

Harmful Electronic or Electromagnetic Devices

This draft Act is based on two Michigan laws. This Act defines "harmful electronic or electromagnetic device" as a device designed to emit or radiate an electronic or electromagnetic pulse or signal or microwave intended to cause harm to others or cause damage to, destroy, or disrupt any electronic or telecommunications system or device including a computer or computer network.

This Act makes it a crime to manufacture, deliver, possess, transport, place, use, or release a real or imitation harmful electronic or electromagnetic device for an unlawful purpose or cause a person falsely believe that they have been exposed to a harmful electronic or electromagnetic device or harmful radioactive material or device.

Submitted as:

Michigan

[Act 256 of 2003](#) and [Act 257 of 2003](#)

Status: Enacted into law in 2003.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as "An Act to Prohibit Manufacturing,
2 Delivering, Possessing, Transporting, Placing, Using or Releasing a Harmful Electronic or
3 Electromagnetic Device."
4

5 Section 2. [*Definitions.*]

6 (1) "Harmful electronic or electromagnetic device" means a device designed to emit or
7 radiate or that, as a result of its design, emits or radiates an electronic or electromagnetic pulse,
8 current, beam, signal, or microwave that is intended to cause harm to others or cause damage to,
9 destroy, or disrupt any electronic or telecommunications system or device, including, but not
10 limited to, a computer, computer network, or computer system.

11 (2) "Imitation electronic or electromagnetic device" means a device that is designed or
12 intended to represent a harmful electronic or electromagnetic device or that is alleged to be a
13 harmful electronic or electromagnetic device but is not.

14 (3) "Deliver" means the actual or constructive transfer of a harmful electronic or
15 electromagnetic device or imitation electronic or electromagnetic device from [1] person to
16 another regardless of any agency relationship.

17 (4) "For an unlawful purpose" includes, but is not limited to, having the intent to do any
18 of the following:

19 (a) Frighten, terrorize, intimidate, threaten, harass, injure, or kill any person.

20 (b) Damage or destroy any real or personal property without the permission of the
21 property owner or, if the property is public property, without the permission of the governmental
22 agency having authority over the property.

23 (5) "Telecommunications system" means that term as defined in [insert citation].
24

25 Section 3. [*Penalties for Manufacturing, Delivering, Possessing, Transporting, Placing,*
26 *Using or Releasing a Harmful Electronic or Electromagnetic Device for an Unlawful Purpose.*]

27 (1) A person shall not manufacture, deliver, possess, transport, place, use, or release a

28 harmful electronic or electromagnetic device or imitation harmful electronic or electromagnetic
29 device for an unlawful purpose.

30 (2) A person who violates this section is guilty of a crime as follows:

31 (a) Except as provided in subdivisions (b) to (e), the person is guilty of a felony
32 punishable by imprisonment for not more than [15 years] or a fine of not more than [\$10,000], or
33 both.

34 (b) If the violation directly or indirectly results in property damage, the person is
35 guilty of a felony punishable by imprisonment for not more than [20 years] or a fine of not more
36 than [\$15,000], or both.

37 (c) If the violation directly or indirectly results in personal injury to another
38 individual other than serious impairment of a body function or death, the person is guilty of a
39 felony punishable by imprisonment for not more than [25 years] or a fine of not more than
40 [\$20,000], or both.

41 (d) If the violation directly or indirectly results in serious impairment of a body
42 function to another individual, the person is guilty of a felony punishable by imprisonment for
43 life or any term of years or a fine of not more than [\$25,000], or both.

44 (e) If the violation directly or indirectly results in the death of another individual,
45 the person is guilty of a felony and shall be punished by imprisonment for life without eligibility
46 for parole and may be fined not more than [\$40,000], or both.

47

48 Section 4. [*Vulnerable Target.*]

49 (1) If a person violates this Act and the violation is committed in or is directed at a
50 vulnerable target, the person is guilty of a felony punishable by imprisonment for not more than
51 [20 years]. The court may order a term of imprisonment imposed under this section to be served
52 consecutively to the term of imprisonment for the underlying violation.

53 (2) As used in this section, "vulnerable target" means any of the following:

54 (a) A child care center or day care center as defined in [insert citation]

55 (b) A health care facility or agency as defined in [insert citation].

56 (c) A building or structure that is open to the general public.

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

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

60 (f) An institution of higher education.

61 (g) A stadium.

62 (h) A transportation structure or facility that is open to the public, including, but
63 not limited to, a bridge, a tunnel, a public highway, or a railroad.

64 (i) An airport. As used in this subdivision, "airport" means that term as defined in
65 [insert citation]

66 (j) Port facilities. As used in this subdivision, "port facilities" means that term as
67 defined in [insert citation].

68 (k) A public services facility. As used in this subdivision, "public services
69 facility" means any of the following facilities whether publicly or privately owned:

70 (i) A natural gas refinery, natural gas storage facility, or natural gas
71 pipeline.

72 (ii) An electric, steam, gas, telephone, power, water, or pipeline facility.

73 (iii) A nuclear power plant, nuclear reactor facility, or nuclear waste
74 storage facility.

75 (l) A petroleum refinery, petroleum storage facility, or petroleum pipeline.

76 (m) A vehicle, locomotive or railroad car, aircraft, or watercraft used to provide
77 transportation services to the public or to provide for the movement of goods in commerce.

78 (n) A building, structure, or other facility owned or operated by the federal
79 government, by this state, or by a political subdivision or any other instrumentality of this state
80 or of a local unit of government.

81
82 Section 5. [*Charging, Convicting or Punishing Someone for Other Violations of Law that*
83 *Result from the Same Transaction.*] A charge under or a conviction or punishment for a violation
84 of this Act does not prevent a person from being charged with, convicted of, or punished for any
85 other violation of law arising from the same transaction.

86
87 Section 6. [*Exceptions.*]

88 (1) This Act does not does not apply to any of the following:

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

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

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

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

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

100 (3) This Act does not prohibit the possession and use of a device that uses electro-
101 muscular disruption technology as permitted under [insert citation.]

102
103 Section 7. [*Severability.*] [Insert severability clause.]

104
105 Section 8. [*Repealer.*] [Insert repealer clause.]

106
107 Section 9. [*Effective Date.*] [Insert effective date.]