



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

JUVENILE ACCESS TO EXPLOSIVES AND FIREARMS

House Bill 4641 as passed by the House
Sponsor: Rep. Patricia Godchaux

House Bill 4647 as passed by the House
Sponsor: Rep. Ken Daniels

Second Analysis (7-6-99)

Committee: Constitutional Law and Ethics

THE APPARENT PROBLEM:

In the wake of the murder of 13 people in Littleton, Colorado on April 20, 1999, many questions have been raised. One of the most important is, "what can be done to prevent something like that from happening here?" Many people look at what occurred and wonder how teenagers could get their hands on guns and ammunition and learn how to build and detonate explosives. Many feel that the ease of access to firearms and to information on explosives and access to explosives themselves helped to allow this terrible tragedy to occur. Legislation has been offered to place restrictions on juveniles' access to the sorts of implements used in the Littleton tragedy and to increase the penalties for violations of these restriction and some current restrictions.

THE CONTENT OF THE BILLS:

House Bill 4647 would amend the handgun licensure act (Public Act 372 of 1927, MCL 28.422 and 28.426) to increase the minimum age for a pistol license or a concealed weapon license from 18 to 21 years of age.

However, the bill would include two exceptions -- anyone who had earned and received a high school diploma or its equivalent could obtain a license after he or she reached the age of 18 and anyone who was over the age of 18 would be qualified for a license to carry a pistol to and from his or her place of employment and in the course of his or her employment if carrying a pistol was required by the employer.

House Bill 4641 would amend the Explosives Act of 1970 (MCL 29.45 and 29.55) to raise the minimum age for explosives permits (which currently is 18) to

21, and to increase the penalties for explosives crimes. The Explosives Act of 1970 prohibits issuing a permit to people under 18, and requires a permit to handle,

store, use, sell, buy, transport, or otherwise dispose of explosives. The act has various other requirements concerning the issuing of permits, a permit denial process, explosives dealer records, and storage of explosives. The act also prohibits handling explosives while drunk or under the influence of narcotics. Violations of the act's provisions are misdemeanors, with a mandatory fine of up to \$500 or imprisonment for up to one year or both.

The bill would change the mandatory misdemeanor penalties to permissible penalties and would add three new felonies to the act for selling or otherwise furnishing an explosive to an unlicensed individual, with the penalties increasing when the explosive was used in a crime or caused death or serious injury as the result of being used in a crime. It would be a felony, punishable by imprisonment for up to 4 years or a fine of up to \$2,500, or both, to sell explosives to an unlicensed individual. If the explosive were used in the commission of a crime, the person would be guilty of a felony punishable by imprisonment for up to 10 years or a fine of up to \$5,000, or both. If the explosive were used in a crime that caused death or serious injury ("serious impairment of a body function") to another individual, the person would be guilty of a felony punishable by imprisonment for up to 20 years or a fine of up to \$5,000, or both. A term of imprisonment for any of these new felonies could run consecutively to any other term of imprisonment imposed for another violation arising from the same transaction.

House Bills 4641 and 4647 (7-6-99)

The bill would not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law committed while selling explosives to an unlicensed individual. The bill also would add to the act the definition of "serious impairment of a body function" that appears in the Michigan Penal Code, where the term is defined to include, but not be limited to, the loss of a limb or use of a limb; the loss (or the loss of the use) of a hand, foot, finger, or thumb; the loss (or the loss of the use) of an eye or ear; serious visible disfigurement; a comatose state that lasts for more than three days; measurable brain damage or mental impairment; a skull fracture or other serious bone fracture; or subdural hemorrhage or subdural hematoma.

Both bills would take effect on August 1, 1999.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

As the Littleton shootings illustrate, teens apparently can gain access to deadly weapons with altogether too little difficulty. What is needed are not only further restrictions on the access teens have to such weapons, but also prohibitions against supplying teens with things like guns and explosives. Maybe there are plenty of 18 year olds who are mature enough to be allowed access to guns and explosives, but there will probably an even larger percentage of them who are mature enough when they reach the age of 21. It is presumed that youths change and mature a great deal in those first few years after high school. Looking at what has happened recently, it seems that giving kids a couple more years to mature before they are allowed to buy guns or explosives probably won't hurt anybody and it might help prevent a tragedy like what occurred in Littleton.

Against:

Generally, prohibitions like these have little deterrent effect on people who are determined to harm others. The age of majority in Michigan is 18; by the time a person reaches that age, he or she is allowed to vote, get married, own property, make contracts and get into debt. One would hope that if they are allowed all of these opportunities that they are also mature enough to purchase a gun.

These bills are apparently an attempt to try to do something about a tragedy that cannot be understood. Since no one can figure out why those kids would kill all those people, it is proposed to prohibit other kids from having access to guns, bombs, and information about bombs. Obviously, the two boys' behavior was not caused by their access to guns, bombs, and such information on the internet -- other kids had the same access but somehow restrained themselves from murdering their classmates. It seems apparent that the problems of those who commit crimes like what occurred in Littleton are based upon something more than their ability to buy guns and explosives. The essence of the problem in Littleton was not the access to these weapons, it was that these two were willing to use them on people they knew for no apparent reason other than to kill. Until that problem can be addressed, all the restrictions on access will only manage to slightly hamper the efforts of the next person who would commit such a crime.

Response:

Perhaps a determined individual under the age of 21 will still be able to get weapons and/or information about how to build them even if these bills are enacted; however, if the bills serve to deter even one somewhat less determined individual they will be worth the effort. Further, by imposing penalties on people who would supply weapons and such information, the bills will limit access and, if that is insufficient, then at least the changes in the penalty provisions will provide for serious punishments for those who violate these laws.

Rebuttal:

The exception allowing any 18-year-old with a high school diploma or equivalent to obtain a pistol or concealed weapon license effectively nullifies the proposed change in the law that would increase the legal age to 21 for possession of a concealed weapon license or pistol license. The exception is so broad that the restrictions will affect only a small percentage of those people between the ages of 18 and 21, and will virtually eliminate any positive effect the bill might have had.

POSITIONS:

There are no positions on the bills.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.