



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 582 and 583 (as introduced 10-3-13)

Sponsor: Senator Jim Marleau (S.B. 582)

Senator Jim Ananich (S.B. 583)

Committee: Judiciary

Date Completed: 10-8-13

CONTENT

Senate Bill 582 would amend the Michigan Penal Code to do the following:

- Increase the penalty for discharging a firearm from a motor vehicle, snowmobile, or off-road vehicle (ORV) in a manner that endangers the safety of another person.
- Enact enhanced penalties for discharging a firearm from a motor vehicle, snowmobile, or ORV, causing physical injury, serious impairment of a body function, or death.
- Increase the penalties for discharging a firearm in or at a facility that the shooter knows or has reason to believe is a dwelling or occupied structure, and enact enhanced penalties for a violation that caused serious impairment of a body function or death.
- Allow a term of imprisonment for the violations described above to run consecutively to any term of imprisonment imposed for another violation arising out of the same transaction.

Senate Bill 583 would amend the Code of Criminal Procedure to revise the sentencing guidelines for discharging a firearm from a vehicle and discharging a firearm in or at a building, and to include the felony penalties proposed by Senate Bill 582 in the sentencing guidelines.

The bills would take effect 90 days after their enactment. Senate Bill 583 is tie-barred to Senate Bill 582.

Senate Bill 582

Under the Penal Code, intentionally discharging a firearm from a motor vehicle, snowmobile, or ORV in a manner that endangers the safety of another individual is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$2,000.

The bill would increase the penalty, and add enhanced penalties, as shown in Table 1.

Table 1

Intentionally Discharging A Firearm ^{a)}	Maximum Imprisonment ^{b)}	Maximum Fine ^{b)}
From a motor vehicle, snowmobile, or ORV	10 years	\$10,000
From a motor vehicle, snowmobile, or ORV in a manner that caused physical injury to another	15 years	\$15,000
From a motor vehicle, snowmobile, or ORV in a manner that caused serious impairment of a body function of another	20 years	\$25,000
From a motor vehicle, snowmobile, or ORV in a manner that caused the death of another	Life	N/A
^{a)} In a manner endangering the safety of another. ^{b)} Or both imprisonment and a fine.		

Under the Code, intentionally discharging a firearm *at* a facility that the shooter knows or has reason to believe is an occupied structure, in reckless disregard for the safety of any individual, is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$2,000. The same penalty applies to a person who intentionally discharges a firearm *in* a facility that he or she knows or has reason to believe is an occupied structure, in reckless disregard for the safety of any individual.

The bill would increase the penalties, and add enhanced penalties, as shown in Table 2.

Table 2

Intentionally Discharging A Firearm ^{a)}	Maximum Imprisonment ^{b)}	Maximum Fine ^{b)}
At a facility that the shooter knew or had reason to believe was a dwelling or a potentially occupied structure	10 years	\$10,000
In a facility that the shooter knew or had reason to believe was a dwelling or a potentially occupied structure in a reckless disregard for the safety of any individual	15 years	\$15,000
Either violation above, in a manner that caused serious impairment of a body function	20 years	\$25,000
Either violation above, in a manner that caused the death of another	Life	N/A
^{a)} Regardless of whether the dwelling or structure actually was occupied at the time of the discharge. ^{b)} Or both imprisonment and a fine.		

The current penalties do not apply, and the proposed penalties would not apply to a peace officer of this State or another state, of a local unit of this State or another state, or of the

United States, performing his or her duties as a peace officer, or to an individual discharging a firearm in self-defense or the defense of another individual.

The bill would not prohibit an individual from being charged with, convicted of, or punished for any other violation, in addition to those listed in Table 1 and Table 2, that he or she committed while violating the bill.

A term of imprisonment imposed for a violation listed in Table 1 or Table 2 could run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

Currently, "occupied structure" is defined as a facility in which one or more individuals are present. The bill would delete that definition. Under the bill, "potentially occupied structure" would mean a structure that a reasonable person knows or should know is likely to be occupied by one or more individuals due to its nature, function, or location.

"Serious impairment of a body function" would mean that term as defined in Section 58c of the Michigan Vehicle Code. (Under Section 58c, the term includes one or more of the following:

- Loss of a limb or the use of a limb.
- Loss of a foot, hand, finger, or thumb, or of the use of a foot, hand, finger, or thumb.
- Loss of an eye or ear, or the use of an eye or ear.
- Loss of substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.
- Loss of an organ.)

"Peace officer" means that term as defined in Section 215 of the Penal Code. (Under Section 215, "peace officer" means any of the following:

- A sheriff or deputy sheriff of a county of this or another state.
- An officer of a police department of a city, village, or township of this or another state.
- A marshal of a city, village, or township.
- A constable.
- An officer of the Michigan State Police.
- A conservation officer.
- A security employee employed by the State under Section 6c of Public Act 59 of 1935 (which allows the Director of the Department of State Police to authorize limited arrest powers for security personnel employed by the State for the protection of State facilities in Lansing and at the State Secondary Complex in Eaton County's Windsor Township).
- A motor carrier officer appointed under Section 6d of Public Act 59 of 1935 (which allows the State Police Director to appoint officers with limited arrest powers for motor carrier enforcement).
- A police officer or public safety officer of a community college, college, or university who is authorized by the governing board of the employing institution to enforce State law and the institution's rules and ordinances.
- A park and recreation officer commissioned under Section 1606 of the Natural Resources and Environmental Protection Act (NREPA).
- A State forest officer commissioned under Section 83107 of the NREPA.
- A Federal law enforcement officer.
- An investigator of the Department of Attorney General.)

Senate Bill 583

The bill would revise the sentencing guidelines for the current felonies of discharging a firearm from a vehicle and discharging a firearm at a building (which are categorized as public safety offenses), as shown in Table 3.

Table 3

Violation		Felony Class		Stat. Max. Sentence	
Current	Proposed	Current	Proposed	Current	Proposed
Discharging firearm from vehicle	Same	F	D	4	10
Discharging firearm in or at a building	Discharging firearm at a dwelling or potentially occupied structure	F	D	4	10

The bill also would add sentencing guidelines for the enhanced penalties proposed by Senate Bill 582, as shown in Table 4.

Table 4

Violation	Category & Class	Stat. Max. Sentence
Discharging firearm from vehicle causing physical injury	Person-C	15 years
Discharging firearm from vehicle causing serious impairment	Person-B	20 years
Discharging firearm from vehicle causing death	Person-A	Life
Discharging firearm in a dwelling or potentially occupied structure	Public Safety-C	15 years
Discharging firearm in or at a dwelling or potentially occupied structure causing serious impairment	Person-B	20 years
Discharging firearm in or at a dwelling or potentially occupied structure causing death	Person-A	Life

MCL 750.234a & 750.234b (S.B. 582)
777.16m (S.B. 583)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate negative fiscal impact on State and local government. There are two sources of potential impact. First, the bills would increase the class and maximum lengths of sentence for existing crimes of discharging a firearm from a vehicle and discharging a firearm in or at a building. In 2012, there were 24 felony dispositions for discharging a firearm from a vehicle and 76 felony dispositions for discharging a firearm in or at a building. The likelihood of going to prison and the average length of sentence could increase, leading to increased costs of incarceration and

community supervision for State and local government. Second, the bills would create new offenses for discharging a firearm from a vehicle or in a building while causing physical injury, serious impairment, or death. Although these new offenses would apply to violations that are likely covered by other provisions within the Penal Code, the bills would give judges the option of imposing sentences for these additional crimes consecutively instead of concurrently. Additionally, even if sentences were concurrent, the maximum sentences and classes of the new crimes could be higher than those of the offenses they overlap. Therefore, the second impact also would have the potential to increase the average length of sentence and thereby increase the costs of incarceration.

Fiscal Analyst: Dan O'Connor

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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.