



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 779 (Substitute S-3 as reported)  
Senate Bill 780 (Substitute S-2 as reported)  
Senate Bill 781 (Substitute S-3 as reported)  
Sponsor: Senator Hoon-Yung Hopgood (S.B. 779)  
          Senator Rick Jones (S.B. 780)  
          Senator Steven Bieda (S.B. 781)  
Committee: Judiciary

### **CONTENT**

Senate Bill 779 (S-3) would amend the Michigan Penal Code to prohibit a person from possessing either of the following:

- An imitation firearm from which the colored markings required under State or Federal law on a toy, look-alike, or imitation firearm had been removed, disguised, cloaked, covered, concealed, or masked.
- A firearm to which any color or markings required on an imitation firearm under State or Federal law had been added or installed in a way that made the firearm look like an imitation firearm.

A person who possessed an altered imitation firearm and used it to commit a misdemeanor would be guilty of a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$100. A person who possessed an altered imitation firearm and used it to commit a felony would be guilty of a felony punishable by up to 18 months' imprisonment and/or a maximum fine of \$10,000.

A person who possessed a firearm to which any color or markings were added or installed to make it look like an imitation firearm would be guilty of a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$100. If the person possessed the firearm while committing a felony, he or she would be guilty of a violation of Section 227b of the Code (carrying or possessing a firearm when committing or attempting to commit a felony). (A violation of Section 227b is a felony requiring imprisonment for two years. A second felony-firearm conviction requires five years' imprisonment and a third or subsequent conviction requires 10 years' imprisonment.)

A conviction or sentence imposed for a violation of the bill would not preclude a conviction or sentence for a violation of any other applicable law.

The bill would not apply to a manufacturer, importer, or distributor of imitation firearms or to the lawful use of an imitation firearm in a motion picture, television, stage, or other theatrical production.

The bill would define "imitation firearm" as a BB gun, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

Senate Bill 780 (S-2) would amend the Michigan Penal Code to include an altered imitation firearm in a prohibition against knowingly brandishing a firearm in public.

A violation of the prohibition is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$100. The bill would increase the maximum term to 93 days.

Senate Bill 781 (S-3) would amend the Code of Criminal Procedure to include the felony proposed by Senate Bill 779 (S-3) in the sentencing guidelines. Altering an imitation firearm and using it to commit a felony would be a Class G felony against the public safety, with a statutory maximum penalty of 18 months' imprisonment.

The bills would take effect 90 days after their enactment. Senate Bills 780 (S-2) and 781 (S-3) are tie-barred to Senate Bill 779.

Proposed MCL 750.225 (S.B. 779)  
MCL 750.234e (S.B. 780)  
777.16m (S.B. 781)

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 or misdemeanors or the expanded felony or misdemeanor. An offender convicted of the Class G offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 18 months. 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: 12-7-11

Fiscal Analyst: Matthew Grabowski

Floor\sb779.

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.