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SFA**BILL ANALYSIS**

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Senate Bill 97 (as introduced 1-29-97)
Sponsor: Senator Dianne Byrum
Committee: Judiciary

Date Completed: 5-12-97

CONTENT

The bill would amend Chapter 33 of the Michigan Penal Code, which deals with explosives and bombs, to revise some of the terminology of Chapter 33, establish specific penalties for some violations that currently are felonies with no otherwise specified penalties, increase the maximum penalty for some violations, and reduce the maximum penalty for one violation.

Specific Felony Penalties

The Penal Code prohibits the transporting of dynamite, gunpowder, or other explosives between locations within Michigan on a vessel, car, or vehicle that is operated by a common carrier and that carries passengers for hire. A violation is a felony with no specified penalty. The bill specifies that the felony would be punishable by imprisonment for up to four years, a maximum fine of \$2,000, or both (which is the penalty applicable under Michigan law for a felony with no otherwise specified penalty).

The Penal Code prohibits the ordering, sending, taking, transporting, conveying, or carrying of dynamite, nitroglycerine, fulminate in bulk in dry condition, or any other explosive substance that explodes by concussion or friction, on a passenger boat or vessel, a railroad car or train of cars, a street car, motor bus, stage, or other vehicle used for carrying passengers or articles of commerce when concealed as baggage or freight. A violation is a felony with no specified penalty. The bill specifies that the felony would be punishable by imprisonment for up to four years, a maximum fine of \$2,000, or both.

The Penal Code prohibits the sending or transporting of a device that is constructed to represent, or that is presented as, an explosive, incendiary device, or bomb, with the intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person. A violation is a felony with no specified penalty. The bill specifies that the felony would be punishable by imprisonment for up to four years, a maximum fine of \$2,000, or both.

The Penal Code prohibits the knowing delivery or placement of a device that is constructed to represent, or that is presented as, an explosive, incendiary device, or bomb, with the intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy any other person. A violation is a felony with no specified penalty. The bill specifies that the felony would be punishable by imprisonment for up to four years, a maximum fine of \$2,000, or both.

Increased Penalties

The Code provides that it is a felony, punishable by not less than two years' or more than five years'

imprisonment, for a person to carry or possess a bomb or bombshell, any article containing an explosive or combustible substance, or a foul, offensive, or injurious substance or compound, with the intent to use it unlawfully against the person or property of another. The bill specifies that a person convicted of this offense “shall be punished” by imprisonment for not less than two years or more than 10 years.

The Code provides that it is a felony, punishable by not less than two years’ or more than five years’ imprisonment, for a person to manufacture, buy, sell, furnish, cause to be furnished, or have in his or her possession any nitroglycerine, dynamite, giant powder, or any other dangerous explosive material, with the intent to use it unlawfully against the person or property of another. The bill specifies that a person convicted of this offense “shall be punished” by imprisonment for not less than two years or more than 10 years.

Reduced Penalty

The Penal Code provides that it is a felony, punishable by up to five years’ imprisonment, for a person unlawfully and maliciously to send or deliver to another person, or cause to be taken or received by any person, any kind of explosive substance or other noxious or dangerous thing, with the intent to burn, maim, disfigure or disable any person or to do bodily harm to any person, if the violation does not result in death. The violation also applies to every person “privity to” the offender’s intent who aids in the commission of the offense. The bill would delete the provision that includes in the offense persons with knowledge of the intent who aided in the commission of the crime. The bill also would reduce the maximum penalty from five years’ to three years’ imprisonment.

Revised Language

The Penal Code provides that it is a felony, punishable by up to 15 years’ imprisonment, to place gunpowder or any other explosive substance “in, upon, under, against, or near” any building, car, vessel, or structure, with intent to “throw down or injure the whole or any part thereof, under such circumstances, that, if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done”. Under the bill, the 15-year penalty would apply, instead, to a person who placed an explosive substance “in or near” any building, car, vessel, or structure, with the intent to “damage or destroy” the building, car, vessel, or structure, and by that placement endangered the safety of another individual.

The Penal Code provides that it is a felony, punishable by up to 25 years’ imprisonment, to place gunpowder or any other explosive substance “in, upon, under, against, or near” any building, car, vessel, or structure, with the intent to “throw down or injure the whole or any part thereof, which explosive substance shall cause the destruction or injury of the property of another”. Under the bill, the 25-year penalty would apply, instead, to a person who placed an explosive substance “in or near” any building, car, vessel, or structure, with the intent to “damage or destroy” the building, car, vessel, or structure and, by the detonation of the explosive, damaged or destroyed the property of another.

The Penal Code provides that it is a felony, punishable by imprisonment for life without parole, to place gunpowder or any other explosive substance “in, upon, under, against, or near” any building, car, vessel, or structure, with the intent to “throw down, or injure the whole or any part thereof, which substance upon explosion shall cause injury to any person”. Under the bill, the life penalty would apply, instead, to a person who placed an explosive substance “in or near” any building, car, vessel, or structure, with the intent to “damage or destroy” the building, car, vessel, or structure and, by the detonation of the explosive, injured another person.

MCL 750.200 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would likely have little, if any, fiscal impact on State or local government.

Given that most of the crimes outlined in the bill currently are felonies with no specified penalty, and the bill would change these to felonies punishable by imprisonment for up to four years, which is the penalty applicable under Michigan law for a felony with no otherwise specified penalty, it is unlikely that there would be much difference in sentencing patterns for violators of the bill's provisions.

Fiscal Analyst: M. Hansen

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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.