SUBSTITUTE FOR HOUSE BILL NO. 5282

A bill to create the security act for nuclear energy; and to clarify the rights and duties of officers providing security at nuclear generating facilities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. (1) An officer providing security at a nuclear
- 2 generating facility may use physical force, other than deadly
- 3 physical force, against another individual if that officer
- 4 providing security honestly and reasonably believes that the
- 5 physical force, other than deadly physical force, is necessary to
- 6 prevent or terminate that other individual's unlawful trespass at
- 7 that nuclear generating facility under section 552 of the Michigan
- 8 penal code, 1931 PA 328, MCL 750.552.
- 9 (2) An officer providing security at a nuclear generating

- 1 facility may use physical force, including deadly physical force,
- 2 against another individual if the officer providing security
- 3 honestly and reasonably believes that the use of physical force,
- 4 including deadly physical force, is necessary to prevent or
- 5 terminate an individual from breaking and entering or attempting to
- 6 break and enter into the business premises of a nuclear generating
- 7 or nuclear storage building or structure with the intent to commit
- 8 a crime involving the infliction or threatened infliction of
- 9 serious physical harm to any individual, or to deter a threat of
- 10 radiological sabotage or a threat of theft or diversion of special
- 11 nuclear material.
- 12 (3) Notwithstanding any other provision of this act, an
- 13 officer providing security at a nuclear generating facility may
- 14 threaten to use physical force, including deadly physical force, if
- 15 the officer providing security honestly and reasonably believes it
- 16 is necessary to protect himself or herself or another individual
- 17 against another individual's potential use of physical force,
- 18 including deadly physical force, or to deter a threat of
- 19 radiological sabotage or a threat of theft or diversion of special
- 20 nuclear material.
- 21 (4) Notice of the authorization provided in subsection (2)
- 22 shall be conspicuously posted at all entrances to the business
- 23 premises of a nuclear generating or nuclear storage building or
- 24 structure and at intervals along the perimeter in such a manner as
- 25 to provide reasonable notice of that authorization to persons about
- 26 to enter.
- 27 (5) An officer providing security at a nuclear generating

- 1 facility, the employer of an officer providing security at a
- 2 nuclear generating facility, and the owner and the operator of a
- 3 nuclear generating facility are immune from civil liability for the
- 4 conduct of an officer providing security at a nuclear generating
- 5 facility that is lawful under this section.
- 6 (6) Except as provided in this section, this section does not
- 7 modify the common law of this state in existence on the effective
- 8 date of this act regarding the use of deadly force.
- 9 (7) As used in this section:
- 10 (a) "Business premises of a nuclear generating or nuclear
- 11 storage building or structure" means a building or other structure
- 12 used to generate electricity using nuclear power, or that is used
- 13 to store special nuclear material associated with or resulting from
- 14 generating electricity using nuclear power. Business premises of a
- 15 nuclear generating or nuclear storage building or structure include
- 16 any appurtenant building or structure and any barrier or barrier
- 17 system surrounding that building or structure or appurtenant
- 18 building or structure that is designed to protect against
- 19 radiological sabotage or theft or diversion of special nuclear
- 20 material that is required to be designated and posted against
- 21 trespassing under 42 USC 2278a, or any other substantially
- 22 equivalent federal law.
- 23 (b) "Nuclear generating facility" means 1 or more of the
- 24 following:
- 25 (i) A facility that is located in this state that generates
- 26 electricity using nuclear power for sale, directly or indirectly,
- 27 to the public.

- 1 (ii) A facility that is located in this state that was formerly
- 2 used to generate electricity using nuclear power for sale, directly
- 3 or indirectly, to the public, and that stores special nuclear
- 4 material.
- 5 (iii) The land surrounding a facility described in subparagraph
- $\mathbf{6}$ (i) or (ii) that is in the possession of the facility owner or
- 7 operator.
- 8 (iv) Any nuclear generating or nuclear storage building or
- 9 structure on land described in subparagraph (iii).
- 10 (c) "Officer providing security at a nuclear generating
- 11 facility" means a security officer employed by or under contract
- 12 with a nuclear generating facility who is employed as part of any
- 13 security plan approved by the United States nuclear regulatory
- 14 commission or its successor agency and who is performing his or her
- 15 duties under that plan.
- 16 (d) "Special nuclear material" means material capable of a
- 17 self-sustaining fission chain reaction.
- 18 Enacting section 1. This act takes effect 90 days after the
- 19 date it is enacted into law.