



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 779, 780, and 781 (as introduced 10-26-11)

Sponsor: Senator Hoon-Yung Hopgood (S.B. 779)

Senator Rick Jones (S.B. 780)

Senator Steven Bieda (S.B. 781)

Committee: Judiciary

Date Completed: 11-29-11

CONTENT

Senate Bill 779 would amend the Michigan Penal Code to prohibit and prescribe a felony penalty for removing or concealing required colored markings on a toy or imitation firearm or adding or installing such markings to make a firearm look like an imitation firearm.

Senate Bill 780 would amend the Michigan Penal Code to extend a misdemeanor penalty for brandishing a firearm to brandishing an object that appeared to be a firearm. The bill also would increase the maximum penalty for a violation from 90 days' imprisonment to 93 days.

Senate Bill 781 would amend the Code of Criminal Procedure to include the felony proposed by Senate Bill 779 in the sentencing guidelines.

Senate Bill 781 is tie-barred to Senate Bill 779.

Senate Bill 779

The bill would prohibit a person from doing either of the following:

- Removing, disguising, cloaking, covering, concealing, or masking the colored markings required on a toy, look-alike, or imitation firearm under Michigan or Federal law.
- Adding or installing any color or markings that are required for an imitation firearm under Michigan or Federal law in a way that made a firearm look more like an imitation firearm.

A violation would be a felony punishable by up to 18 months' imprisonment, a maximum fine of \$10,000, or both.

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 Penal Code defines "firearm" as a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. The term does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BBs not exceeding .177 caliber.

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.

"BB gun" would mean a smooth bore rifle or handgun designed and manufactured exclusively to propel BBs that do not exceed .177 caliber by a spring or by gas or air.

Senate Bill 780

The Penal Code prohibits a person from knowingly brandishing a firearm in public. Under the bill, the prohibition would include knowingly brandishing in public an object that appeared to be a firearm.

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

The prohibition does not apply to a peace officer lawfully performing his or her duties as a peace officer, or to a person lawfully engaged in hunting, target practice, or the sale, purchase, repair, or transfer of the firearm.

Senate Bill 781

Under the bill, altering a firearm or an imitation firearm would be a Class G felony against the public safety, with a statutory maximum penalty of 18 months' imprisonment.

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 the expanded 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.

Fiscal Analyst: Matthew Grabowski

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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.