

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 645 (as enrolled)
Sponsor: Senator Valde Garcia
Senate Committee: Education
House Committee: Education

PUBLIC ACT 422 of 2002

Date Completed: 7-15-02

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 will more strongly discourage them from making false threats about explosives or harmful biological, chemical, or radioactive materials to schools.

CONTENT

The bill amended the Michigan Vehicle Code to permit the Secretary of State to delay issuing driver's licenses to minors who make false reports to a school of an explosives offense or a harmful substance (referred to below as a "bomb threat"); and, when a minor already possessing a license is found guilty of making a bomb threat to a school, require the Secretary of State to suspend the license. The bill will take effect October 1, 2002.

The bill allows the Secretary of State to deny, until the age of 17, issuing a driver's license to a person younger than 14 if that person has been convicted of or has received a juvenile disposition for knowingly making a false report of a bomb threat to a school. (A "juvenile disposition" is the equivalent of a conviction.) Minors who have their drivers' licenses delayed are prohibited from beginning graduated licensing training until the age of 16.

The bill also requires the Secretary of State to suspend the licenses of minors who are at least 14 but younger than 21 who are

convicted of or receive a juvenile dispensation for making a bomb threat to a school. The licenses must be suspended for three years, beginning with the date of the conviction or juvenile disposition. The Secretary of State may issue the person a restricted license after the first 365 days of suspension.

Making a fictitious bomb threat includes 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 must 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.

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 results 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 new punishment does not fit the crime. There are more serious issues to criminalize, such as assault, or bringing weapons to school. Senate Bill 645 is too harsh.

Response: The bill does not further criminalize behavior; rather, it revokes 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 might mean the loss of potential income to an offender and his or her family. The bill may have unintended, negative consequences for those with limited incomes.

Response: The bill addresses loss of income by allowing the Secretary of State to shorten the suspension period to one year, and then issue a restricted license. This limits the amount of time offenders might be out of work as a result of the suspension of their licenses. In addition, the bill may prevent the very behavior that results in the suspension of a license. It is likely that, as a result of the bill, those who value their driving privileges will not issue false bomb threats.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill will 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) will be delayed for three years. In some cases, the person may be issued a restricted license after one year and the revenue will 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 will have no fiscal impact on local units of government.

Fiscal Analyst: Jessica 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.