



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5091 (Substitute H-1 as reported by the Committee of the Whole)
House Bill 5092 (Substitute H-1 as reported without amendment)
Sponsor: Representative Joel Johnson (H.B. 5091)
Representative Brandon Dillon (H.B. 5092)
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

House Bill 5091 (H-1) would amend Chapter 37 (Firearms) of the Michigan Penal Code to revise the prohibition against brandishing a firearm in public. A violation is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$100. The prohibition does not apply to any of the following:

- A peace officer lawfully performing his or her duties as a peace officer.
- A person lawfully engaged in hunting.
- A person lawfully engaged in target practice.
- A person lawfully engaged in the sale, purchase, repair, or transfer of a firearm.

Under the bill, a person could not willfully and knowingly brandish a firearm in public, and the prohibition would not apply to either of the following:

- A peace officer lawfully performing his or her duties as a peace officer.
- A person lawfully acting in self-defense or defense of another under the Self-Defense Act.

House Bill 5092 (H-1) would amend Chapter 37 to define "brandish" as to point, wave about, or display in a threatening manner with the intent to induce fear in another person.

MCL 750.234e (H.B. 5091)
750.222 (H.B. 5092)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills could result in differing fiscal impacts on local units of government and would have no fiscal impact on the State. In 2012, there were 38 misdemeanor violations under the brandishing prohibition. Depending on the current interpretation of "brandish", and the extent to which offenders are not convicted of brandishing firearms because they are lawfully engaged in hunting, target practice, or the sale, purchase, repair, or transfer of a firearm, removing those exceptions could conceivably increase the number of misdemeanor convictions under the proposed brandishing definition, as law enforcement updated its firearm enforcement protocols. The possible increase in misdemeanors could increase the demands on local court systems and jails.

On the other hand, the proposed definition of "brandish" could make the current exceptions moot, and removing them would have no fiscal impact. In addition, with the new "brandish" definition, misdemeanor convictions related to activities not currently excepted could decline. This possible decrease in misdemeanor convictions could decrease the demands on local court systems and jails.

Date Completed: 12-15-14

Fiscal Analyst: John Maxwell

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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.