

EXPAND POSSESSION & USE OF TASERS

Senate Bill 29 (Substitute S-2)
Senate Bill 93 (Substitute S-1)
Sponsor: Sen. Goeff Hansen

Senate Bill 30 (Substitute S-1)
Sponsor: Sen. Rick Jones

House Committee: Judiciary
Senate Committee: Judiciary

Complete to 2-15-12

A SUMMARY OF SENATE BILLS 29, 30, & 93 AS PASSED BY THE SENATE

The bills would amend various acts to:

- Expand the use and possession of an electro-muscular disruption device (EMD) to include a holder of a concealed pistol license (CPL).
- Subject possession and use of an EMD to the same requirements and prohibitions as for a concealed pistol.
- Include a reserve peace officer among the peace officers authorized to carry and use an EMD.
- Place new criminal penalties for the unlawful use of an EMD by a person authorized to possess and use an EMD in the sentencing guidelines.

In general, the sale or possession of stun guns and their ilk is strictly prohibited. A narrow exception is made for a device using electro-muscular disruption technology (EMD) and that delivers the shock through probes attached to wires. The devices also dispel "tags," which are confetti-type objects that contain identification and tracking information traceable to the purchaser. Only certain persons are lawfully authorized to possess or use an EMD and then only if trained in the use, effects, and risks of the device and only when using the device while performing official duties. The exemption applies to a peace officer, certain Department of Corrections' employees and local corrections officers, probation officers, court officers, pilots and aircraft crew members, and licensed private investigators, among a few others.

The bills would all take effect 90 days after enactment. Senate Bills 29 and 30 are tie-barred to each other, and Senate Bill 93 is tie-barred to Senate Bill 29. A detailed summary of each bill follows.

Senate Bill 29 would amend the Michigan Penal Code (MCL 750.224a). The bill would do the following:

- Allow the possession and reasonable use of an EMD by an individual with a valid concealed pistol license and who has been trained as specified in the bill regarding the use, effects, and risks of the device.
- Require an authorized dealer or seller of an EMD to a CPL holder to verify the person's identity and possession of a valid CPL. The dealer or seller must also provide, at the time of sale, training on the use, effects, and risks of the device. A violation of these provisions would be a misdemeanor punishable by up to 30 days in jail and/or a fine of not more than \$500.
- Make using an EMD against another person, **except** under circumstances that would justify the individual's lawful use of physical force, a high court misdemeanor punishable by imprisonment for not more than two years and/or a fine of not more than \$2,000. This penalty would apply to all persons authorized to possess and use an EMD, including peace officers.
- Include a reserve police officer, as defined in PA 372 of 1927, in the definition of "peace officer," thus authorizing these individuals to possess and use EMDs in the performance of their duties.

In addition, to be a lawful EMD for purposes of the act, the device must contain an identification and tracking system that dispenses coded material traceable to the purchaser through records kept by the manufacturer, and the manufacturer must have a policy of providing that information to a police agency upon written request by that agency. The bill would specify that this provision would not apply to a launchable device used only by law enforcement agencies.

Senate Bill 30 would amend the handgun license act, Public Act 372 of 1927 (MCL 28.425f et al.) to apply to EMDs provisions that currently pertain to persons carrying a concealed pistol under a concealed pistol license (CPL). These provisions are as follows:

- If stopped by a peace officer, require the person to immediately disclose to the officer if he or she is carrying an EMD on his or her person or in the vehicle.
- Prohibit carrying an EMD while under the influence of alcohol or a controlled substance or while having any bodily alcohol content prohibited under Section 5k. In addition, violators would be subject to the listed penalties that currently apply to carrying a concealed pistol under the same conditions.
- Allow a person who has any bodily alcohol content to transport an EMD in the locked trunk of his or her vehicle or a vehicle in which he or she is a passenger. If the vehicle lacks a trunk, allow the EMD to be transported in a locked compartment or container.

- Allow an EMD to be transported on a vessel if in a locked compartment or container.
- Require a person carrying an EMD in violation of the bill to submit to a breathalyzer test or blood or urine test in the same manner pertaining to persons suspected of a concealed weapon violation.
- Prohibit a CPL holder who is carrying an EMD from carrying that device into a no-carry zone such as a school, stadium, or hospital.
- Include a court officer in the list of individuals licensed under the act who may carry a concealed pistol in a no-carry zone and allow all of the listed individuals to also carry an EMD into a no-carry zone.

Senate Bill 93 would amend the Code of Criminal Procedure (MCL 777.11b) to specify that the improper use of an EMD would be a Class G felony against the public safety with a two-year maximum term of imprisonment. The bill would also revise the sentencing guideline pertaining to a third or subsequent offense for carrying a concealed pistol in a no-carry zone to also apply to an EMD. The penalty carries a maximum term of imprisonment of four years.

FISCAL IMPACT:

To the extent that the bills' exemptions result in fewer misdemeanor and/or felony convictions related to the unlawful use of EMD devices, it could reduce costs on state and local correctional systems. The average cost of prison incarceration in a state facility is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and felony probation supervision, exclusive of the cost of electronic tether, average about \$2,200 per supervised offender per year. The costs of local incarceration in a county jail and misdemeanor probation supervision vary by jurisdiction. Any decrease in penal fine revenues would reduce funding for 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.