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SFA

BILL ANALYSIS

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Senate Bill 645 (Substitute S-2 as reported)
Sponsor: Senator Valde Garcia
Committee: Education

Date Completed: 12-5-01

RATIONALE

When a bomb threat is issued to a school, each instance must be checked for credibility. Sometimes this involves staff surveying the building for suspicious-looking objects, but more often it means evacuating the school and calling in the police and, sometimes, bomb-sniffing dogs, to search for explosives or harmful substances. In the case of an evacuation, students lose instructional time, and school districts and police departments lose money transporting students and investigating the crime.

Although the maximum sentence for making a false bomb report is four years in prison, most arrests, for both juvenile and adult suspects, lead to probation and community service, according to an article in the *Grand Rapids Press* (9-30-01). Sometimes an offender is ordered to pay restitution and fines. Despite the penalties, the number of false bomb threats is not declining; in fact, since the September 11 terrorist attacks, they reportedly have increased. In the month of September alone, according to the article, bomb-sniffing dogs were called in nine times across the State. The previous school year, 2000-2001, saw State Police with sniffer dogs responding to 119 bomb threats at Michigan schools.

In specific response to scares involving anthrax, Public Act 135 of 2001 established a felony penalty for falsely reporting the presence of a harmful biological, chemical, or radioactive material. Under the Act, such false reports are punishable by up to five years in prison, and/or a fine of up to \$10,000. The offender also must reimburse any governmental agency for its expenses incurred as a result of the violation.

Although Public Act 135 does not speak to false reports about explosives, the Michigan Penal Code contains felony penalties for falsely reporting an explosives offense. Because many offenders are in their teens, however, some people think that driver's license sanctions would more strongly discourage them from making false threats about explosives or harmful biological, chemical, or radioactive materials to schools.

CONTENT

The bill would amend the Michigan Vehicle Code to require the Secretary of State to delay or suspend the driver's licenses of minors who made false reports to a school of an explosives offense or a harmful substance (referred to below as a "bomb threat"). The bill would take effect April 1, 2001.

The bill would require that a person younger than 14, convicted of or having received a juvenile disposition for knowingly making a false report of a bomb threat to a school, be prohibited from receiving graduated licensing training or a graduated driver's license training until he or she was 16 years old and from receiving a graduated driver's license until he or she was 17 years old. (A "juvenile disposition" is the equivalent of a conviction.)

A person who was at least 14 but younger than 21 found guilty of or responsible for knowingly making a false report of a bomb threat to a school would be prohibited from receiving graduated licensing training or a graduated driver's license until three years after his or her conviction date or juvenile disposition.

If the person already had a driver's license, it would have to be suspended for three years, beginning with the conviction date or juvenile disposition. The Secretary of State could issue the person a restricted license after the first 365 days of suspension.

Making a fictitious bomb threat would include issuing false claims about the following:

- Explosives in transportation devices (MCL 750.200).
- Harmful biological, chemical, or radioactive substances (MCL 750.200/).
- Smoke bombs or other chemical irritants (MCL 750.200j).
- Transportation of explosives set off by concussion or friction (MCL 750.201).
- Deceptive marking of explosives or other dangerous substances intended for shipment (MCL 750.202).
- Explosives or other dangerous substances in the mail (MCL 750.204).
- Placement of explosives with intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or damage or destroy any real or personal property (MCL 750.207).
- Placement of offensive or injurious substances or compounds with intent to injure, coerce, or interfere with another's business (MCL 750.209).
- Possession of an explosive substances in public with intent to terrorize, frighten, intimidate, threaten, harass, or annoy another (MCL 750.209a).
- Possession of explosive or combustible substance or compound that, when combined with another, will become explosive or combustible (MCL 750.210).
- Sale, disposal, or purchase of valerium, valeric acid or crystals of ammonium valerate, with some exceptions (MCL 750.210a). (Valerium or valerien was the main component of smoke or stink bombs in the 1930s).
- Manufacture, purchase, sale, or possession of any device designed to explode upon impact or heat, or that is highly incendiary (MCL 750 211a).
- Unmarked or unbranded high explosives (MCL 750.212).

Further, the bill states that each municipal judge and clerk of a court of record would have to prepare and forward to the Secretary of State an abstract of the court record of any

bomb threats made to police, sheriffs, or peace officers of the State.

MCL 257.303 et al.

BACKGROUND

Under the Michigan Penal Code, it is a felony to do either of the following:

- Knowingly make a false report of a violation or attempted violation of Chapter 33 or Section 327 or 328 of the Code and communicate the false report to any other person.
- Threaten to violate Chapter 33 or Section 327 or 328 and communicate the threat to any other person.

A first offense is punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both. A second or subsequent offense is punishable by up to 10 years' imprisonment, a maximum fine of \$5,000, or both. (Chapter 33 of the Penal Code governs bombing and explosives offenses. Sections 327 and 328 contain penalties for causing a death due to explosives.)

Public Act 135 of 2001 amended Chapter 33 of the Penal Code. The Act 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, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, or harmful radioactive device. A violation is a felony punishable by imprisonment for up to five years and/or a maximum fine of \$10,000.

Public Act 135 also increased the penalties for manufacturing, delivering, possessing, transporting, placing, using, or releasing, for an unlawful purpose, a chemical irritant or chemical irritant device, a smoke device, or an imitation harmful substance or device.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The cost of attending to false bomb threats is great. Students can find the evacuations and

threats intimidating, and teachers and administrators feel frustration over lost instructional time. In addition, the threats tie up valuable law enforcement resources. Police and fire departments are stretched as it is attending to real emergencies; to require them to spend hours searching for a bomb that does not exist is a waste of money and time.

False bomb threats not only are inconvenient and costly, but can be dangerous, as well. In one reported instance, a bomb threat caused the loss of a life. According to the *Grand Rapids Press*, a teenager from the Lowell Area Schools was struck by a car and killed after she left school following a bomb threat evacuation.

Current penalties evidently are not dissuading these offenders. The threats of community service and probation are too abstract to deter young offenders, and they do not fit the severity of the crime. Suspending a driver's license represents a more concrete loss to a teenager. In fact, this penalty reportedly was suggested by a former student at Hartland Area Schools, who spoke from first-hand experience about what motivates adolescents. The State must do more to deter people from committing these crimes.

Opposing Argument

Teenagers who issue bomb threats are currently penalized on two fronts: First, they may be punished by their schools in the form of suspension or, often, expulsion; second, they may be punished by the courts with jail time, probation, or fines. Suspending a teenager's driver's license would result in a triple penalty. Students who violate Public Act 135 of 2001 by falsely reporting a chemical, radioactive, or biological agent face a fourth tier of punishment: automatic restitution fines, which can be in the thousands, in addition to a felony charge on their records. In this case, the proposed punishment would not fit the crime. There are more serious issues to criminalize, such as assault, or bringing weapons to school. Senate Bill 645 would be too harsh.

Response: The bill would not further criminalize behavior; rather, it would revoke a privilege issued by the State. Taking away a privilege seems to be a fair and just response to those people who disrupt the lives of hundreds, sometimes thousands, of people.

Opposing Argument

Most people in Michigan rely on cars to get to and from work. Revoking a license for three years could mean the loss of potential income to an offender and his or her family. The bill could have unintended, negative consequences for those with limited incomes.

Response: Substitute S-2 would address loss of income by allowing the Secretary of State to shorten the suspension period to one year, and then issue a restricted license. This would limit the amount of time offenders might be out of work as a result of the suspension of their licenses. In addition, the bill could prevent the very behavior that would result in the suspension of a license. It is likely that, if the bill were enacted, those who value their driving privileges would not issue false bomb threats.

Legislative Analyst: C. Layman

FISCAL IMPACT

The bill would have a minimal fiscal impact on the State. Revenue from the graduated driver license program (\$13 per Level 2 license issued) and driver license reinstatement fees (\$125 per license reinstated) would be delayed for three years. In some cases, the person could be issued a restricted license after one year and the revenue would be delayed for only one year. No data are available on how many juveniles have been convicted of or found responsible for this crime. According to the Center for Educational Performance and Information, at least 240 bomb threats were made at Michigan schools during the 2000-01 school year. The center cautions that a significant number of schools did not report any data and conclusions cannot be drawn from the limited data. In 1999, 44 adults were convicted of making a false bomb threat.

The bill would have no fiscal impact on local units of government.

Fiscal Analyst: J. Runnels

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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.