

SENATE BILL No. 1414

September 21, 2004, Introduced by Senators SCHAUER, GEORGE, BROWN, JACOBS,
HARDIMAN and BERNERO and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 224 and 224d (MCL 750.224 and 750.224d),
section 224 as amended by 1991 PA 33 and section 224d as amended
by 1992 PA 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 224. (1) A person shall not manufacture, sell, offer
2 for sale, or possess any of the following:

3 (a) A machine gun or firearm that shoots or is designed to
4 shoot automatically more than 1 shot without manual reloading, by
5 a single function of the trigger.

6 (b) A muffler or silencer.

7 (c) A bomb or bombshell.

8 (d) A blackjack, slungshot, billy, metallic knuckles, sand
9 club, sand bag, or bludgeon.

1 (e) A device, weapon, cartridge, container, or contrivance
2 designed to render a person temporarily or permanently disabled
3 by the ejection, release, or emission of a gas or other
4 substance.

5 (2) A person who violates subsection (1) is guilty of a
6 felony ~~—~~ punishable by imprisonment for not more than 5 years
7 ~~—~~ or a fine of not more than \$2,500.00, or both.

8 (3) Subsection (1) does not apply to any of the following:

9 (a) A self-defense spray device ~~as~~ **or a zoo control spray**
10 **as those terms are** defined in section 224d.

11 (b) A person manufacturing firearms, explosives, or munitions
12 of war by virtue of a contract with a department of the
13 government of the United States.

14 (c) A person licensed by the secretary of the treasury of the
15 United States or the secretary's delegate to manufacture, sell,
16 or possess a machine gun ~~—~~ or a device, weapon, cartridge,
17 container, or contrivance described in subsection (1).

18 (4) As used in this chapter, "muffler" or "silencer" means 1
19 or more of the following:

20 (a) A device for muffling, silencing, or deadening the report
21 of a firearm.

22 (b) A combination of parts, designed or redesigned, and
23 intended for use in assembling or fabricating a muffler or
24 silencer.

25 (c) A part, designed or redesigned, and intended only for use
26 in assembling or fabricating a muffler or silencer.

27 Sec. 224d. (1) As used in this section and section 224: ~~—~~

1 ~~"self-defense~~

2 (a) **"Self-defense** spray device" means a device to which all
3 of the following apply:

4 (i) ~~—(a)—~~ The device is capable of carrying, and ejects,
5 releases, or emits, 1 of the following:

6 (A) ~~—(i)—~~ Not more than 35 grams of any combination of
7 orthochlorobenzalmalononitrile and inert ingredients.

8 (B) ~~—(ii)—~~ A solution containing not more than 2% oleoresin
9 capsicum.

10 (ii) ~~—(b)—~~ The device does not eject, release, or emit any
11 gas or substance that will temporarily or permanently disable,
12 incapacitate, injure, or harm a person with whom the gas or
13 substance comes in contact, other than the substance described in
14 ~~subdivision (a) (i) or (ii)~~ **subparagraph (i) (A) or (B).**

15 (b) **"Zoo control spray" means a solution containing more**
16 **than 2% but not more than 10% oleoresin capsicum.**

17 (2) Except as otherwise provided in this section, a person
18 who uses a self-defense spray device to eject, release, or emit
19 orthochlorobenzalmalononitrile or oleoresin capsicum at another
20 person is guilty of a misdemeanor ~~—~~ punishable by imprisonment
21 for not more than 2 years ~~—~~ or a fine of not more than
22 \$2,000.00, or both.

23 (3) If a person uses a self-defense spray device during the
24 commission of a crime to eject, release, or emit
25 orthochlorobenzalmalononitrile or oleoresin capsicum or threatens
26 to use a self-defense spray device during the commission of a
27 crime to temporarily or permanently disable another person, the

1 judge who imposes sentence upon a conviction for that crime shall
2 consider the defendant's use or threatened use of the
3 self-defense spray device as a reason for enhancing the
4 sentence.

5 (4) A person shall not sell a self-defense spray device to a
6 minor. A person who violates this subsection is guilty of a
7 misdemeanor.

8 (5) Subsection (2) does not prohibit either of the
9 following:

10 (a) The reasonable use of a self-defense spray device by a
11 law enforcement officer in the performance of the law enforcement
12 officer's duty.

13 (b) The reasonable use of a self-defense spray device by a
14 person in the protection of a person or property under
15 circumstances which would justify the person's use of physical
16 force.

17 (6) **Nothing in this section prevents an employee of a zoo**
18 **from possessing or using a zoo control spray as necessary to**
19 **control an animal in the course of zoo operations.**