




Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4513 (Substitute H-2 as passed by the House)
House Bill 4514 (Substitute H-2 as passed by the House)
Sponsor: Representative Mike Nofs (House Bill 4513)
Representative William Van Regenmorter (House Bill 4514)
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 12-2-03

CONTENT

House Bills 4513 (H-2) and 4514 (H-2) would amend Chapter 33 (Explosives, Bombs, and Harmful Devices) of the Michigan Penal Code to prohibit manufacturing, delivering, possessing, transporting, placing, using, or releasing a "harmful electronic or electromagnetic device" for an unlawful purpose. The bills are tie-barred.

House Bill 4513 (H-2)

The bill would define "harmful electronic or electromagnetic device" as "a device designed to emit or radiate or that, as a result of its design, emits or radiates an electronic or electromagnetic pulse, current, beam, signal, or microwave that is intended to cause harm to others or cause damage to, destroy, or disrupt any electronic or telecommunications system or device", including a computer, computer network, or computer system.

The bill also would include a harmful electronic or electromagnetic device in the Code's definition of "imitation harmful substance or device". That term currently means a substance or device that is designed or intended to represent a harmful biological device or substance, a harmful chemical device or substance, or a harmful radioactive device or material.

House Bill 4514 (H-2)

Chapter 33 prohibits a person from manufacturing, delivering, possessing, transporting, placing, using, or releasing a harmful biological substance or device, a harmful chemical substance or device, or a harmful radioactive material or device for an unlawful purpose. The bill would add a harmful electronic or electromagnetic device to that prohibition. A violation is a felony punishable by up to 15 years' imprisonment and/or a maximum fine of \$10,000. The Code also specifies graduated penalties for violations that result in property damage, personal injury, serious impairment of a body function, or death.

In addition, the Code prohibits a person from committing an act with the intent to cause an individual to believe falsely that he or she has been exposed to a harmful biological substance or device, a harmful chemical substance or device, or a harmful radioactive material or device. The bill would add a harmful electronic or electromagnetic device to that prohibition. A violation is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$10,000.

The bill specifies that Chapter 33 would not prohibit the possession and use of a device that used electro-muscular disruption technology, as permitted under Section 224a of the Code.

(That section prohibits the sale or possession of a portable device or weapon from which an electrical current, impulse, wave, or beam may be directed to incapacitate temporarily, injure, or kill. The prohibition does not apply to the possession and reasonable use of a device that was electro-muscular disruption technology by certain individuals, such as peace officers and corrections officers.)

The bill also specifies that a charge under, or a conviction or punishment for, a violation of Chapter 33 would not prevent a person from being charged with, convicted of, or punished for any other violation of law arising from the same transaction.

MCL 750.200h (H.B. 4513)
750.200i et al. (H.B. 4514)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government.

According to the most recent Department of Corrections Statistical Report, in 2001 there were no offenders convicted of or serving time for violating the existing prohibition. There are no data to indicate how many additional offenders would be convicted if a harmful electronic or electromagnetic device were added to the prohibition. Local units of government would incur the costs of incarceration in a local facility, which varies by county. The State would incur the cost of felony probation at an average annual cost of \$1,750, and the cost of incarceration in a State facility at an average annual cost of \$27,000.

Public libraries would benefit from any additional penal fine revenue raised due to the proposed expansion of the prohibition.

Fiscal Analyst: Bethany Wicksall

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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.