

USE OF PROHIBITED FIREWORKS CAUSING PROPERTY DAMAGE, INJURY, OR DEATH

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House Bills 6414 and 6415

Sponsor: Rep. Dave Hildenbrand

Committee: Government Operations

Complete to 9-19-06

A SUMMARY OF HOUSE BILLS 6414 & 6415 AS REPORTED FROM COMMITTEE

House Bill 6414 would amend Chapter XXXIX of the Michigan Penal Code (MCL 750.243e) to create four new fireworks-related crimes (fireworks violation causing property damage, misdemeanor; fireworks violation causing injury, felony; fireworks violation causing serious impairment of body function, felony; and fireworks violation causing death, felony). House Bill 6415 would put the new fireworks-related felonies into the sentencing guidelines section of the Code of Criminal Procedure (MCL 777.16n). House Bills 6414 and 6415 are tie-barred.

The bills were reported out of the Government Operations Committee favorably with other bills relating to fireworks (House Bills 6410 (H-2), 6411, 6412, and 6413). See the note below for a discussion of conflicting provisions in the package of bills.

House Bill 6414 would create four new crimes applicable to situations in which persons or businesses cause injuries or property damage using prohibited fireworks.

Property damage. If the violation directly causes property damage, the person is guilty of a misdemeanor punishable by imprisonment for not more than one year or a fine of not more than \$500 or both.

Injury other than serious impairment of body function or death. If the violation directly causes an injury other than serious impairment of body function or death, the person is guilty of a felony punishable by imprisonment for not more than four years or a fine of not more than \$2,000, or both.

Serious impairment of body function. If the violation directly causes serious impairment of body function, (as defined in Section 58c of the Michigan Vehicle Code, MCL 257.58c), the person is guilty of a felony punishable by imprisonment of not more than 10 years or a fine of not more than \$5,000, or both.

Death. If the violation directly causes death to any person, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000, or both.

The bill would allow these criminal penalties to be imposed in addition to any penalty that might be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

[Note: House Bills 6414 and 6415 were reported out of the Government Operations Committee with a favorable recommendation simultaneously with House Bills 6410, 6411, 6412, and 6413 on September 12, 2006.

- House Bill 6410 (H-2) would create a comprehensive new fireworks law called the "Michigan Fireworks Safety Act."
- House Bill 6411 would require health care providers to report injuries to persons caused by fireworks.
- House Bill 6412 would put the new crimes created by House Bill 6410 into sentencing guidelines.
- House Bill 6413 would repeal Chapter XXXIX of the Michigan Penal Code.

As currently drafted, the package of bills contains some conflicting provisions. House Bill 6414 amends the chapter of the Michigan Penal Code (Chapter XXXIX) that House Bill 6413 would repeal. House Bills 6410 (H-2) and House Bill 6414 both create new fireworks-related crimes. Similar crimes created by House Bills 6410 (H-2) and 6414 contain different maximum penalties:

Fireworks Violations Causing Property Damage

HB 6410 (H-2) (Rep. Schuitmaker)	1 year/\$5,000 (or both)
HB 6414 (Rep. Hildenbrand)	1 year/\$500 (or both)

Fireworks Violation Causing Injury other than Serious Impairment of Body Function or Death

HB 6410 (H-2)	N/A
HB 6414	4 years/\$2,000 (or both)

Fireworks Violation Causing Serious Impairment of Body Function

HB 6410 (H-2)	2 years/\$5,000 (or both)
HB 6414	10 years/\$5,000 (or both)

Fireworks Injury Causing Death

HB 6410 (H-2)	5 years/\$5,000 (or both)
HB 6414	15 years/\$10,000 (or both)

House Bill 6410 (H-2) also creates numerous other crimes with no direct counterpart in House Bill 6414.

FISCAL IMPACT:

The bill's fiscal impact on state and local criminal justice systems would depend on how it affected numbers of and sentences for misdemeanor and felony convictions. Increased felony convictions could increase correctional costs for the state and local units of government. Costs of felony probation supervision are borne by the state; costs of parole and probation supervision are about \$2,000 per supervised offender annually. A convicted felon may be sentenced to incarceration in state prison, at an average cost of about \$30,000 per prisoner per year, or to the county jail, the cost of which varies by county. Increased misdemeanor convictions could increase local correctional costs, as costs of misdemeanor probation supervision or jail incarceration are borne by local units of government. Any increases in penal fine revenue could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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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.