Act No. 457
Public Acts of 2006
Approved by the Governor
December 19, 2006
Filed with the Secretary of State
December 20, 2006
EFFECTIVE DATE: December 20, 2006

STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006

Introduced by Rep. Rick Jones

ENROLLED HOUSE BILL No. 5435

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 and remedies; 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," by amending section 224a (MCL 750.224a), as amended by 2004 PA 338.

The People of the State of Michigan enact:

Sec. 224a. (1) Except as otherwise provided in this section, a person shall not sell, offer for sale, or possess in this state a portable device or weapon from which an electrical current, impulse, wave, or beam may be directed, which current, impulse, wave, or beam is designed to incapacitate temporarily, injure, or kill.

(2) This section does not prohibit any of the following:

(a) The possession and reasonable use of a device that uses electro-muscular disruption technology by any of the following individuals, if the individual has been trained in the use, effects, and risks of the device, and is using the device while performing his or her official duties:

(*i*) A peace officer.

(*ii*) An employee of the department of corrections who is authorized in writing by the director of the department of corrections to possess and use the device.

(*iii*) A local corrections officer authorized in writing by the county sheriff to possess and use the device.

(*iv*) An individual employed by a local unit of government that utilizes a jail or lockup facility who has custody of persons detained or incarcerated in the jail or lockup facility and who is authorized in writing by the chief of police, director of public safety, or sheriff to possess and use the device.

(*v*) A probation officer.

(*vi*) A court officer.

(*vii*) A bail agent authorized under section 167b.

(*viii*) A licensed private investigator.

(*ix*) An aircraft pilot or aircraft crew member.

(*x*) An individual employed as a private security police officer. As used in this subparagraph, "private security police" means that term as defined in section 2 of the private security business and security alarm act, 1968 PA 330, MCL 338.1052.

(b) Possession solely for the purpose of delivering a device described in subsection (1) to any governmental agency or to a laboratory for testing, with the prior written approval of the governmental agency or law enforcement agency and under conditions determined to be appropriate by that agency.

(3) A manufacturer, authorized importer, or authorized dealer may demonstrate, offer for sale, hold for sale, sell, give, lend, or deliver a device that uses electro-muscular disruption technology to a person authorized to possess a device that uses electro-muscular disruption technology and may possess a device that uses electro-muscular disruption technology for any of those purposes.

(4) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(5) As used in this section:

(a) "A device that uses electro-muscular disruption technology" means a device to which all of the following apply:

(*i*) The device is capable of creating an electro-muscular disruption and is used or intended to be used as a defensive device capable of temporarily incapacitating or immobilizing a person by the direction or emission of conducted energy.

(*ii*) The device contains an identification and tracking system that, when the device is initially used, dispenses coded material traceable to the purchaser through records kept by the manufacturer.

(*iii*) The manufacturer of the device has a policy of providing the identification and tracking information described in subparagraph (*ii*) to a police agency upon written request by that agency.

(b) "Local corrections officer" means that term as defined in section 2 of the local corrections officers training act, 2003 PA 125, MCL 791.532.

(c) "Peace officer" means any of the following:

(*i*) A police officer or public safety officer of this state or a political subdivision of this state, including motor carrier officers appointed under section 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the state under section 6c of 1935 PA 59, MCL 28.6c.

(*ii*) A sheriff or a sheriff's deputy.

(*iii*) A police officer or public safety officer of a junior college, college, or university who is authorized by the governing board of that junior college, college, or university to enforce state law and the rules and ordinances of that junior college, college, or university.

(*iv*) A township constable.

(*v*) A marshal of a city, village, or township.

(*vi*) A conservation officer of the department of natural resources or the department of environmental quality.

(*vii*) A law enforcement officer of another state or of a political subdivision of another state or a junior college, college, or university in another state, substantially corresponding to a law enforcement officer described in subparagraphs (*i*) to (*vi*).

(*viii*) A federal law enforcement officer.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved _____

Governor