



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

REPEAL OUT-DATED LAWS

**Senate Bills 1026, 1027, 1032, 1034, and
1035 as passed by the Senate
Sponsor: Sen. Thaddeus McCotter**

**Senate Bill 1037 as passed by the Senate
Sponsor: Sen. Don Koivisto**

**Senate Bills 1038-1040, 1042, 1044-1046,
1048, and 1049 as passed by the Senate
Senate Bills 1043 (Substitute H-1) and
1047 (Substitute H-1)
Sponsor: Sen. Christopher S. Dingell**

**House Committee: Criminal Justice
Senate Committee: Government
Operations**

First Analysis (3-20-02)

Senate Bills 1026-1027, 1032, 1034-1035, 1037-1040 and 1042-1049 (3-20-02)

THE APPARENT PROBLEM:

The Senate Law Revision Task Force was established in June 1999 and was charged with reviewing existing state statutes and recommending repeal or amendment of those laws that were found to be obsolete or irrelevant to present-day life in Michigan. To identify such laws, the task force sought the input of the public, the law enforcement community, and various legal associations and entities, including the Michigan Law Revision Commission, the State Bar of Michigan, legislators, judges, and prosecutors. After review, the task force issued a report in December 1999, recommending that various laws or sections of laws be repealed or that provisions be eliminated.

Many bills to carry out the task force's recommendations were passed during the 1999-2000 legislative session. Now, more such bills are proposed.

THE CONTENT OF THE BILLS:

Senate Bill 1026 would repeal Section 502 of the Michigan Penal Code (MCL 750.502), which governs the handling of gasoline, benzene, and naphtha by wholesalers and retailers of those products (requires them to deliver these products from tank wagons, tanks, casks, barrels, pumps or other receptacles only in vessels painted vermilion

bright red and plainly lettered with "gasoline", "benzine", or "naphtha"). A violation is a misdemeanor.

Senate Bill 1027 would repeal Section 41 of the Michigan Penal Code (MCL 750.41), which makes it a misdemeanor for a person to sell, lend, give away, show, or possess any publication of criminal news, police reports, accounts of criminal deeds, or stories of bloodshed, lust, or crime.

Senate Bill 1032 would repeal Section 409 of the Michigan Penal Code (MCL 750.409), which makes it a misdemeanor to taunt or accuse another of having been a convict or an inmate in a jail, prison, or reformatory.

Senate Bill 1034 would repeal Section 348 of the Michigan Penal Code (MCL 750.348), which makes it a felony to incite an Indian nation, tribe, chief, or individual to violate the provisions of any peace treaty or state or federal law.

Senate Bill 1035 would amend the Code of Criminal Procedure (MCL 777.16q) to delete the provision specifying that inciting Indians to violate a treaty is a Class H felony against the public safety with a four-year maximum sentence of imprisonment. The bill is tie-barred to Senate Bill 1034.

Senate Bill 1037 would repeal Section 494 of the Michigan Penal Code (MCL 750.494), which requires that any sleigh or cutter in the Upper Peninsula pulled by horse, mule, etc. and driven faster than a walk have bells on at least one animal or on the sleigh to warn travelers of its approach. A violation is a misdemeanor.

Senate Bills 1038, 1039, 1040, 1042, 1044, 1046, and 1048 would repeal sections of the Michigan Penal Code that pertain to offenses involving railroads, railroad tickets, or railroad stock or bonds. Senate Bills 1043 (H-1), 1045, 1047 (H-1), and 1049 would amend the Code of Criminal Procedure to delete sentencing guidelines corresponding to the offenses that would be repealed by the other bills. Specifically, the bills would do the following:

Senate Bill 1038 would repeal Section 517 of the Michigan Penal Code (MCL 750.517), which makes it a felony offense punishable by up to life imprisonment to enter a train with the intent to rob it or the passengers or employees.

Senate Bill 1039 would repeal Section 516 of the Michigan Penal Code (MCL 750.516), which prohibits stopping a train with firearms, dynamite, etc. or compelling the engineer to run the train contrary to his or her orders with the intent to wreck or rob the train, its passengers, or employees. An offense is a felony punishable by up to life imprisonment.

Senate Bill 1040 would repeal Section 514 of the Michigan Penal Code (MCL 750.514), which prohibits the seizure of a locomotive with an express or mail car attached. A violation is a felony punishable by up to 10 years imprisonment or a fine of not more than \$5,000.

Senate Bill 1042 would repeal Section 513 of the Michigan Penal Code (MCL 750.513), which makes it a felony, punishable by imprisonment for up to 10 years or a maximum fine of \$5,000, to make or issue any authorized or fraudulent certificate of stock, bond, or obligation of a railroad company.

Senate Bill 1043 (H-1) would amend the Code of Criminal Procedure (MCL 777.16x) to delete the statutory maximum years of imprisonment for the crimes repealed by Senate Bills 1038-1040 and Senate Bill 1042. The bill is tie-barred to Senate Bill 1038, 1039, 1040, and 1042.

Senate Bill 1044 would repeal Section 179 of the Michigan Penal Code (MCL 750.179), which makes

it a felony for an officer, agent, or employee of a railroad company to embezzle, dispose of, or convert to his or her own use any railroad passenger ticket, or to use tickets that previously had been used.

Senate Bill 1045 would amend the Code of Criminal Procedure (MCL 777.16i) to delete the provision specifying that embezzlement of railroad tickets is a Class C felony property offense with a four-year statutory maximum term of imprisonment. The bill is tie-barred to Senate Bill 1044.

Senate Bill 1046 would repeal Section 366 of the Michigan Penal Code (MCL 750.366), which makes larceny of railroad passenger tickets a felony.

Senate Bill 1047 (H-1) would amend the Code of Criminal Procedure (MCL 777.16r) to delete a provision that specifies that larceny of railroad tickets is a Class C property felony with a statutory maximum term of imprisonment of four years. The bill would also incorporate a provision added by enrolled House Bill 5126. The bill is tie-barred to Senate Bill 1046.

Senate Bill 1048 would repeal Section 266 of the Michigan Penal Code (MCL 750.266), which makes it a felony to forge, counterfeit, or alter a railroad passenger ticket, with the intent to injure or defraud, or to sell a forged, altered, or counterfeit railroad passenger ticket.

Senate Bill 1049 would amend the Code of Criminal Procedure (MCL 777.16n) to delete the provision specifying that counterfeiting railroad tickets is a Class C felony property offense with a four-year statutory maximum term of imprisonment. The bill is tie-barred to Senate Bill 1048.

HOUSE COMMITTEE ACTION:

The House Committee on Criminal Justice adopted a substitute for Senate Bill 1043, which combined the provisions of Senate Bill 1041 and Senate Bill 1043 (Senate Bills 1041 and 1043 amended the same section of law), and also tie-barred Senate Bill 1043 to Senate Bills 1038, 1039, 1040, and 1042. The committee also adopted a substitute for Senate Bill 1047 to incorporate changes made by enrolled House Bill 5126.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, Senate Bills 1026, 1027, 1032, and 1037 would have an

indeterminate fiscal impact on local government. There are no statewide data currently available to indicate how many offenders a year (if any) are convicted of a misdemeanor for the applicable offenses. Local units of government would incur the cost of incarceration for these offenses, and libraries would receive the fine revenue. (2-1-02)

The agency also reports that according to the Department of Corrections Statistical Report, in 1999, there were no offenders convicted of inciting or attempting to incite Native Americans to violate peace treaties or U.S. laws. Assuming past years are representative of the future, the SFA reports that Senate Bills 1034 and 1035 would have no fiscal impact on state or local government. (2-12-02)

Further, the agency reports that according to the Department of Corrections Statistical Report, in 1999, there were no convictions for or felons serving sentences for crimes dealing with railroad detention or robbery; railroad passenger ticket embezzlement, forgery, or larceny; or issuing fraudulent railroad securities. Assuming past years are representative of the future, the SFA reports that Senate Bills 1038-1040 and 1042-1049 would have no fiscal impact on state or local government. (2-12-02)

ARGUMENTS:

For:

The statutes recommended for repeal or elimination have been cited as being unneeded, unused, obsolete, or otherwise unnecessary. For example, Senate Bill 1026 would repeal a provision that requires vessels that deliver gasoline, benzine, or naphtha to be painted bright red. According to the Department of State Police, the DSP Motor Carrier Division does not enforce this law, but rather enforces superceding federal regulations regarding the handling of tankers that transport these products. Senate Bill 1027 would repeal a provision of the penal code that in effect makes every newspaper company publishing in Michigan guilty of a misdemeanor on a daily basis, for it prohibits the publishing of stories about crime, police reports, and so on. The crimes that would be repealed in the bills pertaining to train robbery, embezzlement of railroad tickets, forging railroad securities, etc. are covered by other state and federal laws. Repealing the provisions pertaining to inciting a Native American to violate a peace treaty or to violate state or federal laws recognizes the sovereign nation status that Indian tribes enjoy today. Again, state, federal, and tribal laws are more than adequate

to address crimes of any type that involve Native Americans or that occur on tribal lands.

It has been noted that, while the laws in question may have been justifiable at the time of their enactment, Michigan citizens should not be required to be aware of and abide by laws that have no reasonable relation to modern life. To this end, the Senate task force worked to identify laws for repeal. The bills would help to complete the process of eliminating these laws.

POSITIONS:

A representative of the Prosecuting Attorneys Association of Michigan indicted support for the bill package, as the sections repealed are covered by other statutes. (3-19-02)

The Grand Traverse Band of Ottawa and Chippewa Indians supports Senate Bills 1034 and 1035. (3-19-02)

Analyst: S. Stutzky

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.