



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 685 and 686 (as introduced 6-30-05)
Sponsor: Senator Patricia L. Birkholz
Committee: Judiciary

Date Completed: 10-25-05

CONTENT

Senate Bills 685 and 686 would amend the Code of Criminal Procedure and the Michigan Penal Code, respectively, to prohibit and provide a felony penalty for trespassing on a "critical infrastructure", and include that offense in the sentencing guidelines.

Senate Bill 685 is tie-barred to Senate Bill 686.

Senate Bill 686

The bill would 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 critical infrastructure, if the critical infrastructure were completely enclosed by a physical barrier of any kind. 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.

"Critical infrastructure" would mean one or more of the following:

- A chemical manufacturing facility.
- A refinery.
- An electrical power generation or electrical distribution facility.
- A water intake structure or water treatment facility.
- A natural gas 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.

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)). (That section requires facilities at which regulated substances are present in certain quantities to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of those substances and to

provide a prompt emergency response to any releases in order to protect human health and the environment.)

Senate Bill 685

The bill would include the felony proposed by Senate Bill 686 in the sentencing guidelines. Trespass upon critical infrastructure would be a Class F felony against the public safety, with a statutory maximum sentence of four years' imprisonment.

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 critical infrastructure. Currently, an offender trespassing upon another's premises (including critical infrastructure) 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.

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.