

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 334 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Mike Rogers
Committee: Judiciary

Date Completed: 3-23-99

RATIONALE

The Michigan Penal Code exempts various law enforcement, corrections, military, and other authorized personnel from its restrictions regarding the sale, possession, concealment, and transport of certain types of weapons. This exemption is necessary for those people to perform their official duties. Other provisions of the Code, to which the weapons exemption does not apply, prohibit the sale and possession of short-barreled shotguns and rifles; electronic tasers, commonly known as "stun guns"; and mechanically operated knives, which are popularly referred to as "switchblades". Each of these types of weapons, however, apparently could be useful to police officers facing different situations. Some people believe that police and military personnel should be exempt from the Penal Code's weapons restrictions pertaining to short-barreled guns, stun guns, and switchblades in order to allow them to perform their duties more effectively.

In addition, while the Penal Code's weapons exemption applies to members of the U.S. Army, Air Force, Navy, and Marines as well as the National Guard and Armed Forces Reserve, it does not include the U.S. Coast Guard and Coast Guard Reserve. Since the Coast Guard enforces maritime laws and acts as a military force in war time, some people believe that the weapons exemption should also apply to its members.

CONTENT

The bill would amend the Michigan Penal Code to exempt certain law enforcement, corrections, military, and other authorized personnel from the Code's regulations pertaining to the sale and possession of stun guns, short-barreled shotguns or rifles, and switchblade-type knives.

The Penal Code exempts all of the following from its restrictions against manufacturing, selling, or possessing certain weapons, and regulations pertaining to the carrying of concealed weapons and the transporting of firearms:

- A peace officer of an authorized Federal, State, or local police agency who is regularly

employed and paid by the United States, the State of Michigan, or a Michigan political subdivision.

- A person who is regularly employed by the Department of Corrections (DOC) or a private vendor that operates a youth correctional facility, and who is authorized in writing by the DOC Director to carry a concealed weapon while in the performance of his or her duties or while going to or returning from those duties.
- A member of the United States Army, Air Force, Navy, or Marine Corps, while carrying weapons in the line of or incidental to duty.
- An organization authorized by law to purchase or receive weapons from the United States or from Michigan.
- A member of the National Guard, Armed Forces Reserve, or any other authorized military organization, while on duty or drill, or in going to or returning from a place of assembly or practice, while carrying weapons used for a purpose of any of those military organizations.

The bill would add members of the United States Coast Guard and Coast Guard Reserve to the exemption.

Under the bill, those individuals also would be exempt from the Penal Code prohibitions against the following:

- Selling, offering for sale, or possessing a portable device or weapon that directs an electrical current, impulse, wave or beam that is designed to incapacitate temporarily, injure, or kill (MCL 750.224a).
- Manufacturing, selling, offering for sale, or possessing a short-barreled shotgun or short-barreled rifle (MCL 750.224b).
- Selling, offering to sell, or possessing a knife having the appearance of a pocket knife, whose blade can be opened by the flick of a button, pressure on a handle, or other mechanical contrivance (MCL 750.226a).

MCL 750.231

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Short-barreled shotguns or rifles may be more useful than handguns and more easily used than long-barreled guns in certain law enforcement situations. When police make a planned raid on a residence or other building, pursuant to a court-issued warrant, it may be necessary for them to use more firepower than they commonly carry while patrolling the streets. Shotguns and rifles typically may be used by some of the officers involved in these efforts. Since officers must quickly enter through tight spaces, such as doorways and narrow hallways, short-barreled shotguns or rifles could be more easily used than conventional long-barreled guns. Indeed, according to testimony before the Senate Judiciary Committee, law enforcement weapons suppliers offer short-barreled guns for sale to police departments and tout their usefulness for just that type of police activity. At least one Michigan police department has purchased these weapons, only to be informed by the Attorney General that peace officers are not permitted to use short-barreled shotguns or rifles in this State. Other Michigan law enforcement agencies may be using these weapons without being aware that their use is prohibited. The bill would rectify these situations and provide police with another option when undertaking dangerous law enforcement activities.

Also, there is another practical reason to allow police to use short-barreled shotguns and rifles. Police departments apparently are often using smaller models of vehicles as patrol cars. With less interior room, it is more difficult to stow a long-barreled shotgun or rifle adequately and safely in the vehicle. The bill would allow those long-barreled weapons to be replaced with shorter guns.

Supporting Argument

The ability to use tasers, or weapons that transmit an electronic charge, would increase a peace officer's options when confronted with a situation requiring less-than-lethal force. Temporarily disabling a belligerent suspect or prisoner with a taser would be preferable, in many circumstances, to an officer's having to draw a handgun to control a situation. Allowing an officer to carry and use such a weapon simply would give him or her more tools with which to perform police duties.

Also, devices that use electronic transmissions could help police and corrections officers control situations in which a prisoner may have to be restrained. In a California case, a known violent offender was fitted with a belt that could receive an electronic transmission and issue an electric jolt to the person wearing it. That offender reportedly lunged at a judge in open court, but was immediately disabled when the taser belt was activated. Michigan law should make this type of technology available to police officers.

Supporting Argument

Mechanically operated knives, which can be conveniently carried and opened, could be useful to police officers responding to emergency situations. Testimony before the Senate Judiciary Committee by the Brighton police chief detailed an incident in another state in which an officer trying to free a person trapped in a car in a raging flood was able to get the person out because he used a switchblade-type knife. The officer had to use one hand to hold on to the vehicle so that he would not be carried away by the flood waters; he was then able to use his other hand to retrieve and open a knife in order to cut the seat belt strap and free the car's occupant from the flooded-out vehicle. Allowing police officers to use these weapons would better equip them for dealing with accident scenes in which a person was trapped by a seat belt, and other situations in which an officer had to wield a knife one-handed.

Supporting Argument

The U.S. Coast Guard and Coast Guard Reserve performs quasi-police and quasi-military functions. Its members should be included in the Penal Code's weapons exemption, along with police and military forces.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Baker

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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.