



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 29 (Substitute S-2 as reported)
Senate Bill 30 (Substitute S-1 as reported)
Senate Bill 93 (Substitute S-1 as reported)
Sponsor: Senator Goeff Hansen (S.B. 29 & 93)
 Senator Rick Jones (S.B. 30)
Committee: Judiciary

CONTENT

Senate Bill 29 (S-2) would amend the Michigan Penal Code to do all of the following:

- Allow a reserve peace officer and a concealed pistol license (CPL) holder to possess and use a device that uses electro-muscular disruption (EMD) technology under certain circumstances.
- Require an authorized dealer who sold an EMD device to a CPL holder to verify the person's identity and handgun licensure.
- Make it a misdemeanor, punishable by up to two years' imprisonment and/or a maximum fine of \$2,000 for a CPL holder to use an EMD device except under circumstances that would justify his or her lawful use of force

The Penal Code prohibits a person from selling, offering for sale, or possessing in Michigan a portable device or weapon from which an electrical current, impulse, wave, or beam, that is designed to incapacitate temporarily, injure, or kill, may be directed. A violation is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$2,000. The prohibition, however, does not apply to the possession and reasonable use of an EMD device by certain individuals, including peace officers, who have been trained in the use and risks of the device, while performing their official duties.

The bill would allow an individual who held a valid CPL under the handgun licensure law to possess and reasonably use a device that used EMD technology (commonly referred to as a "stun gun" or "taser"), if he or she had been trained in the use, effects, and risks of the device. The bill also would include a reserve peace officer (as defined in the handgun licensure law) in the definition of "peace officer".

In addition, under the bill, an authorized dealer or other person who sold an EMD technology device to a CPL holder would have to verify the person's identity and that he or she held a valid CPL. At the time of the sale, the dealer or other person would have to give the purchaser training on its use, effects, and risks. A violation of this provision would be a misdemeanor punishable by up to 30 days' imprisonment, a maximum fine of \$500, or both.

Senate Bill 30 (S-1) would amend the handgun licensure law to extend to an EMD device certain provisions that apply to carrying a concealed pistol, including disclosure to a peace officer, restrictions on carrying while under the influence of alcohol or a controlled substance, and carrying in so-called "no-carry" zones (such as schools, bars, and sports arenas).

The bill also would include an individual licensed under the handgun licensure law who also was a court officer in the list of people who are exempt from the prohibition against carrying a concealed pistol in the no-carry zones.

Senate Bill 93 (S-1) would amend the sentencing guidelines in the Code of Criminal Procedure to include a third or subsequent offense of carrying a concealed EMD device in the sentencing guidelines designation for a third or subsequent offense of carrying a concealed pistol. A violation is a Class F public safety felony with a statutory maximum sentence of four years' imprisonment.

The bill also would add a sentencing guidelines designation for improper use of an EMD device. That violation would be a Class G public safety offense with a statutory maximum sentence of two years' imprisonment.

Senate Bills 29 (S-2) and 30 (S-1) are tie-barred to each other. Senate Bill 93 (S-1) is tie-barred to Senate Bills 29 and 30. All of the bills would take effect 90 days after their enactment.

MCL 750.224a (S.B. 29)
28.425f et al. (S.B. 30)
777.11b & 777.16m (S.B. 93)

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 the proposed felony and misdemeanor offenses. An offender convicted of the Class F offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 17-30 months, with a statutory maximum of four years. An offender convicted of the Class G offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months, with a statutory maximum of two years. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,500, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000. Additional penal fine revenue would benefit public libraries.

Date Completed: 2-3-11

Fiscal Analyst: Matthew Grabowski

Floor\sb29

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.