



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



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

House Bill 5091 (Substitute H-1 as passed by the House)
House Bill 5092 (Substitute H-1 as passed by the House)
Sponsor: Representative Joel Johnson (H.B. 5091)
Representative Brandon Dillon (H.B. 5092)
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 4-23-14

CONTENT

The bills would amend Chapter 37 (Firearms) of the Michigan Penal Code to revise the offense of brandishing a firearm in public and define "brandish".

The bills are tie-barred.

House Bill 5091 (H-1)

Under Chapter 37, a person may not knowingly brandish 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.

The bill would retain the current penalty.

House Bill 5092 (H-1)

Under the bill, as used in Chapter 37, "brandish" would mean 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.

Fiscal Analyst: John Maxwell