



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 685 (Substitute S-1 as reported)  
Senate Bill 686 (Substitute S-2 as reported by the Committee of the Whole)  
Sponsor: Senator Patricia L. Birkholz  
Committee: Judiciary

## **CONTENT**

Senate Bill 686 (S-2) would amend the Michigan Penal Code to prohibit a person, intentionally or without authority or permission, from entering or remaining in or upon premises or a structure belonging to another that was a "key facility", if the key facility were completely enclosed by a physical barrier of any kind including a significant water barrier that prevented pedestrian access. The facility also would have to be conspicuously posted against entry, with signage as required under the bill. A violation would be a felony punishable by up to four years' imprisonment, a maximum fine of \$2,500, or both.

The bill specifies that it would not prohibit and could not be construed to prevent lawful assembly or a peaceful and orderly petition for the redress of grievances, including a labor dispute between an employer and its employees.

"Key facility" would mean one or more of the following:

- A chemical manufacturing facility.
- A refinery.
- An electrical power generation or electrical transmission or distribution facility.
- A water intake structure or water treatment facility.
- A pipeline transmission compressor station.
- Gasoline, propane, liquid natural gas (LNG), or other fuel terminal or storage facility.
- A transportation facility, including a port, railroad switching yard, or trucking terminal.
- A pulp or paper manufacturing facility.
- A pharmaceutical manufacturing facility.
- A hazardous waste storage, treatment, or disposal facility.
- A telecommunications facility, including a central office or cellular telephone tower site.

The term also would include a facility substantially similar to a facility, structure, or station listed above or a resource required to submit a risk management plan under a section of the Federal Clean Air Act (42 USC 7412(r)).

Senate Bill 685 (S-1) would amend the Code of Criminal Procedure to include the felony proposed by Senate Bill 686 (S-2) in the sentencing guidelines. Trespass upon a key facility would be a Class F felony against the public safety, with a statutory maximum sentence of four years' imprisonment. Senate Bill 685 (S-1) is tie-barred to Senate Bill 686.

MCL 777.16y (S.B. 685)  
Proposed MCL 750.552c (S.B. 686)

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of trespassing upon a key facility. Currently, an offender trespassing upon another's premises (including a key facility) is guilty of a misdemeanor punishable by imprisonment for up to 30 days, a fine of up to \$50, or both. Under these bills, an offender convicted of the Class F felony would receive a sentencing guidelines minimum sentence range of 0-3 months to 17-30 months. Local governments would incur the cost of incarceration in local facilities, which varies by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Public libraries would benefit from any additional penal fine revenue raised.

Date Completed: 11-9-05

Fiscal Analyst: Lindsay Hollander

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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.