



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 31 (as passed by the Senate)
 Sponsor: Senator Michael J. Bouchard
 Committee: Local, Urban and State Affairs

Date Completed: 8-30-95

RATIONALE

Public Act 321 of 1990 amended the Michigan Penal Code to criminalize certain activities involving the use of firearms and to impose corresponding penalties. The Act exempted law enforcement officials from some of the Code's provisions, but failed to exempt those officials from other provisions. Consequently, Public Act 218 of 1992 amended the Penal Code to exempt on-duty peace officers or security officers working on a scheduled work shift from a provision that makes it a felony to commit or attempt to commit a crime involving a violent act while wearing body armor. In addition, Public Act 218 exempted on-duty peace officers from the Code's provision that makes it a felony to discharge intentionally a firearm from a motor vehicle, snowmobile, or off-road vehicle in a manner that endangers the safety of others. While the Code exempts on-duty police officers from these provisions, some people believe that off-duty police officers also should be exempt.

CONTENT

The bill would amend the Michigan Penal Code to specify that exemptions for peace officers from certain violations would apply whether the officer was on or off a scheduled work shift.

It is a felony under the Code, punishable by up to four years' imprisonment and/or a maximum fine of \$2,000, for a person to commit or attempt to commit a crime that involves a violent act or a threat of violence against another person while wearing body armor. The offense does not apply, however, to a peace officer performing his or her duties as a peace officer. The bill specifies that the exemption would apply while the officer was on or off a scheduled work shift as a peace officer.

It also is a felony under the Code, punishable by

up to four years' imprisonment and/or a maximum fine of \$2,000, for a person intentionally to discharge a firearm from a motor vehicle, snowmobile, or off-road vehicle in such a manner as to endanger the safety of another individual. The offense does not apply, however, to a peace officer performing his or her duties as a peace officer. The bill specifies that the exemption would apply whether the officer was on or off a scheduled work shift.

MCL 750.227f & 750.234a

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 Penal Code currently exempts on-duty police officers from provisions prohibiting the wearing of body armor during the commission of a violent act or the discharge of a firearm from certain vehicles. There may be incidents in which an off-duty police officer arrives at the scene of a crime in progress and has to respond by discharging a firearm from a vehicle or wearing body armor while committing a violent act. Since police officers, whether they are on or off duty, are authorized to respond to these situations, the Code should be amended to extend to off-duty officers the same exemptions that apply to on-duty officers.

Opposing Argument

There is concern that the bill could give off-duty police officers license to commit acts that otherwise are illegal under the Penal Code.

Response: The Code already specifies that a police officer is exempt only while performing his or her duties as a peace officer. Thus, a police officer who committed an illegal act while not performing his or her duty would be subject to the Code's penalties.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Hansen

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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.