

DESIGNATE KEY FACILITIES

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House Bill 5315 (H-1) as reported from committee

Sponsor: Rep. John N. Damoose

Committee: Transportation

Complete to 2-11-22

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

SUMMARY:

House Bill 5315 would amend the Michigan Penal Code to designate certain bridges and international crossings as key facilities, which would make trespassing on their property or structure a felony, instead of the current misdemeanor, if certain conditions were met. A prohibition against using a drone to interfere with the operations of a key facility also would apply to these bridges and international crossings under the bill.

The act now prohibits a person from intentionally and without authority or permission entering or remaining in or on premises or a structure that belongs to someone else and that is a *key facility* if both of the following conditions are met:

- The key facility is **completely enclosed** by a physical barrier of any kind (which could include a significant water barrier that prevents pedestrian access).
- The key facility is posted against entry in a conspicuous manner with **signs** that meet all of the following:
 - Each sign is at least 50 square inches in size.
 - The letters on the signs are at least one inch high.
 - The signs are spaced to enable a person to see at least one sign at any point of entry on the property.

A person who violates the above prohibition is guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$2,500, or both. (Generally under the code, with some exceptions, trespassing is a misdemeanor punishable by imprisonment in the county jail for up to 30 days or a fine of up to \$250, or both.)

In addition, the code now prohibits a person from knowingly and intentionally using an unmanned aircraft (i.e., a drone) in a manner that interferes with the operations of a *key facility*, a correctional facility, or another law enforcement facility. A person who violates this prohibition is guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$2,500, or both.

Currently, *key facility* means one or more of the following:

- A chemical manufacturing facility.
- A refinery.
- An electric utility facility, including a power plant, power generation facility peaker, electric transmission facility, electric station or substation, or another facility used to support the generation, transmission, or distribution of electricity, but not including electric transmission land or rights-of-way that are not completely enclosed, posted, and maintained by the electric utility.
- A water intake structure or water treatment facility.

- A natural gas utility facility, including an age station, compressor station, odorization facility, main line valve, natural gas storage facility, or another facility used to support the acquisition, transmission, distribution, or storage of natural gas, but not including gas transmission pipeline property that is not completely enclosed, posted, and maintained by the natural gas utility.
- A gasoline, propane, liquid natural gas, or other fuel terminal or storage facility.
- A transportation facility, including a port, railroad switching yard, or trucking terminal.
- A pulp or paper manufacturing facility.
- A pharmaceutical manufacturing facility.
- A hazardous waste storage, treatment, or disposal facility.
- A telecommunication facility, including a central office or cellular telephone tower site.
- A facility substantially similar to a facility, structure, or station listed above or a resource required to submit a risk management plan under 42 USC 7412(r).

The bill, while still prohibiting a person from intentionally and without authority or permission entering or remaining in or on premises or a structure that belongs to someone else and that is a key facility, would provide for two kinds of *key facilities*, differing for the most part in their enclosure (e.g., fencing) requirements.

The first kind of key facility would include all of the facilities that are already key facilities under current law—that is, those in the above list. That list would remain the same, and to be considered key facilities those facilities would still have to meet the **complete enclosure** requirement and **signage** requirements described above.

The second kind of key facility would include all of the following, as long as the portions of the facility not open to or intended to be used by the public meet the **signage** requirements described above:

- Any movable bridge in Michigan (e.g., a drawbridge).
- The Mackinac Bridge.
- The Zilwaukee Bridge.
- The Rouge River Bridge.
- The MacArthur Bridge.
- All international crossings in Michigan, such as the Ambassador Bridge, the Blue Water Bridge, the Detroit-Windsor Tunnel, the Gordie Howe International Bridge, and the International Bridge.

Finally, the bill would provide that (for either kind of key facility) it is not a defense to a prosecution under the provisions described above that a key facility is intended or designed to be completely enclosed but that, during normal operating hours, the barrier that encloses it is left open for the completion of official business at the key facility, if the key facility meets the signage requirements described above.

MCL 750.552c

FISCAL IMPACT:

House Bill 5315 would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bill is not known. Violations would be felonies, and new felony convictions would result in increased costs related to state prisons and state probation supervision.

In fiscal year 2021, the average cost of prison incarceration in a state facility was roughly \$44,400 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$4,600 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue.

The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases.

Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

POSITIONS:

Representatives of the following entities testified in support of the bill (1-18-22):

- Mackinac Bridge Authority
- Cheboygan County Prosecutor

The Michigan Laborers' Union indicated support for the bill. (2-1-22)

Legislative Analyst: Rick Yuille
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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.