



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



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

House Bills 4151 through 4154 (as passed by the House)
House Bill 4155 (Substitute H-1 as passed by the House)
House Bill 4156 (as passed by the House)

Sponsor: Representative Peter Pettalia (H.B. 4151)
Representative Jason M. Sheppard (H.B. 4152)
Representative Ray A. Franz (H.B. 4153)
Representative Brett Roberts (H.B. 4154)
Representative Triston Cole (H.B. 4155)
Representative Tom Barrett (H.B. 4156)

House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 3-10-15

CONTENT

House Bill 4151 would repeal Public Act 186 of 1959, which prohibits a person under 18 from using or possessing a handgun designed for propelling BBs unless accompanied by an adult.

House Bill 4152 would amend Chapter 1 of the Revised Statutes of 1846, which defines certain terms used in the Michigan Compiled Laws, to revise the definition of "firearm".

House Bill 4153 would amend Public Act 10 of 1952, which establishes the duties of a person who discharges a firearm and thereby injures or fatally wounds another person, to revise the definition of "firearm".

House Bill 4154 would amend Parts 401 (Wildlife Conservation) and 435 (Hunting and Fishing Licensing) of the Natural Resources and Environmental Protection Act (NREPA) to revise the definition of "firearm", and specify that a pneumatic gun (other than a paintball gun) would be considered a firearm under NREPA.

The bill also would delete a prohibition against discharging a firearm within 150 yards of certain structures.

House Bill 4155 (H-1) would amend the Michigan Penal Code to do the following:

- Revise the definition of "firearm".
- Include the possession, use, or transport of a pneumatic gun in various weapons-related criminal violations.

House Bill 4156 would amend the handgun licensure law to revise the definition of "firearm".

House Bills 4152 through 4156, would define "firearm" as a weapon that will, is designed to, or may be readily converted to expel a projectile by action of an explosive.

The bills would take effect on July 1, 2015. Each of the bills is tie-barred to all of the others and to Senate Bill 85.

(Senate Bill 85 would amend Public Act 319 of 1990, which prohibits local units of government from taxing or regulating the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, to extend that Act to pneumatic guns but allow local units to impose certain regulations and prohibitions related to those guns.)

House Bill 4151

The bill would repeal Public Act 186 of 1959 effective July 1, 2015.

That Act 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 curtilage of his or her home, unless he or she is accompanied by someone who is over 18. A violation is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$500.

House Bill 4152

Under Chapter 1 of the Revised Statutes of 1846, the term "firearm", except as otherwise specifically defined in statute, includes any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion, except for any smooth bore rifle or handgun designed and manufactured exclusively for propelling BBs not exceeding .177 caliber by means of spring, gas, or air. Under the bill, instead, "firearm" would have the meaning described above, except as otherwise specifically defined in statute.

House Bill 4153

Public Act 10 of 1952 establishes the duties of a person who discharges a firearm and thereby injures or fatally wounds another person. The person who discharges the firearm must stop at the scene and provide his or her name and address and render immediate and reasonable assistance. The person also must report the incident to law enforcement. A violation of the Act is punishable by a maximum fine of \$100 and/or up to 90 days' imprisonment.

The Act defines "firearm" as 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 springs, levers, or other mechanical device. The bill would define "firearm" instead as described above.

House Bill 4154

Part 401 of NREPA 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.

Under the bill, Parts 401 and 435 instead would define "firearm" as described above.

The bill also specifies that a pneumatic gun as defined in Public Act 319 of 1990 (the Act Senate Bill 85 would amend), other than a paintball gun, also would be considered a firearm under NREPA. (Senate Bill 85 would define "pneumatic gun" as any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air, including a paintball gun that expels

by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

In addition, Part 401 prohibits a person from hunting or discharging 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 property's owner, renter, or occupant. The bill would delete discharging a firearm from the prohibition.

House Bill 4155 (H-1)

Definitions of "Firearm" & "Pneumatic Gun"

Chapter 37 (Firearms) of the Penal Code establishes various criminal offenses involving firearms and prescribes penalties for violations. Chapter 37 defines "firearm" as a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. The term does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling BBs not exceeding .177 caliber by a spring, or by gas or air.

Section 528a of the Code also makes it a felony to teach or demonstrate the use or construction of a firearm for purposes of a civil disorder. The section defines "firearm" as any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion; any weapon that may be readily converted to expel any projectile by the action of an explosive, or the frame or receiver of such a firearm or weapon, 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.

Under the bill, in both Chapter 37 and Section 528a, "firearm" instead would mean a weapon that will, is designed to, or may be readily converted to expel a projectile by action of an explosive.

Under Chapter 37, "pneumatic gun" would mean that term as defined in Public Act 319 of 1990.

Chapter 37 Firearms Violations: Pneumatic Guns

Armed with a Dangerous Weapon. The Penal Code prohibits a person from going armed with a pistol or other firearm, any of certain bladed instruments, or any other dangerous or deadly weapon or instrument, with the intent to use the weapon unlawfully against another person. A violation is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$2,500. The bill would include a pneumatic gun in that prohibition.

Felony Firearm. The Penal Code prescribes mandatory felony penalties for a person who carries or possesses a firearm while he or she commits or attempts to commit a felony, except for certain violations of Chapter 37. A violator must be sentenced to two years' imprisonment. Upon a second conviction, he or she must be sentenced to five years, and upon a third or subsequent conviction, a violator must be sentenced to 10 years' imprisonment.

Under the bill, it also would be a felony for a person to carry or possess a pneumatic gun and use that weapon in furtherance of committing or attempting to commit a felony, except for certain violations of Chapter 37. A violation would be punishable by the same mandatory graduated penalties as described above.

A term of imprisonment for a felony firearm offense may not be suspended, is in addition to the sentence imposed for the conviction of the underlying felony, and must be served consecutively with and preceding any term imposed for the underlying felony. Under the bill,

those provisions also would apply to carrying or possessing and using a pneumatic gun in furtherance of committing or attempting to commit a felony.

Transport of a Firearm. Section 227c of the Penal Code prohibits a person from transporting or possessing a loaded firearm, other than a pistol, in or upon a sailboat or a motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means. A violation is a misdemeanor punishable by up to two years' imprisonment and/or a maximum fine of \$2,500.

The bill would include in Section 227c transporting or possessing a loaded pneumatic gun that was designed, manufactured, and intended to inflict death or serious bodily injury.

Section 227d prohibits a person from transporting or possessing a firearm, other than a pistol, in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless it is one or more of the following:

- Taken down.
- Enclosed in a case.
- Carried in the vehicle's trunk.
- Inaccessible from the vehicle's interior.

A violation is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$100.

Under the bill, the same prohibition and penalty would apply to transporting or possessing a pneumatic gun that was designed, manufactured, and intended to inflict death or serious bodily injury.

Weapon-Free School Zone. Section 237a of the Penal Code prescribes various criminal penalties, depending on the violation, for committing certain violations of Chapter 37 in a weapon free school zone. Section 237a defines "weapon free school zone" as school property and a vehicle used by a school to transport students to or from school property, as defined in that section.

Also, subject to exceptions, Section 237a prohibits the possession of a weapon in a weapon free school zone. A violation is a misdemeanor punishable by up to 93 days' imprisonment, community service for up to 100 hours, and/or a maximum fine of \$2,000.

The bill specifies that "weapon" would include a pneumatic gun.

House Bill 4156

The handgun licensure law defines "firearm" as a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. The term does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling BBs not exceeding .177 caliber by a spring, gas, or air. The bill would define "firearm" instead as a weapon that will, is designed to, or may be readily converted to expel a projectile by action of an explosive.

MCL 752.891 & 752.892 (H.B. 4151)
8.3t (H.B. 4152)
752.841 (H.B. 4153)
324.40102 et al. (H.B. 4154)
750.222 et al. (H.B. 4155)
28.421 (H.B. 4156)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 4151

The bill would have no fiscal impact on State government. For calendar years 2009 through 2013, there were no court dispositions associated with the misdemeanor offense under Public Act 186 of 1959. With the most recent data showing no offenses, costs to local courts and law enforcement could be unchanged.

House Bill 4152

The bill would modify a statutory definition of "firearm" to exclude weapons that fire a projectile by gas or air. Relative to current law, there could be a decrease in the number of firearm offenses related to such weapons.

House Bill 4153

The bill would have an indeterminate fiscal impact on both State and local government. For calendar years 2009 through 2013, there were on average 15 to 20 court dispositions associated with the misdemeanor offense under Public Act 10 of 1952. The data do not show the type of firearm used in the offense. Therefore, to the extent any of the misdemeanors associated with the current definition of "firearm" would no longer be offenses, there could be a reduction in costs to local courts and law enforcement as well as to fine revenue dedicated to public libraries.

House Bill 4154

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

House Bill 4155 (H-1)

The bill could result in a fiscal cost to the State's corrections budget. For any new felony convictions that resulted in imprisonment, in the short term, the marginal cost to State government would be approximately \$4,100 per additional prisoner per year. Over the long term, the marginal cost to State government would be approximately \$31,100 per additional prisoner per year. With any increase in the number of felony or misdemeanor cases, costs to local courts and law enforcement could increase. Additional misdemeanor convictions also could increase local incarceration costs. Additionally, any increase in collected fine revenue would be dedicated to public libraries.

House Bill 4156

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

Fiscal Analyst: Bruce Baker
John Maxwell
Josh Sefton

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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.