

# Legislative Analysis

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## FIREARM DEFINITION/PNEUMATIC GUNS

**Senate Bill 964 (Substitute S-2 as passed by the Senate)**

**Sponsor: Sen. Phil Pavlov**

**Senate Bill 965 (Substitute H-3)**

**Sponsor: Sen. Joe Hune**

**Senate Bill 966 (Substitute H-1)**

**Sponsor: Sen. Rick Jones**

**Senate Bill 979 (Senate S-2 as passed by the Senate)**

**Sponsor: Sen. Dave Hildenbrand**

**House Committee: Judiciary**

**Senate Committee: Judiciary**

**Complete to 12-10-14**

## A SUMMARY OF SENATE BILLS 964-966 AND 979 AS REPORTED BY THE HOUSE JUDICIARY COMMITTEE 12-4-14

The bills will revise the definition of "firearm" in several statutes to mean, unless specifically defined in statute, any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

In addition:

Senate Bill 965 makes it a criminal offense to transport a pneumatic gun except as prescribed, makes it a criminal offense to use a pneumatic gun in the commission of a felony, and defines "weapon."

Senate Bill 979 adds a definition for "pneumatic gun"; generally prohibits local governments from regulating pneumatic guns; allows local governments to regulate the possession of pneumatic guns by minors, prohibit criminal conduct with a pneumatic gun, and prohibit certain conduct with a pneumatic gun; and allows a city or charter township to prohibit the discharge of a pneumatic gun in a densely populated area.

The bills would take effect January 1, 2015.

Senate Bill 964 amends Chapter 1 of the Revised Statutes of 1846 (MCL 8.3t), which defines certain terms used in the compiled laws of Michigan. Currently, the term "firearm," unless specifically defined in statute, means any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion, except any smooth bore rifle or handgun designed and manufactured

exclusively for propelling BBs not exceeding .177 caliber by means of spring, gas, or air. That definition would be replaced by the definition referred to earlier—any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

**Senate Bill 965** amends the Michigan Penal Code (MCL 750.222 et al.) to revise the definition of "firearm" to mean the term as described above and to make other changes.

Currently, it is a five-year felony to go armed with a firearm or deadly weapon or instrument (such as a pistol, dagger, razor, or certain knives) with intent to use it unlawfully against a person. The bill would also apply the prohibition to "a pneumatic gun."

In addition, the bill would make carrying or possessing a pneumatic gun and using it in the furtherance of committing or attempting to commit a felony (with some listed exceptions) a felony punishable by imprisonment for two years. A second conviction would be a five-year felony and subsequent convictions would be punishable by imprisonment for 10 years. (A term of imprisonment imposed under this provision would be in addition to the sentence imposed for the conviction of the felony or attempted felony and would be served consecutively with and preceding any term of imprisonment imposed for the other felony.)

Under the bill, except as otherwise permitted by law, it would be a two-year misdemeanor to transport or possess on a sailboat or a motor vehicle, aircraft, motorboat, or other vehicle propelled by mechanical means, a pneumatic gun that is loaded and that is designed, manufactured, and intended to inflict death or serious bodily injury.

Transporting in a vehicle a pneumatic gun designed, manufactured, and intended to inflict death or serious bodily injury would be a 90-day misdemeanor, unless the pneumatic gun is unloaded and taken down, enclosed in a case, carried in the trunk of the vehicle, or inaccessible from the interior of the vehicle.

Further, the bill defines the term "weapon" to include, but not be limited to, a pneumatic gun designed, manufactured, and intended to inflict death or serious bodily injury.

The bill is tie-barred to Senate Bill 979.

**Senate Bill 966** would amend Part 401 (Wildlife Conservation) and Part 435 (Hunting and Fishing Licensing) of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.40102 et al. Part 401 defines "firearm" as a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air. Part 435 defines "firearm" as a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion. Both definitions exclude a smooth bore rifle or handgun designed and manufactured exclusively for propelling BBs not exceeding .177 caliber by means of a spring, air, or gas.

Under the bill, Parts 401 and 435 instead would define "firearm" as any weapon which will, is designed to, or readily may be converted to expel a projectile by action of an explosive. In addition, the bill specifies that a pneumatic gun as defined by Senate Bill 979, other than a paintball gun, also would be considered a firearm under NREPA.

Further, Part 401 specifies that an individual shall not hunt *or discharge a firearm* within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property. The bill will delete the highlighted text and apply the prohibition to hunting, as that term is defined in Section 43505. (Section 43505 defines "hunt" and "hunting" to mean to pursue, capture, shoot, kill, chase, follow, harass, harm, rob, or trap a wild animal, or to attempt to engage in such an activity.)

The bill is tie-barred to Senate Bill 979.

**Senate Bill 979** would amend Public Act 319 of 1990, which prohibits local units of government from taxing or regulating the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, to do the following:

- ❖ Extend the act to pneumatic guns.
- ❖ Specify that the act would not prohibit local regulation of criminal conduct with a pneumatic gun.
- ❖ Allow a local unit to regulate the possession of pneumatic guns by a person less than 16 years old under certain circumstances.
- ❖ Allow a local unit to prohibit a person from pointing, waving, or displaying a pneumatic gun in a threatening manner intending to induce fear.
- ❖ Allow a city or charter township to prohibit the discharge of a pneumatic gun in a heavily populated area, except at authorized locations or on private property.

The bill would define "firearm" as any weapon that will, is designed to, or may readily be converted to expel a projectile by action of an explosive. "Pneumatic gun" would mean any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air. The term would include a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

The act defines "local unit of government" as a city, village, township, or county.

## **FISCAL IMPACT:**

### **Senate Bills 964 and 979:**

Modifying the definition of "firearm" could result in a decrease in the number of firearm offenses that occur. A decrease in the number of convictions could result in lower costs for local units of government related to courts, county jails, and/or local probation supervision. There could also be a decrease in penal fine revenues which would decrease funding for local libraries, which are the constitutionally-designated recipients of those revenues.

**Senate Bills 965 and 966:**

The bills could increase costs for state and local correctional systems. Information is not available on the number of persons that might be convicted under the provisions of the bills. New felony convictions would result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$34,900 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,700 per supervised offender per year. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

The bills would increase costs on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bills affected caseloads and related administrative costs.

**POSITIONS:**

A representative of the NRA-ILA testified in support of the bills. (11-13-14 and 12-4-14)

The Michigan Coalition for Responsible Gun Owners indicated support for the bills. (11-13-14 and 12-4-13)

Michigan Open Carry indicated support for the Senate Bill 979. (12-4-14)

The Department of State Police indicated a neutral position on the bills as reported. (12-4-14)

The Michigan Association of Chiefs of Police indicated a neutral position on the bills as reported. (12-4-14)

The Michigan Townships Association indicated opposition to Senate Bill 979. (11-13-14)

The Michigan Municipal League indicated opposition to Senate Bill 979. (11-13-14 and 12-4-14))

Legislative Analyst: Susan Stutzky  
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■ 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.