

Legislative Analysis



FIREARMS/PNEUMATIC GUNS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4151 as introduced
Sponsor: Rep. Peter Pettalia

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4152 as introduced
Sponsor: Rep. Jason M. Sheppard

House Bill 4153 as introduced
Sponsor: Rep. Ray A. Franz

House Bill 4155 as introduced
Sponsor: Rep. Triston Cole

House Bill 4154 as introduced
Sponsor: Rep. Brett Roberts

House Bill 4156 as introduced
Sponsor: Rep. Tom Barrett

Committee: Judiciary
Complete to 2-13-15

SUMMARY:

Currently, the definition of "firearm" differs somewhat among several statutes. The bill package will align the definition of "firearm" in these statutes with the federal definition and will no longer treat pneumatic guns (also known as "air-soft guns") and pellet guns as firearms, with some exceptions. The bills are reintroductions from the previous legislative session and will take effect 90 days after enactment.

The bills revise the definition of "firearm" to mean, unless otherwise specifically defined in statute, *any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.*

In addition:

House Bill 4151 repeals an act that prohibits unaccompanied minors from using or possessing certain BB guns outside of their property.

House Bill 4155 makes it a felony offense to use a pneumatic gun in the commission of a felony, makes it a crime to transport certain types of pneumatic guns except as prescribed, and defines the term "weapon."

Specifically, the bills do the following:

House Bill 4151 would repeal Public Act 186 of 1959, which prohibits a person under 18 years of age from using or possessing any handgun designed and manufactured exclusively for propelling BBs not exceeding .177 caliber by means of spring, gas, or air, outside the minor's home unless accompanied by an adult (MCL 752.891-752.892). The penalty for a

violation is a misdemeanor punishable by no more than 90 days in jail and/or a fine of not more than \$500; this provision would be repealed as well.

House Bill 4152 would amend Chapter 1 of the Revised Statutes of 1846, which defines certain terms used in the compiled laws of Michigan (MCL 8.3t). The bill would replace the current definition of "firearm" with the definition described above. (Currently, the term "firearm," unless specifically defined in statute, means any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BBs not exceeding .177 caliber by means of spring, gas, or air.)

House Bill 4153 would revise the definition of "firearm" contained in Public Act 10 of 1952, which pertains to discharging a firearm injuring or killing someone (MCL 752.841). The bill defines "firearm" as described above. Currently, "firearm" is defined, for purposes of the act, to mean any weapon or device from which is propelled any missile, projectile, bullet, shot, pellet or other mass by means of explosives, compressed air or gas, or by means of spring, levers or other mechanical device.

[A person who injures or kills another by discharging a firearm is required under the act to stop at the scene, provide name and address to the injured person or member of that person's party, render assistance in obtaining medical aid, and report the incident to law enforcement. A person who violates any of the act's provisions could be fined not more than \$100 and costs of prosecution, and/or imprisoned in the county jail for not more than 90 days. In addition to any fine or imprisonment, the court may suspend the hunting privileges of such person for a period of not to exceed three years from the date of conviction.]

House Bill 4154 would amend Part 401 (Wildlife Conservation) and Part 435 (Hunting and Fishing Licensing) of the Natural Resources and Environmental Protection Act (MCL 324.40102 et al.) to delete the current definition of "firearm" and replace it with the definition described above. However, for the purpose of this act, a *pneumatic gun* (other than a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact) would be considered a firearm.

The term *pneumatic gun* would mean that term as defined in Senate Bill 85—meaning any implement designed as a gun that will expel a bb or pellet by spring, gas, or air. Pneumatic gun includes a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact. The bill is tie-barred to Senate Bill 85, meaning that House Bill 4154 cannot take effect unless Senate Bill 85 is also enacted into law.

Further, Part 401 specifies that an individual shall not hunt or discharge a firearm within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property. The bill will delete the highlighted text and apply the prohibition to hunting as that term is defined in Section 43505. (Section 43505 defines "hunt" and "hunting" to mean to pursue, capture, shoot,

kill, chase, follow, harass, harm, rob, or trap a wild animal, or to attempt to engage in such an activity.)

(Currently, Part 401 defines "firearm" as a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air. Part 435 defines "firearm" as a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion. Both definitions exclude a smooth bore rifle or handgun designed and manufactured exclusively for propelling BBs not exceeding .177 caliber by means of a spring, air, or gas; the bill revises these definitions of "firearm" as described above.)

House Bill 4155 would amend the Michigan Penal Code (MCL 750.222 et al.) to revise the definition of "firearm" to mean the term as described above and to make other changes.

Currently, it is a five-year felony to go armed with a firearm or deadly weapon or instrument (such as a pistol, dagger, razor, or certain knives) with intent to use it unlawfully against a person. The bill would also apply the prohibition to "a pneumatic gun." The term "pneumatic gun" would mean that term as defined in Senate Bill 85—meaning any implement, designed as a gun, that will expel a bb or pellet by spring, gas, or air. Pneumatic gun includes a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact. The bill is tie-barred to Senate Bill 85, meaning that House Bill 4155 cannot take effect unless Senate Bill 85 is enacted into law.

In addition, the bill would make carrying or possessing a pneumatic gun and using it in the furtherance of committing or attempting to commit a felony (with some listed exceptions) a felony punishable by imprisonment for two years. A second conviction would be punishable by imprisonment for five years and subsequent convictions would be punishable by imprisonment for 10 years. (A term of imprisonment imposed under this provision would be in addition to the sentence imposed for the conviction of the felony or attempted felony and would be served consecutively with and preceding any term of imprisonment imposed for the other felony.)

Under the bill, except as otherwise permitted by law, it would be a two-year misdemeanor to transport or possess on a sailboat or a motor vehicle, aircraft, motorboat, or other vehicle propelled by mechanical means, a pneumatic gun that is loaded and that is designed, manufactured, and intended to inflict death or serious bodily injury.

Transporting in a motor vehicle or self-propelled vehicle designed for land travel a pneumatic gun designed, manufactured, and intended to inflict death or serious bodily injury would be a 90-day misdemeanor, unless the pneumatic gun is unloaded and taken down, enclosed in a case, carried in the trunk of the vehicle, or inaccessible from the interior of the vehicle.

Further, the bill defines the term "weapon" to include, but not be limited to, a pneumatic gun designed, manufactured, and intended to inflict death or serious bodily injury.

House Bill 4156 would amend the Michigan Handgun Act to define "firearm" as described above (MCL 28.421). Currently, the term means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air, and excludes a smooth bore

rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BBs not exceeding .177 caliber.

FISCAL IMPACT:

House Bills 4152 and 4156:

Modifying the definition of "firearm" could result in a decrease in the number of firearm offenses that occur. A decrease in the number of convictions could result in lower costs for local units of government related to courts, county jails, and/or local probation supervision. There could also be a decrease in penal fine revenues, which would decrease funding for local libraries, which are the constitutionally-designated recipients of those revenues.

Depending on the number of people that were actually charged for using or possessing the types of guns now excluded from the definition of "firearm" under Public Act 10 of 1952 by **House Bill 4153** or under the provisions repealed by **House Bill 4151**, the bills could result in a decrease in costs for local units of government related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. There could also be a decrease in penal fine revenues which would decrease funding for local libraries, which are the constitutionally-designated recipients of those revenues.

House Bills 4154 and 4155:

The bills could increase costs for state and local correctional systems. Information is not available on the number of persons that might be convicted under the provisions of the bills. New felony convictions would result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$34,900 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,700 per supervised offender per year. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

The bills would increase costs on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bills affected caseloads and related administrative costs. House Bill 4154 would have no fiscal impact on the Department of Natural Resources.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.