

FIRST REGULAR SESSION

SENATE BILL NO. 328

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time February 5, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1282S.02I

AN ACT

To amend chapter 571, RSMo, by adding thereto one new section relating to conducted energy devices.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 571, RSMo, is amended by adding thereto one new section, to be known as section 571.250, to read as follows:

571.250. 1. As used in this section, the following terms shall mean:

(1) "Conducted electrical device" or "CED", any tool or weapon which uses conducted electricity with the express purpose of stunning or incapacitating the individual at whom it is targeted;

(2) "Less lethal", a classification of force between non lethal and lethal. This designation applies to uses of force which can only be used when lethal force is justified, but which are considered preferable to lethal force if the situation warrants;

(3) "Use of force continuum", the array of options open to law enforcement when responding to situations which require a physical response, when the physical response options are ordered hierarchically so that increasing force is applied by law enforcement agents only in proportion to the threat presented.

2. A "Task Force on the Use of Conducted Energy Devices (CEDs)" is hereby created within the office of administration.

3. The task force shall consist of ten members appointed by the governor, with the advice and consent of the senate, including:

(1) Two acknowledged medical experts;

(2) Two acknowledged scientific experts;

(3) Two acknowledged legal experts;

- 22 (4) Two law enforcement experts; and
23 (5) Two private citizens who have been shot by a CED, or whose
24 family member was injured or killed in a CED incident.

25 4. Representation on the task force shall be balanced with the
26 various viewpoints on CED policy being equally represented. It shall
27 be the responsibility of the governor to ensure such requirement is
28 met. The members of the task force shall serve without compensation,
29 but the members shall be reimbursed for necessary expenses incurred
30 in the performance of task force duties. The task force shall be
31 appointed and staffed on or before November 1, 2009. The task force
32 shall elect a chair and secretary from among its members.

33 5. The purpose of the task force shall be to evaluate the safety of
34 CEDs and to make recommendations regarding their use by law
35 enforcement. The task force shall hold public hearings throughout the
36 state, calling before it witnesses to testify, and allowing other
37 interested citizens to comment on issues relevant to the use of CEDs in
38 Missouri.

39 6. The task force shall study all aspects of CED use as
40 administered in the state. The study will include, but not be limited to
41 the following:

42 (1) Gathering a representative sample of law enforcement
43 policies regarding CED use from around the nation;

44 (2) Gathering a fully representative sample of law enforcement
45 policies regarding CED use from across Missouri;

46 (3) Comparing how such policies classify CEDs on the "use of
47 force continuum", and specifically reviewing the policies' restrictions
48 and advisories on CED use, training of personnel, requirements for
49 reporting CED use, and requirements of data collection from weapons
50 which have been fired;

51 (4) Examining national and statewide reports on deaths and
52 injuries, and making a review of all scientific CED studies, including
53 laboratory studies;

54 (5) Evaluating the information included in subdivision (4) of this
55 subsection while considering information reported by individuals
56 actually involved in these situations, if available;

57 (6) Gathering national and state data on incidents involving
58 alleged abuse of CEDs.

59 7. The task force shall determine if there are adequate studies
60 on the use and effects of CEDs and if such studies represent
61 independent perspectives. In particular, the task force shall determine
62 if there is a need for further research on certain issues, including how
63 frequently CEDs are used, the effects of CED use on human health,
64 typical operation of CEDs by law enforcement officers, possible
65 circumstances when CED use should be limited, sufficiency of law
66 enforcement training on CED use, and any other issues of interest or
67 concern to the task force.

68 8. The task force shall report its findings and recommendations
69 to the governor, attorney general, and members of the general assembly
70 by January 1, 2011.

71 9. The task force report shall make recommendations to amend
72 the Missouri statutes which assure:

73 (1) That CED use is banned, if necessary, because of safety
74 considerations or the propensity for abuse;

75 (2) That, if necessary, a suspension of CED use be in effect until
76 such time as scientific research is adequate to determine CED safety;
77 or

78 (3) That there is sufficient scientific research and an ability to
79 set policy such that:

80 (a) A proper balance between safety and risk can be maintained
81 when using CEDs, particularly in situations involving more vulnerable
82 persons, such as children, the elderly, or the mentally disabled;

83 (b) CED use is classified at the proper level in the "use of force
84 continuum";

85 (c) Abuse of CEDs can to a reasonable degree be discovered and
86 disciplined;

87 (d) Proper steps for reporting CED use and proper data
88 collection are required;

89 (e) A level of training which reasonably assures safety is
90 required.

91 10. Until the task force's report is complete and its
92 recommendations are passed by the general assembly and signed by the
93 governor into law, there shall be a suspension of CED use by all law
94 enforcement agencies in this state.

95 11. Law enforcement agencies, which adopt the following policy,

96 shall be exempt from the moratorium created under subsection 10 of
97 this section:

98 (1) CEDs shall be classified as "less lethal";

99 (2) CEDs shall only be used in situations where the use of lethal
100 force is justified;

101 (3) All officers shall be retrained in proper deployment and
102 appropriate use of CEDs based on the policy qualifying under this
103 subsection if it is newly adopted to meet the requirements of this
104 subsection;

105 (4) Individuals to whom the CED is applied shall be transported
106 to the local emergency room or other medical facility. The medical
107 staff shall be informed of the application of the CED and the location
108 of the site of application. If the darts have direct contact with the skin,
109 the puncture site shall be brought to the attention of the medical staff;

110 (5) Following the deployment of a CED, both a use of force report
111 and a CED incident report shall be filed and the appropriate supervisor
112 shall be notified;

113 (6) Following the deployment of the CED device, information
114 from the dataport on the CED shall be downloaded and recorded in
115 both the use of force report and the CED incident report;

116 (7) The records regarding the use of a CED and the CED incident
117 report shall be reported to the appropriate authority and shall be open
118 records.

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