

INFORMATION BRIEF
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Tasers in Minnesota: How Energy-Conducted Weapons Are Regulated

An energy-conducted weapon, or Taser, is a device that conducts energy to stun or subdue a person. This information brief explains how energy-conducted weapons work, their regulation under state and federal law, and how other states regulate them.

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Overview

What is an energy-conducted weapon?

An energy-conducted weapon (ECW) is a device that conducts energy to be used to stun or subdue a targeted subject. The Taser, trademarked and manufactured by Taser International, is the most commonly known energy-conducted weapon. There are currently two main police model Tasers, the M26 and X26, and three civilian models, the C-2, X26C, and Advanced M18. The Tasers made for personal use have a range of only 15 feet, and each cartridge is serialized and registered to its user and includes a tracking program that disperses dozens of confetti-sized film at the scene. Police Tasers have a longer range than civilian Tasers—up to 35 feet.

The first generation of Taser guns used gunpowder, and accordingly were classified as firearms by the Bureau of Alcohol, Tobacco, Firearms and Explosives. After successive generations of advancement, Tasers were modified, no longer used gunpowder, and were removed from firearms classification. Although early Tasers were rarely used, starting in the late 1990s, increasingly powerful models were created and Taser popularity increased.

How does a Taser work?

Taser devices utilize cartridges of compressed nitrogen to propel two small probes. The probes must be reloaded every time the handler wants to fire. The two probes fire at a speed of over 160 feet per second. The probes latch on to the victim with two barbs. Both police models have laser sights for accurate targeting and a built-in memory to record the time and date of each firing. Tasers are designed to function through up to five centimeters of clothing. Tasers are programmed to deploy five-second shocks of electricity, but a shock can be continuous if the operator's finger remains on the trigger. The probes are attached to copper wires, which remain connected to the weapon. The shock can be repeated countless times, as long as both probes remain attached to the subject. The M26 and X26 Taser guns operate on 26 watts of electric output and deliver a 50,000-volt shock.

Some Taser models, usually those used by police, can also be used in “drive-stun” mode by directly touching the person with the device. Rather than causing a complete override of the central nervous system, the weapon is used as a pain-compliance technique (meaning the subject complies because he or she is in pain). The Taser is held against the target without firing the probes. The Taser can be used without the air cartridge in this mode. It applies shocks directly to the subject's body, skin, or clothing. The duration is the same as the Taser in firing mode (five seconds or for the length the handler holds down the trigger button).

What effect does a Taser have on its target?

The shock from the Taser is designed to override the subject's central nervous system, causing an immediate loss of neuromuscular control and preventing the ability to perform coordinated

action for the duration of the impulse. There is an instant recovery once the electrical signal ceases.

How prevalent is the use of Tasers?

Since 1998, law enforcement agencies around the country have purchased over 375,000 Taser-brand devices, which have been used on over 624,000 suspects. More than 181,000 Taser-brand devices have been sold to citizens since 1994. Some energy-conducted weapon critics, such as Amnesty International, have reported that hundreds of deaths (277 in the United States between June 2001 and October 2007) have resulted from or have been closely related to energy-conducted weapon use.

Minnesota Law

Are energy-conducted weapons legal in Minnesota?

Under Minnesota law, energy-conducted weapons are called “electronic incapacitation devices” (EICs) and are regulated in the same chapter as tear gas and tear gas compounds.¹ In Minnesota, a person may possess and use an EIC with reasonable force to defend him or herself or his or her property.² Additionally, the electronic incapacitation device must be labeled with or accompanied by clearly written instructions as to its use and the dangers involved in its use.

Persons under the age of 18, as well as persons who are prohibited from possessing a firearm, may not possess or use an EIC.³ Minnesota law also prohibits the use of an EIC against a peace officer.⁴ When used in the commission of a crime, an EIC is considered a weapon.⁵

What is considered an electronic incapacitation device in Minnesota?

Minnesota law defines an “electronic incapacitation device” as a portable device that is “designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current, including devices operating by means of carbon dioxide propellant.”⁶ Cattle prods, electric

¹ [Minn. Stat. § 624.731](#).

² [Minn. Stat. § 624.731](#), subd. 2(b). Some states prohibit the use of ECWs by citizens. These states include Hawaii, Massachusetts, Michigan, New Jersey, New York, Rhode Island, and Wisconsin. See Haw. Rev. Stat. § 134-16; Mass. Gen. Laws, ch. 140, § 131J; Mich. Comp. Laws § 750.224a; N.J. Stat. Ann. § 2C:39-3; N.Y. Penal Law § 265.01(1) (McKinney); RI Gen. Laws § 11-47-42; and Wis. Stat. § 941.295.

³ [Minn. Stat. § 624.731](#), subd. 3(a), (b), and (c).

⁴ [Minn. Stat. § 624.731](#), subd. 4(a).

⁵ [Minn. Stat. § 624.731](#), subd. 4(c).

⁶ [Minn. Stat. § 624.731](#), subd. 1(2).

fences, or other electric devices when used in agricultural, animal husbandry, or food production activities, are not considered EICs.

How is the sale of energy-conducted weapons regulated in Minnesota?

Under Minnesota law, it is unlawful for a person to sell an EIC to a person who is prohibited from possessing an EIC (i.e., minors, felons).⁷ To comply with this requirement, retailers need to conduct a criminal background check on customers who wish to purchase an EIC. Retailers must ensure that an EIC is labeled with or accompanied by clearly written instructions as to its use and the dangers involved in its use.⁸ EICs may not be sold or furnished in establishments where alcohol is served or sold.⁹ Minnesota law also specifically allows for local units of government to impose licensing requirements for retailers who wish to sell EICs.¹⁰

What is the penalty for violating Minnesota's EIC regulations?

It is a felony for a person prohibited from possessing an EIC based on a prior conviction to possess an EIC. Likewise, it is a felony to knowingly sell or furnish an EIC to such a person. It is also a felony to use an EIC against a peace officer. Other unauthorized use of an EIC is a gross misdemeanor, except that it is a misdemeanor (1) for a minor to possess an EIC; (2) to sell an EIC to a minor; (3) to sell or furnish an EIC where alcohol is sold or served; and (4) to sell an EIC in violation of a local licensing requirement.¹¹

Are law enforcement officers permitted to use EICs in Minnesota?

Yes. Law enforcement agencies, peace officers, and members of the military are authorized to purchase, possess, and use EICs.¹² The Minnesota Board of Peace Officer Standards and Training (POST) has a model policy on use of force, under which EICs are covered. Law enforcement agencies are mandated by statute to adopt a policy that is the same as or very similar to the POST model policy.¹³

⁷ [Minn. Stat. § 624.731](#), subd. 5.

⁸ [Minn. Stat. § 624.731](#), subd. 2(b).

⁹ [Minn. Stat. § 624.731](#), subd. 5.

¹⁰ *Id.*

¹¹ [Minn. Stat. § 624.731](#), subd. 8.

¹² [Minn. Stat. § 624.731](#), subd. 6. Law enforcement officers are permitted to use ECWs in every state except New Jersey.

¹³ [Minn. Stat. § 326.3361](#)(2).

May local units of government regulate licenses for EICs?

Yes. The state allows local units of government to license the business of EIC vendors within their jurisdictions. The statute authorizes the local unit of government to impose a license fee, establish and impose qualifications for a license, set the duration of a license, and to restrict the number of licenses issued. The statute further authorizes local units of government to establish grounds for revocation of licenses. A local unit of government may establish penalties for the sale of EICs in violation of its licensing requirements.¹⁴ Any other regulation of EICs is preempted by statute.¹⁵

Federal Law

What federal regulations are there for energy-conducted weapons?

Since the Bureau of Alcohol, Tobacco, Firearms and Explosives no longer classifies ECWs as firearms, federal regulations regarding the manufacture, sale, and possession of firearms do not apply to ECWs. As a result, no federal restrictions on the distribution and sale of ECWs exist in the United States. Some federal agencies, however, such as the Transportation Security Administration, have placed restrictions on energy-conducted weapon possession, such as prohibiting them beyond airport security checkpoints.

Other State's Laws

The focus and limitations of each state's ECW laws differ in their scope and content. With one exception, every state and the District of Columbia allow for law enforcement use of ECWs. New Jersey prohibits both police and civilian use of ECWs. Hawaii, Massachusetts, Michigan, New Jersey, New York, Rhode Island, and Wisconsin prohibit civilian use of ECWs.¹⁶

Most states, like Minnesota, allow for civilian use of ECWs. The level of authority to use ECWs that is granted to civilians varies from state to state. In Connecticut, a civilian may only possess an EIC in his or her home and it is a felony to carry an ECW outside the home or to use an ECW in a manner that does not constitute defense of one's home.¹⁷ Illinois similarly restricts ECW possession by civilians to the home.¹⁸ In almost all states, the use of an ECW in a crime is an aggravating factor that will result in a separate charge or an increased sentence.¹⁹

¹⁴ [Minn. Stat. § 624.731](#), subd. 9.

¹⁵ [Minn. Stat. § 624.731](#), subd. 10.

¹⁶ This website offers a 50-state summary of ECW laws:
http://www.defenseproducts101.com/statestatutesummary_page2.html.

¹⁷ Conn. Gen. Stat. §§ 53-206, 53a-216.

¹⁸ Ill. Comp. Stat. § 5/24-1.

¹⁹ See footnote 16.

Other states limit civilian possession of ECWs to certain professions such as bail bondsman, corrections workers, probation officers, court officials, pilots, and private investigators.²⁰ Several states, including Florida, California, and Alabama, restrict or prohibit possession of ECWs in schools and other public buildings. For example, you must be at least 21 to possess an ECW in an Alabama school.²¹

For more information about weapons, visit the criminal justice area of our web site, www.house.mn/hrd/hrd.htm.

²⁰ Id.

²¹ Ala. Code § 11.61.210.