

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 106 (Substitute S-1 as passed by the Senate)
Senate Bill 288 (as reported without amendment)
Sponsor: Senator Virgil C. Smith, Jr.
Committee: Judiciary

Date Completed: 2-17-99

RATIONALE

Public Act 407 of 1984 enacted the Michigan Penal Code's "chop shop" offense. At that time, auto thefts apparently were a major and increasing problem in Michigan, with the value of stolen vehicles and parts totaling over \$1 million per year. It was reported that about 39% of stolen vehicles were taken by professional car thieves for chop shops, where vehicles are broken down into component parts. Before Public Act 407 was enacted, police and courts had to use Michigan's statute prohibiting receiving and concealing stolen property in order to combat these operations. Since a conviction for that offense requires proof not only that the property was stolen but also that the accused knew it was stolen, successful prosecutions were difficult to attain. In addition, the punishment for the receiving and concealing violation was viewed as too lenient for major chop shop operations. Public Act 407, then, enacted the specific prohibition against operating a chop shop and provided for a penalty of up to five years' imprisonment, a maximum fine of \$5,000, or both. Upon a second or subsequent conviction, an offender may be imprisoned for up to five years and is required to pay a fine of at least \$10,000.

A recent chop shop case in Detroit has indicated that the 1984 Act's penalties for chop shop operation may be insufficient to serve as a deterrent or to penalize offenders appropriately. Reportedly, in that instance, vast police and court resources were used in the investigation and prosecution of the case, resulting in the break-up of a chop shop operation valued at around \$500,000. Some people believe that the chop shop penalties may be viewed by offenders simply as a cost of doing business, rather than as an effective deterrent or punishment, and that the maximum prison sentence and fines allowed for operating a chop shop should be increased.

CONTENT

Senate Bills 106 (S-1) and 288 would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to increase the penalties

for operating a "chop shop", require restitution for that offense, and revise the sentencing guidelines classification for operating a chop shop. Senate Bill 288 is tie-barred to Senate Bill 106.

The Penal Code defines "chop shop" as an area, building, storage lot, field, or any other premises or place in which one or more persons are engaged or have engaged in altering, dismantling, reassembling, or in any way concealing or disguising the identity of a stolen motor vehicle or any major component part of a stolen motor vehicle, or in which there are three or more stolen motor vehicles present or there are major component parts from three or more stolen motor vehicles present.

Senate Bill 106 (S-1)

The bill would increase the penalties for operating a chop shop and require restitution as part of the penalty for that offense.

Under the Penal Code, knowingly owning, operating, or conducting a chop shop or knowingly aiding and abetting another person in owning, operating, or conducting a chop shop is a felony. The current penalty is up to five years' imprisonment, a maximum fine of \$5,000, or both. Upon a second or subsequent conviction, a person may be imprisoned for up to five years and must be fined at least \$10,000. Under the bill, the violation would be punishable by up to 15 years' imprisonment, a maximum fine of \$250,000, or both. A person convicted a second or subsequent time could be imprisoned for up to 15 years and would have to be fined at least \$10,000 but not more than \$250,000, or could receive both a prison sentence of up to 15 years and a fine of \$10,000 to \$250,000.

The Penal Code also provides that, in addition to any other punishment, a chop shop offender may be ordered to make restitution and that restitution may be imposed in addition to, but not instead of, any

imprisonment or fine. The bill would make restitution mandatory.

Senate Bill 288

The bill would revise the sentencing guidelines classification for operating a chop shop.

Under the Code of Criminal Procedure's sentencing guidelines provisions, operating a chop shop (MCL 750.535a) is categorized as a Class E felony against the public order, with a statutory maximum sentence of up to five years' imprisonment. Under Senate Bill 288, the offense would be a Class C felony against the public order, with a statutory maximum sentence of up to 15 years' imprisonment, as proposed by Senate Bill 106.

MCL 750.535a (S.B. 106)
777.16z (S.B. 288)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Auto theft and chop shop operations are very costly to society. Not only do they result in the loss of individuals' personal property, but they also cost all automobile owners in the form of higher insurance rates. In addition, the resources that law enforcement agencies commit to investigating this crime can amount to much more than can be recovered in the form of penal fines. A lucrative Detroit chop shop operation, for instance, reportedly was valued at around a half-million dollars, yet the maximum fine for a first-time chop shop offense is only \$5,000 and the maximum prison sentence is only five years. To protect the public more adequately from being victimized by auto theft and higher insurance premiums, and to punish offenders more effectively, Michigan's chop shop law should have more severe penalties.

Supporting Argument

The Penal Code's chop shop provision allows a court to order that an offender pay restitution for his or her crimes. Chop shop offenders blatantly steal individuals' personal property for their own financial gain and, as evidenced by the case mentioned above, can be very successful in that endeavor. The restitution penalty should be mandatory rather than permissive.

Supporting Argument

Since Senate Bill 106 (S-1) would increase the maximum penalty for operating a chop shop, the crime should be reclassified for sentencing guidelines purposes. Senate Bill 288 would raise the

violation from a Class E felony to a Class C felony, thereby providing for a different set of recommended minimum sentence ranges, calling for longer periods of imprisonment, to be used when a person was convicted of operating a chop shop.

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 106 (S-1)

Senate Bill 106 (S-1) would have an indeterminate impact on State and local government.

The bill would increase the maximum prison sentence for operating a chop shop from five years to 15 years. In 1996, there were 57 total dispositions for this offense. Of those dispositions, 13 or 23% were committed to State prisons. The increase in maximum prison sentence would affect offenders who serve the full maximum sentence. There are no data to suggest how many offenders would serve the full maximum sentence.

Senate Bill 288

Senate Bill 288 would have an indeterminate fiscal impact on State and local government.

Enacted sentencing guidelines currently classify MCL 750.535a as a Class E crime, for which the minimum sentencing range, based on crime and offender characteristics, is from 0-3 months to 24-38 months. The bill would change the minimum sentence to Class C, for which the minimum sentencing range is from 0-11 months to 62-114 months.

In 1996, there were 57 total dispositions for this offense with 13, or 23%, committed to State prison. Assuming that 1996 data are consistent with the number sentenced to prison annually for this crime, that the minimum sentence imposed is 18 months, and that the minimum sentence would increase by 1.7%, those 13 offenders would serve 31 months. Further, given that the average per diem for a minimum security prisoner reported for FY 1997-98 by the Department of Corrections was \$44.36, the average annual cost for the additional months of incarceration would be \$245,000, and the average annual cost would be \$536,000.

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.