN BE USED  
22 TO CAUSE DEATH, INJURY, OR DISEASE IN HUMANS, ANIMALS, OR  
23 PLANTS.

24 (I) "HARMFUL RADIOACTIVE MATERIAL" MEANS MATERIAL THAT IS  
25 RADIOACTIVE AND THAT CAN BE USED TO CAUSE DEATH, INJURY, OR DIS-  
26 EASE IN HUMANS, ANIMALS, OR GROWING PLANTS BY ITS RADIOACTIVITY.

**SB0443, As Passed House, June 4, 1998**

Sub. S.B. S.B. 443 (H-2) as amended June 3, 1998

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1 (J) "HARMFUL RADIOACTIVE DEVICE" MEANS A DEVICE THAT IS  
2 DESIGNED OR INTENDED TO RELEASE A HARMFUL RADIOACTIVE MATERIAL.

3 (K) "IMITATION HARMFUL SUBSTANCE OR DEVICE" MEANS A SUB-  
4 STANCE OR DEVICE THAT IS DESIGNED OR INTENDED TO REPRESENT 1 OR  
5 MORE OF THE FOLLOWING OR THAT IS ALLEGED TO BE 1 OF THE FOLLOWING  
6 BUT THAT IS NOT ANY OF THE FOLLOWING:

7 (i) A HARMFUL BIOLOGICAL DEVICE.

8 (ii) A HARMFUL BIOLOGICAL SUBSTANCE.

9 (iii) A HARMFUL CHEMICAL DEVICE.

10 (iv) A HARMFUL CHEMICAL SUBSTANCE.

11 (v) A HARMFUL RADIOACTIVE MATERIAL.

12 (vi) A RADIOACTIVE DEVICE.

13 (L) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM  
14 AS DEFINED IN SECTION 625 OF THE MICHIGAN VEHICLE CODE, 1949 PA  
15 300, MCL 257.625.

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2 SEC. 200I. (1) A PERSON SHALL NOT MANUFACTURE, DELIVER,  
3 POSSESS, TRANSPORT, PLACE, USE, OR RELEASE ANY OF THE FOLLOWING  
4 FOR AN UNLAWFUL PURPOSE:

5 (A) A HARMFUL BIOLOGICAL SUBSTANCE OR A HARMFUL BIOLOGICAL  
6 DEVICE.

7 (B) A HARMFUL CHEMICAL SUBSTANCE OR A HARMFUL CHEMICAL  
8 DEVICE.

9 (C) A HARMFUL RADIOACTIVE MATERIAL OR A HARMFUL RADIOACTIVE  
10 DEVICE.

11 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A  
12 CRIME AS FOLLOWS:

13 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) TO (E), THE  
14 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
15 MORE THAN 15 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR  
16 BOTH.

17 (B) IF THE VIOLATION RESULTS IN PROPERTY DAMAGE, THE PERSON  
18 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
19 THAN 20 YEARS OR A FINE OF NOT MORE THAN \$15,000.00, OR BOTH.

20 (C) IF THE VIOLATION RESULTS IN PERSONAL INJURY TO ANOTHER  
21 INDIVIDUAL OTHER THAN SERIOUS IMPAIRMENT OF A BODY FUNCTION OR  
22 DEATH, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-  
23 MENT FOR NOT MORE THAN 25 YEARS OR A FINE OF NOT MORE THAN  
24 \$20,000.00, OR BOTH.

25 (D) IF THE VIOLATION RESULTS IN SERIOUS IMPAIRMENT OF A BODY  
26 FUNCTION TO ANOTHER INDIVIDUAL, THE PERSON IS GUILTY OF A FELONY

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1 PUNISHABLE BY IMPRISONMENT FOR LIFE OR ANY TERM OF YEARS OR A  
2 FINE OF NOT MORE THAN \$25,000.00, OR BOTH.

3 (E) IF THE VIOLATION RESULTS IN THE DEATH OF ANOTHER INDI-  
4 VIDUAL, THE PERSON IS GUILTY OF A FELONY AND SHALL BE PUNISHED BY  
5 IMPRISONMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE AND MAY BE  
6 FINED NOT MORE THAN \$40,000.00, OR BOTH.

7 SEC. 200J. (1) A PERSON SHALL NOT MANUFACTURE, DELIVER,  
8 POSSESS, TRANSPORT, PLACE, USE, OR RELEASE FOR AN UNLAWFUL PUR-  
9 POSE ANY OF THE FOLLOWING:

10 (A) A CHEMICAL IRRITANT OR A CHEMICAL IRRITANT DEVICE.

11 (B) A SMOKE DEVICE.

12 (C) AN IMITATION HARMFUL SUBSTANCE OR DEVICE.

13 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A  
14 CRIME AS FOLLOWS:

15 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) TO (E), THE  
16 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR  
17 NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR  
18 BOTH.

19 (B) IF THE VIOLATION RESULTS IN PROPERTY DAMAGE, THE PERSON  
20 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
21 THAN 4 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

22 (C) IF THE VIOLATION RESULTS IN PERSONAL INJURY TO ANOTHER  
23 INDIVIDUAL OTHER THAN SERIOUS IMPAIRMENT OF A BODY FUNCTION OR  
24 DEATH, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-  
25 MENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN  
26 \$10,000.00, OR BOTH.

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1 (D) IF THE VIOLATION RESULTS IN SERIOUS IMPAIRMENT OF A BODY  
2 FUNCTION TO ANOTHER INDIVIDUAL, THE PERSON IS GUILTY OF A FELONY  
3 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 25 YEARS OR A FINE  
4 OF NOT MORE THAN \$25,000.00, OR BOTH.

5 (E) IF THE VIOLATION RESULTS IN THE DEATH OF ANOTHER INDI-  
6 VIDUAL, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-  
7 MENT FOR LIFE OR ANY TERM OF YEARS OR A FINE OF NOT MORE THAN  
8 \$40,000.00, OR BOTH.

9 SEC. 200K. (1) SECTIONS 200H TO 200J DO NOT APPLY TO ANY OF  
10 THE FOLLOWING:

11 (A) A MEMBER OF THE MILITARY FORCES OF THE UNITED STATES OR  
12 OF THIS STATE ACTING UNDER A LAWFUL ORDER OR WHILE ENGAGED IN A  
13 LAWFUL MILITARY ACTIVITY.

14 (B) A LAW ENFORCEMENT OFFICER ENFORCING THE LAWS OF THE  
15 UNITED STATES OR OF THIS STATE OR WHILE ENGAGED IN A LAWFUL LAW  
16 ENFORCEMENT ACTIVITY.

17 (C) A PERSON ENGAGED IN SELF-DEFENSE OR THE LAWFUL DEFENSE  
18 OF ANOTHER PERSON.

19 (D) UNLESS ACTING WITH AN UNLAWFUL PURPOSE, A PERSON ACTING  
20 WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT UNDER A RULE OR A  
21 PERMIT OR LICENSE OF THE UNITED STATES OR OF THIS STATE.

22 (2) UNLESS ACTING WITH AN UNLAWFUL PURPOSE, A PERSON WHO  
23 WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT VIOLATES A RULE OR A  
24 PROVISION OF A PERMIT OR LICENSE ISSUED BY THE UNITED STATES OR  
25 THIS STATE TO MANUFACTURE, DELIVER, POSSESS, TRANSPORT, PLACE,  
26 CLASSIFY, LABEL, USE, OR RELEASE A SUBSTANCE OR DEVICE SHALL NOT  
27 BE PROSECUTED UNDER THIS CHAPTER.

**SB0443, As Passed House, June 4, 1998**

Sub. S.B. 443 (H-2) as amended June 3 & 4, 1998

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1           SEC. 212A. (1) IF A PERSON VIOLATES THIS CHAPTER, THE  
2 VIOLATION IS COMMITTED IN OR IS DIRECTED AT A VULNERABLE TARGET,  
3 AND THE VIOLATION RESULTS IN THE DEATH OF ANOTHER INDIVIDUAL OR  
4 RESULTS IN SERIOUS IMPAIRMENT OF A BODY FUNCTION OF ANOTHER INDI-  
5 VIDUAL, THE PERSON IS GUILTY OF A FELONY [PUNISHABLE           ] BY  
6 IMPRISONMENT FOR NOT MORE THAN 20 YEARS. A TERM OF IMPRISONMENT  
7 IMPOSED UNDER THIS SECTION SHALL BE SERVED CONCURRENTLY TO THE  
8 TERM OF IMPRISONMENT FOR THE UNDERLYING VIOLATION.

9           (2) AS USED IN THIS SECTION:

10          (A) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM  
11 AS DEFINED IN SECTION 625 OF THE MICHIGAN VEHICLE CODE, 1949 PA  
12 300, MCL 257.625.

13          (B) "VULNERABLE TARGET" MEANS ANY OF THE FOLLOWING:

14          (i) A CHILD CARE CENTER OR DAY CARE CENTER AS DEFINED IN  
15 SECTION 1 OF 1973 PA 116, MCL 722.111.

16          (ii) A HEALTH CARE FACILITY OR AGENCY AS DEFINED IN SECTION  
17 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20106.

18          (iii) A BUILDING OR STRUCTURE OPEN TO THE GENERAL PUBLIC.

19          (iv) A CHURCH, SYNAGOGUE, MOSQUE, OR OTHER PLACE OF RELI-  
20 GIOUS WORSHIP.

21          (v) A PUBLIC, PRIVATE, DENOMINATIONAL, OR PAROCHIAL SCHOOL  
22 OFFERING DEVELOPMENTAL KINDERGARTEN, KINDERGARTEN, OR ANY GRADE 1  
23 THROUGH 12.

24          (vi) AN INSTITUTION OF HIGHER EDUCATION.

[Enacting section 1. This amendatory act takes effect October  
1, 1998.]