

SENATE BILL No. 555

October 4, 1989, Introduced by Senators KELLY, WELBORN, CRUCE, FAUST, CROPSEY, N. SMITH, SCHWARZ, SHINKLE, POSTHUMUS, BARCIA, IRWIN, DI NELLO, GEO. HART, ARTHURHULTZ and O'BRIEN referred to the Committee on Criminal Justice and Urban Affairs.

A bill to provide for the suppression and interdiction of narcotics trafficking; to mobilize certain peace officers, military personnel, and other persons for that purpose; to prescribe the powers and duties of certain state and local agencies, officers, and employees; and to prescribe certain civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "narcotics suppression and interdiction campaign mobilization
3 act".

4 Sec. 2. As used in this act:

5 (a) "Distribution point" means a suspected wholesale or
6 retail narcotic drug distribution point identified pursuant to
7 section 7(b).

1 (b) "High intensity drug trafficking area" means an area
2 within a municipality designated by the governor under
3 section 3(a).

4 (c) "Narcotic" or "drug" means a controlled substance as
5 defined in section 7104 of the public health code, Act No. 368 of
6 the Public Acts of 1978, being section 333.7104 of the Michigan
7 Compiled Laws.

8 (d) "Narcotics suppression and interdiction campaign" or
9 "campaign" means an effort to suppress and interdict the distri-
10 bution, sale, purchase, asportation, possession, exchange, con-
11 sumption, and use of narcotics and to inhibit drug-related activ-
12 ity, through the mobilization of peace officers, military person-
13 nel, governmental and private agencies, and community residents,
14 as provided in this act.

15 (e) "Task force" means the multi-jurisdictional task force
16 formed by the governor under section 3(b).

17 (f) "Zone or sector" means an area, established under sec-
18 tion 7(a), within a high intensity drug trafficking area in which
19 a narcotics suppression and interdiction campaign is conducted.

20 Sec. 3. The governor, by executive order, may do all of the
21 following:

22 (a) Designate particular areas within a municipality as high
23 intensity drug trafficking areas, using the criteria for designa-
24 tion of such areas set forth in section 1005(c) of subtitle A of
25 title I of Public Law 100-690, 21 U.S.C. 1504.

26 (b) Form a multi-jurisdictional task force to conduct
27 narcotics suppression and interdiction campaigns, as described in

1 section 7, in high intensity drug trafficking areas by mobilizing
2 the following law enforcement and military personnel:

3 (i) Certain peace officers and law enforcement agencies
4 within the municipality in which the high intensity drug traf-
5 ficking area is located, as designated by the governor.

6 (ii) Certain peace officers and law enforcement agencies of
7 units of government contiguous to the municipality in which the
8 high intensity drug trafficking area is located, as designated by
9 the governor.

10 (iii) Any part of the Michigan national guard ordered into
11 active service by the governor as necessary to accomplish the
12 purposes of the task force.

13 Sec. 4. (1) The adjutant general shall compile a list of
14 all officers and enlisted personnel of the state military estab-
15 lishment, and all retired officers on the state military retired
16 list, who are, were, or have qualified as peace officers with law
17 enforcement agencies of federal, state, or local units of
18 government.

19 (2) If the governor mobilizes Michigan national guard forces
20 under section 3(b)(iii), an individual whose name is on the list
21 compiled under subsection (1) shall be offered an appointment in
22 the Michigan national guard to participate as part of a task
23 force in narcotics suppression and interdiction campaigns under
24 this act.

25 (3) The adjutant general shall deploy Michigan national
26 guard forces pursuant to the order of the governor to participate
27 in multi-jurisdictional task forces. The national guard forces

1 deployed shall be under the control of commanders who are
2 authorized and directed by the adjutant general to take all rea-
3 sonable, lawful actions necessary to protect life and property
4 and reestablish civilian law and order within the zones or sec-
5 tors of the high intensity drug trafficking areas in which the
6 forces are deployed, subject to the limitations on the applica-
7 tion of deadly force provided by law, regulations, the rules of
8 engagement, or orders of superior officers.

9 (4) The adjutant general shall prepare rules of engagement
10 for members of the Michigan national guard mobilized pursuant to
11 this act. These rules of engagement shall be exempt from the
12 administrative procedures act of 1969, Act No. 306 of the Public
13 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
14 Compiled Laws.

15 (5) The rules of engagement shall emphasize that only the
16 minimum force required to accomplish the objectives of the task
17 force shall be used in a narcotics suppression and interdiction
18 campaign. The rules shall prohibit the use of live ammunition or
19 the taking of any other type of action likely to cause death or
20 serious bodily harm to persons except when all of the following
21 circumstances exist:

22 (a) Other means not likely to cause death or serious bodily
23 harm have been exhausted or are unavailable.

24 (b) The risk of death or serious bodily harm to innocent
25 persons is not significantly increased by the action.

26 (c) The purpose of the action is 1 or more of the
27 following:

1 (i) Self-defense to avoid death or serious bodily harm to a
2 national guard member.

3 (ii) The prevention of criminal activity that involves a
4 substantial risk of death or serious bodily harm to a person,
5 including the defense of another person.

6 (iii) Detention or prevention of the escape of a person
7 against whom the use of deadly force is otherwise authorized.

8 (6) The rules of engagement shall not infringe upon the
9 right of a member of the national guard or a peace officer to use
10 reasonable, necessary force to defend himself or herself or
11 another person against violent and dangerous personal attack.
12 The rules of engagement are intended to prevent the indiscrimi-
13 nate use of weapons or other types of deadly force.

14 Sec. 5. A member of the Michigan national guard mobilized
15 pursuant to this act shall have all of the powers and authority
16 of a peace officer, including, but not limited to, the power to
17 issue citations, make arrests, perform searches and seizures, and
18 execute criminal warrants, subject to any restrictions imposed by
19 executive order, regulations, or the member's commanding
20 officer.

21 Sec. 6. (1) The governor shall appoint a special prosecutor
22 to direct and coordinate the conducting of narcotics suppression
23 and interdiction campaigns by multi-jurisdictional task forces
24 within high intensity drug trafficking areas.

25 (2) The special prosecutor appointed under subsection (1)
26 shall appoint a command team to assist him or her in the
27 development of a plan for conducting the narcotics suppression

1 and interdiction campaigns as provided in section 7. The command
2 team shall be composed of representatives from each of the law
3 enforcement agencies involved in the multi-jurisdictional task
4 force. Each representative shall be chosen from a list of nomi-
5 nees provided by the law enforcement agency.

6 (3) The special prosecutor's plan shall list all of the high
7 intensity drug trafficking areas designated by the governor in
8 order of priority for targeting with a narcotics suppression and
9 interdiction campaign.

10 (4) The plan developed under this section shall be disclosed
11 only to law enforcement agencies, the governor and the governor's
12 staff, and the judiciary committees of the senate and house of
13 representatives. The plan shall be exempt from disclosure under
14 the freedom of information act, Act No. 442 of the Public Acts of
15 1976, being sections 15.231 to 15.246 of the Michigan Compiled
16 Laws.

17 (5) The special prosecutor's plan may include the establish-
18 ment, in conjunction with existing nonprofit mental health agen-
19 cies, neighborhood organizations, and community groups within the
20 zone or sector, of activities designed to change the environment
21 of the community within the zone or sector to make it noncondu-
22 cive to narcotics distribution, including, but not limited to,
23 any of the following:

24 (a) Door-to-door organization formation.

25 (b) A show of force by the national guard or peace officers
26 in order to show civilian and governmental control over the zone
27 or sector.

1 (c) The establishment of neighborhood watch committees,
2 which are networks of residents of a neighborhood organized to
3 conduct observation activities and telephone alerts.

4 (d) The establishment of citizen band radio patrols, which
5 are radio-linked civilian teams incorporated as nonprofit corpo-
6 rations and operating in private vehicles for the purpose of
7 observation and surveillance in support of the efforts of the
8 peace officer in the narcotics suppression and interdiction
9 campaign.

10 (e) The establishment of programs to encourage anonymous
11 tips by citizens to identify suspected narcotic drug distribution
12 points, and to provide rewards for that information.

13 Sec. 7. A narcotics suppression and interdiction campaign
14 shall be conducted, pursuant to the plan formulated by the spe-
15 cial prosecutor with the assistance of the command team, in the
16 following manner:

17 (a) Zones or sectors shall be established within the high
18 intensity drug trafficking area by cordoning off residential
19 subcommunities. The perimeters of the zones or sectors shall be
20 under the joint control of the task force and of endogenously
21 organized neighborhood watch committees described in section
22 6(5)(c). A resident of a zone or sector shall be permitted to
23 enter and leave the zone or sector at will.

24 (b) Law enforcement officers shall systematically identify
25 suspected wholesale and retail narcotic drug distribution points
26 and the dwellings, buildings, structures, and locations that
27 serve as such distribution points. The law enforcement officers

1 shall conduct an investigation, including surveillance of persons
2 using the dwelling, building, structure, or location, to deter-
3 mine whether there is probable cause to believe that a particular
4 dwelling, building, structure, or location is a distribution
5 point.

6 (c) If 1 or more suspected distribution points have been
7 identified within a zone or sector, a number of law enforcement
8 officers shall be deployed within the zone or sector and a con-
9 tingent of not less than 3 officers shall be stationed in close
10 proximity to the suspected distribution point.

11 (d) The primary responsibility of a contingent described in
12 subdivision (c) shall be to conduct surveillance, to observe, and
13 to apprehend and issue civil violation citations to persons for
14 loitering, visiting, or using the suspected distribution point in
15 violation of section 13.

16 (e) A person issued a citation as described in subdivision
17 (d) shall be photographed and fingerprinted, if necessary, in
18 order to establish his or her identity.

19 (f) A law enforcement officer or member of the national
20 guard may conduct searches and seizures pursuant to law and may
21 summarily seize unregistered or illegal firearms, narcotics, or
22 any other contraband identified during a stop for the issuance of
23 a citation. Narcotics that are seized shall be tested, recorded
24 for weight, and destroyed on the site in a portable incinerator
25 or corrosive container unless it is necessary to retain the nar-
26 cotics as evidence in a criminal prosecution.

1 (g) Unless a felony has been committed or attempted, it
2 shall not be necessary to arrest a person apprehended within the
3 zone or sector. After a person has been issued a citation for a
4 violation described in subdivision (d), at the discretion of the
5 commander of the zone or sector, the person may be released or
6 referred to a drug rehabilitation program for treatment and coun-
7 seling as provided in this act.

8 (h) The execution of search warrants or arrest warrants in
9 conjunction with the narcotics suppression and interdiction cam-
10 paign shall be conducted by state or local law enforcement offi-
11 cers if possible.

12 Sec. 8. (1) The prosecuting attorney for the county in
13 which a narcotics suppression and interdiction campaign is being
14 conducted pursuant to this act shall maintain a separate central-
15 ized filing system containing records of all citations issued and
16 arrests made by peace officers or members of the national guard
17 participating in the campaign.

18 (2) The records compiled under subsection (1) shall identify
19 persons with repeated contacts with task force members during the
20 campaign and shall rank them in order according to the number of
21 contacts.

22 (3) The special prosecutor may petition the court having
23 jurisdiction to convene a citizens grand jury, as provided by
24 law, to hear exclusively the cases of persons who have received
25 multiple civil violation citations under this act and who are
26 considered to be major narcotics traffickers or their agents.

1 (4) Based on the records compiled under subsections (1) and
2 (2), the prosecuting attorney shall prepare a list of persons who
3 present the most serious danger to the community and shall dis-
4 tribute pictures and descriptions of those persons to appropriate
5 law enforcement agencies within and outside the high intensity
6 drug trafficking areas. The law enforcement agencies receiving
7 the pictures and descriptions shall conduct surveillance of the
8 persons or otherwise focus additional attention on them.

9 (5) A person identified in the list compiled under subsec-
10 tion (4) who is later arrested for a felony offense shall be
11 given priority for prosecution in the court having jurisdiction
12 over the offense and the prosecution of the offense shall be
13 expedited. The chief judge of the court shall assign judges, as
14 necessary, to handle such expedited prosecutions.

15 Sec. 9. The department of corrections shall reserve suffi-
16 cient space in state correctional facilities for persons con-
17 victed of felony offenses as a result of a narcotics suppression
18 and interdiction campaign, displacing nonviolent offenders con-
19 victed of property crimes if necessary.

20 Sec. 10. A person issued a citation or arrested for a crim-
21 inal offense by a member of a task force engaged in a narcotics
22 suppression and interdiction campaign may avoid a finding of
23 responsibility for a civil violation or conviction of a crime by
24 enrolling in and successfully completing a narcotic drug treat-
25 ment program created under section 11.

26 Sec. 11. (1) The director of public health shall establish,
27 by emergency rules promulgated under section 48 of the

1 administrative procedures act of 1969, Act No. 306 of the Public
2 Acts of 1969, being section 24.248 of the Michigan Compiled Laws,
3 emergency drug rehabilitation programs to provide inpatient and
4 outpatient treatment and counseling for dependency on narcotics
5 in high intensity drug trafficking areas in which narcotics sup-
6 pression and interdiction campaigns are being conducted pursuant
7 to this act.

8 (2) The director of public health may contract with estab-
9 lished nonprofit health care providers to manage and operate the
10 emergency drug rehabilitation programs and treatment centers. At
11 least 1 maximum security inpatient treatment facility shall be
12 operated in each of 3 regions of the state established by the
13 director of public health in cooperation with the department of
14 corrections.

15 (3) The director of public health shall assign and reassign,
16 as necessary, physicians, nurses, psychiatric counselors, pharma-
17 cists, and other medical personnel to emergency drug treatment
18 centers. The medical personnel shall be distributed among all of
19 the high intensity drug trafficking areas that are targeted at a
20 particular time with a narcotics suppression and interdiction
21 campaign so that the ratio of medical personnel to patients is
22 equal among the areas.

23 (4) The director of public health shall conduct in each high
24 intensity drug trafficking area an advertising campaign to inform
25 drug users of the availability of drug treatment programs in the
26 area.

1 Sec. 12. (1) The Michigan civil rights commission shall
2 establish observer teams to be deployed in zones or sectors of
3 high intensity drug trafficking areas that are targeted with nar-
4 cotics suppression and interdiction campaigns in order to ensure
5 protection of the civil liberties of persons in the zones or
6 sectors.

7 (2) The observer teams shall be composed of specially
8 trained personnel from the United States department of justice,
9 the United States civil rights commission, and the Michigan civil
10 liberties union and other private civil rights organizations, who
11 are invited to participate in the observer teams.

12 (3) The observer teams shall circulate throughout the zones
13 or sectors and shall witness the operation of the narcotics sup-
14 pression and interdiction campaign and make unannounced or
15 announced visits and conduct interviews of members of the task
16 force, residents of the community, and persons suspected of civil
17 or criminal violations.

18 (4) The observer teams shall report the results of their
19 observations and investigations to the special prosecutor, the
20 governor, and the judiciary committees of the state senate and
21 state house of representatives.

22 Sec. 13. (1) A person shall not loiter in, visit, or use a
23 suspected wholesale or retail narcotic drug distribution point.
24 A person who violates this section is responsible for a civil
25 violation and, subject to section 10, shall be assessed a civil
26 fine of \$1,000.00 for each violation, except as provided in
27 subsection (2).

1 (2) If a person is found responsible for a civil violation
2 under subsection (1), instead of imposing a civil fine as pro-
3 vided in subsection (1), the court may order the person to per-
4 form not more than 1,000 hours of community service and to par-
5 ticipate in a drug rehabilitation program on either an inpatient
6 or an outpatient basis and to obtain a certificate of completion
7 of the program. The court may require random drug testing or
8 electronic tethering, or both, as part of that program. The
9 court's order under this subsection shall provide that if the
10 person fails to complete the community service and the drug reha-
11 bilitation program as ordered, the person shall be liable for the
12 civil fine provided in subsection (1).

13 (3) A member of a task force created pursuant to this act
14 may issue a citation for a violation of this section.

15 (4) A default in the payment of a civil fine ordered under
16 this section may be remedied by any means authorized under the
17 revised judicature act of 1961, Act No. 236 of the Public Acts of
18 1961, being sections 600.101 to 600.9947 of the Michigan Compiled
19 Laws.