

Act No. 207
Public Acts of 1998
Approved by the Governor
July 1, 1998
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July 1, 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Peters, V. Smith, Dingell, Bouchard, Gougeon and Shugars

ENROLLED SENATE BILL No. 443

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding sections 200h, 200i, 200j, 200k, and 212a.

The People of the State of Michigan enact:

CHAPTER XXXIII

EXPLOSIVES, BOMBS, AND HARMFUL DEVICES

Sec. 200h. As used in this section and sections 200i to 200k:

- (a) "Chemical irritant" means solid, liquid, or gas that through its chemical or physical properties, alone or in combination with 1 or more other substances, can be used to produce an irritant effect in humans, animals, or plants.
- (b) "Chemical irritant device" means a device designed or intended to release a chemical irritant.
- (c) "Deliver" means the actual or constructive transfer of a substance or device from 1 person to another regardless of any agency relationship.
- (d) "For an unlawful purpose" includes, but is not limited to, having the intent to do any of the following:
 - (i) Frighten, terrorize, intimidate, threaten, harass, injure, or kill any person.
 - (ii) Damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over the property.
- (e) "Harmful biological device" means a device designed or intended to release a harmful biological substance.
- (f) "Harmful biological substance" means a bacteria, virus, or other microorganism or a toxic substance derived from or produced by an organism that can be used to cause death, injury, or disease in humans, animals, or plants.
- (g) "Harmful chemical device" means a device that is designed or intended to release a harmful chemical substance.
- (h) "Harmful chemical substance" means a solid, liquid, or gas that through its chemical or physical properties, alone or in combination with 1 or more other chemical substances, can be used to cause death, injury, or disease in humans, animals, or plants.
- (i) "Harmful radioactive material" means material that is radioactive and that can be used to cause death, injury, or disease in humans, animals, or growing plants by its radioactivity.

(j) "Harmful radioactive device" means a device that is designed or intended to release a harmful radioactive material.

(k) "Imitation harmful substance or device" means a substance or device that is designed or intended to represent 1 or more of the following or that is alleged to be 1 of the following but that is not any of the following:

- (i) A harmful biological device.
- (ii) A harmful biological substance.
- (iii) A harmful chemical device.
- (iv) A harmful chemical substance.
- (v) A harmful radioactive material.
- (vi) A radioactive device.

(l) "Serious impairment of a body function" means that term as defined in section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

Sec. 200i. (1) A person shall not manufacture, deliver, possess, transport, place, use, or release any of the following for an unlawful purpose:

- (a) A harmful biological substance or a harmful biological device.
- (b) A harmful chemical substance or a harmful chemical device.
- (c) A harmful radioactive material or a harmful radioactive device.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(b) If the violation results in property damage, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(c) If the violation results in personal injury to another individual other than serious impairment of a body function or death, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(d) If the violation results in serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$25,000.00, or both.

(e) If the violation results in the death of another individual, the person is guilty of a felony and shall be punished by imprisonment for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

Sec. 200j. (1) A person shall not manufacture, deliver, possess, transport, place, use, or release for an unlawful purpose any of the following:

- (a) A chemical irritant or a chemical irritant device.
- (b) A smoke device.
- (c) An imitation harmful substance or device.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) to (e), the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) If the violation results in property damage, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(c) If the violation results in personal injury to another individual other than serious impairment of a body function or death, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(d) If the violation results in serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$25,000.00, or both.

(e) If the violation results in the death of another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$40,000.00, or both.

Sec. 200k. (1) Sections 200h to 200j do not apply to any of the following:

(a) A member of the military forces of the United States or of this state acting under a lawful order or while engaged in a lawful military activity.

(b) A law enforcement officer enforcing the laws of the United States or of this state or while engaged in a lawful law enforcement activity.

(c) A person engaged in self-defense or the lawful defense of another person.

(d) Unless acting with an unlawful purpose, a person acting within the scope of his or her employment under a rule or a permit or license of the United States or of this state.

(2) Unless acting with an unlawful purpose, a person who within the scope of his or her employment violates a rule or a provision of a permit or license issued by the United States or this state to manufacture, deliver, possess, transport, place, classify, label, use, or release a substance or device shall not be prosecuted under this chapter.

Sec. 212a. (1) If a person violates this chapter, the violation is committed in or is directed at a vulnerable target, and the violation results in the death of another individual or results in serious impairment of a body function of another individual, the person is guilty of a felony punishable by imprisonment for not more than 20 years. A term of imprisonment imposed under this section shall be served concurrently to the term of imprisonment for the underlying violation.

(2) As used in this section:

(a) "Serious impairment of a body function" means that term as defined in section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(b) "Vulnerable target" means any of the following:

(i) A child care center or day care center as defined in section 1 of 1973 PA 116, MCL 722.111.

(ii) A health care facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(iii) A building or structure open to the general public.

(iv) A church, synagogue, mosque, or other place of religious worship.

(v) A public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade 1 through 12.

(vi) An institution of higher education.

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Mary B. Ballew

Clerk of the House of Representatives.

Approved _____

Governor.