

Legislative Analysis



ALLOW RESERVE POLICE OFFICERS TO POSSESS TASERS

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House Bill 4013 (Substitute H-1)
Sponsor: Rep. Richard LeBlanc
Committee: Judiciary

First Analysis (3-23-11)

BRIEF SUMMARY: The bill would authorize reserve police officers, auxiliary officers, and reserve officers to possess and use an electro-muscular disruption (EMD) device, such as a Taser, in the performance of their duties and allow law enforcement officers to use certain launchable devices.

FISCAL IMPACT: The bill will have an indeterminate fiscal impact on state and local government. It is unknown how many police departments, police officers (reserve to full-time) would purchase and use Tasers, lawfully and unlawfully, in the state.

THE APPARENT PROBLEM:

In 1976, stun guns and Tasers were banned in Michigan, and their sale, possession, or use became a felony. In recent years, however, the Legislature has created numerous exceptions to this general ban, allowing police officers and other specified individuals to use electro-muscular disruption (EMD) devices (Tasers) that meet certain requirements, provided the person has received training in their use, risks, and effects and the person uses the Taser reasonably in the performance of official duties. Any other use of a stun gun or Taser remains a felony.

Some people believe that reserve police officers should be added to the list of persons allowed to carry and use Tasers while performing official duties. Generally speaking, reserve police officers are persons who serve as police officers for local units of government on a voluntary or irregular basis. In addition, legislation is needed to exempt certain "launchable devices" from current requirements for Tasers allowed in Michigan and allow them to be used by law enforcement agencies. Because launchable devices lack the tags that contain an identification and tracking system, they currently cannot be used in Michigan. Reportedly, the Michigan State Police and other law enforcement agencies have purchased these shotgun-like devices that can fire a Taser cartridge about 65 feet away only to find that they are currently illegal under provisions of the Penal Code.

THE CONTENT OF THE BILL:

The Michigan Penal Code allows the possession and use of an electro-muscular disruption device, such as a Taser, by certain authorized professionals associated with keeping the peace or making arrests, state and local correctional officers, probation and

court officers, 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.

House Bill 4013 would amend Section 224a of the Michigan Penal Code (MCL 750.224a) to include a reserve peace officer, auxiliary officer, or reserve officer, as those terms are defined in Section 1 of Public Act 372 of 1927, in the list of professionals authorized to possess and use an electro-muscular disruption device, such as a Taser.

The bill would also allow law enforcement agencies to use "launchable devices" that are exempted from specifications for other Tasers. (Although the term is undefined, "launchable devices" is understood to mean certain newly-developed Taser cartridges shot from a regular 12-gauge shotgun with a 65-foot range).

[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.]

BACKGROUND INFORMATION:

The proposal to add reserve officers to the list of individuals authorized to possess and use Tasers has been included in legislation for several sessions, most recently in House Bill 4156 of the 2009-2010 Legislative session. That bill would also have allowed law enforcement officers to use launchable devices. The bill was reported from committee but died on the House floor.

ARGUMENTS:

For:

Reserve peace officers need the same tools as other officers. Although reserve police officers are not licensed, full-time officers, they face the same on-the-job dangers when they do serve and need the same tools. Reserve officers are currently allowed to carry firearms even in so-called "no-carry zones." If we allow reserve officers to use pistols on the job, even in "no-carry zones," shouldn't we also allow them to use Tasers in their work? Allowing reserve officers to carry Tasers might prevent some situations where they were forced to fire their pistols at a violent individual, thereby preventing a death or gunshot wound. However, they first must be authorized by statute to be eligible to carry a Taser.

For:

Law enforcement agencies should be able to use and benefit by new Taser products that come on the market whether or not they contain tracking mechanisms. The bill would

allow law enforcement agencies to use so-called "launchable devices" — Taser shotgun shell cartridges that would allow someone to be Tasered from a distance of up to 65 feet using a regular 12-gauge shotgun. There may be circumstances in which such devices would be useful to law enforcement officials (for example, road patrols and SWAT teams) and allow them to do their jobs with the least amount of force necessary.

Against:

The use of EMDs, most notably Tasers, is still controversial, and legislation to expand their authorized use should be curtailed until more definitive studies are completed. Though widely touted as resulting in fewer and less serious injuries as compared to the use of deadly force, batons, and chemical sprays, Tasers still injure people. Reportedly, dozens of law enforcement officers have been injured during training exercises. Suspects have also been injured and killed. Just last year, several young men in Michigan were killed after being Tased by police officers. Moreover, some Taser deaths can be traced to poor training and/or poor judgment on the part of law enforcement officers, such as the death in another state of a naked man on a second story ledge who plunged to his death after being Tased by an officer even though instructions for safe use specify that Tasers should never be used in situations in which a Tased individual would be at risk of falling, such as when running up a staircase, climbing a tree, etc. Until more is known about the potential for serious or life-threatening injury, and until more oversight is provided for law enforcement officers, the use of Tasers and other EMDs should be vigorously restricted, not expanded.

POSITIONS:

The Michigan State Police indicated support for the bill. (3-1-11)

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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.