

# Legislative Analysis

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## ALLOW CCW PERMIT HOLDERS TO POSSESS TASERS

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**House Bill 5754 as introduced**  
**Sponsor: Rep. Goeff Hansen**

**House Bill 5755 as introduced**  
**Sponsor: Rep. Rick Jones**

**House Bill 6280 as introduced**  
**Sponsor: Rep. Kate Ebli**

**House Bill 6199 as introduced**  
**Sponsor: Rep. Richard LeBlanc**

**Senate Bill 519 as passed by the Senate**  
**Sponsor: Sen. Jud Gilbert, II**

**House Committee: Tourism, Outdoor Recreation and Natural Resources**  
**Senate Committee: Judiciary (SB 519)**

**Complete to 11-10-08**

## A SUMMARY OF HOUSE BILLS 5754, 5755, & 6199 AND SENATE BILL 519

**House Bill 5754** would add holders of a concealed weapons permit to the list of individuals authorized to possess a device using electro-muscular disruption (EMD) technology (such as a Taser); require authorized dealers to provide training to CCW holders on the use and risks of the device; restrict the use of the device by a CCW permit holder to self-defense; and prescribe penalties for violations of the bill's provisions by CCW holders and authorized dealers who sell to CCW holders.

**House Bill 5755** would apply provisions relating to the lawful carry of a concealed pistol to carrying an electro-muscular disruption device and **House Bill 5280** would add the device to the corresponding sentencing guidelines for violations.

**House Bill 6199** would add a reserve peace officer, auxiliary officer, or reserve officer to the list of individuals authorized to possess an electro-muscular disruption device. **Senate Bill 519** would add a reserve peace officer to the list of individuals authorized to possess an electro-muscular disruption device.

House Bills 5754 and 5755 are tie-barred to each other. House Bill 6280 is tie-barred to House Bill 5755. A more detailed discussion of each bill follows.

### **House Bill 5754**

Current law prohibits selling, offering for sale, or possessing a portable device or weapon from which an electrical current, impulse, wave, or beam may be directed (e.g., stun guns or electro-muscular disruption devices) and which is designed to incapacitate temporarily, injure, or kill. A violation is a felony punishable by up to four years

imprisonment and/or a maximum fine of \$2,000. House Bill 5754 would retain the ban and the penalty for unlawful sales or possession of the specified devices.

However, the possession and reasonable use of an electro-muscular disruption device (like a TAZER) is allowed by certain authorized professionals associated with keeping the peace or making arrests, state and local correctional officers, detention officers in city jails or lockup facilities, probation and court officers, bail agents, licensed private investigators, private security police, and airline pilots and crew members, as long as the individual is properly trained in the safe operation of the device and the device is used in the performance of the person's official duties.

The bill would amend Section 224a of the Michigan Penal Code (MCL 750.224a) to add to the list of individuals authorized to possess and reasonably use an electro-muscular disruption (EMD) device a person who holds a valid license to carry a concealed pistol under Section 5b of Public Act 372 of 1927.

An EMD device allowed under this provision must meet certain requirements, including having an identification and tracking system that dispenses coded tags traceable to the purchaser through records kept by the manufacturer and the device's manufacturer must have a policy to provide that identification and tracking information to a police agency upon written request.

Sales of an EMD device to a CCW holder. Only a manufacturer, authorized importer, or authorized dealer could demonstrate, offer for sale, sell, give, lend, or deliver an EMD device to a CCW holder (these are the same individuals allowed to provide EMD devices to authorized professionals under current law).

An authorized dealer or other person who sold a device using EMD technology to a CCW permit holder would have to provide to that individual, at the time of the sale, training on the use, effects, and risks of the device. (Note: The bill does not specifically define "other person" or authorize any individuals other than manufacturers or authorized dealers and importers to sell or deliver an EMD device to a person located in the state.)

Allowable use of an EMD device by a CCW holder. The bill would restrict the use of an EMD device by a CCW permit holder to situations of self-defense or protection of property under circumstances which would justify the individual's use of physical force.

Penalties. A person who sold an EMD device to a CCW holder without providing the required training would be guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than \$500, or both.

A CCW holder who used an EMD device for other than self-defense or defense of property would be guilty of a misdemeanor punishable by imprisonment for not more than two years and/or a maximum fine of \$2,000.

If a CCW holder had used, or threatened to use, an EMD device during the commission of a crime to temporarily or permanently disable another person, the judge who imposed sentence upon a conviction for that crime would have to consider the defendant's use or threatened use of the device as a reason for enhancing the sentence.

### **House Bill 5755**

Public Act 372 of 1927 regulates and licenses the selling, purchasing, possessing, and carrying of certain firearms, including concealed pistols. The bill would amend the act (MCL 28.425f et al.) to apply various provisions and exemptions that apply to carrying a concealed pistol to carrying a portable EMD device authorized under Section 224a of the Michigan Penal Code. Specifically, the bill would require, in regards to an EMD device, the CCW holder do the following:

- Immediately disclose to a peace officer who stopped his or her vehicle that he or she also is carrying on his or her person or in the vehicle an EMD device.
- Not carry the EMD device while having a bodily alcohol content prohibited under Section 5k of the act.
- If he or she had any bodily alcohol content, carry an EMD device in the locked trunk of his or her vehicle or a vehicle in which he or she was a passenger, or in a locked compartment or container if the vehicle did not have a trunk.
- Not carry the EMD device on any premises for which it is illegal to carry a concealed pistol; for instance, a school or school property, day care center, sports stadium or arena, licensed bar, place of worship, hospital, or college dormitory or classroom.

In addition, a peace officer who had probable cause to believe that an individual was carrying an EMD device in violation of the prohibitions regarding any bodily alcohol content could require the individual to submit to a chemical analysis of breath, blood, or urine.

### **House Bill 6280**

The sentencing guidelines within the Code of Criminal Procedure (MCL 777.11b) make a third or subsequent violation of carrying a concealed pistol in a prohibited place a Class F felony against the public safety with a four-year maximum term of imprisonment. The bill would include carrying a stun gun in that provision.

### **House Bill 6199 and Senate Bill 519**

The bills would both amend Section 224a of the Michigan Penal Code (MCL 750.224a). House Bill 6199 would amend the act to include in the list of professionals authorized to possess and use an EMD device a reserve peace officer, auxiliary officer, or reserve

officer, as those terms are defined in Section 1 of Public Act 372 of 1927. Senate Bill 519 would amend the act to include a reserve peace officer.

[Section 1 of Public Act 372 of 1927 defines “reserve peace officer,” “auxiliary officer,” or “reserve officer” to mean, except as otherwise provided in that act, “an individual authorized on a voluntary or irregular basis by a duly authorized police agency of this state or a political subdivision of this state to act as a law enforcement officer, who is responsible for the preservation of the peace, the prevention and detection of crime, and the enforcement of the general criminal laws of this state, and who is otherwise eligible to possess a firearm” under that act.]

## **FISCAL IMPACT:**

Senate Bill 519 and House Bills 5754, 5755, and 6199 will all have an indeterminate fiscal impact on state and local government. It is unknown how many police departments, police officers (reserve to full-time), and CCW holders would purchase and use tasers, lawfully and unlawfully, in the state.

Further, the fiscal impact of the bills on state and local correctional systems would depend on how they affected numbers of convictions and severity of sentences. There are no data to indicate how many people might be convicted of the offenses described by the bills. To the extent that there was an increase in misdemeanor sentences, local units of government could incur additional costs of jail incarceration or misdemeanor probation supervision, both of which vary by jurisdiction.

To the extent that there was an increase in felony sentences, the state could incur increased costs of prison incarceration or felony probation supervision. The average appropriated cost of prison incarceration is roughly \$32,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision average about \$2,000 per supervised offender per year. To the extent that more felons were sentenced to jail, counties could experience increased costs; jail costs vary by county.

Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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■ 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.