



**Senate Fiscal Agency**  
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BILL



ANALYSIS

**Telephone: (517) 373-5383**  
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House Bill 5751 (as reported without amendment)  
Sponsor: Representative James Ryan  
House Committee: Commerce  
Senate Committee: Technology and Energy

### **CONTENT**

The bill would amend the Michigan Penal Code to revise the offense of and penalties for fraudulently avoiding a charge for a telecommunications service and the provision for seizure of telecommunications devices. Currently, the Code proscribes both the use of any equipment designed or adapted either for use fraudulently to avoid the charge for any telecommunications service, or to conceal the existence or place of origin or destination of any telecommunications services or unlawfully interconnect telephone lines; and selling, giving, or otherwise transferring any such equipment. The bill, instead, would prohibit the manufacture, possession, delivery, offer for delivery, or advertisement of a "counterfeit telecommunications device" or a "telecommunications device" with the intent to use the device or allow it to be used to obtain or attempt to obtain telecommunications service with the intent to avoid any lawful charge, or conceal the existence or place of origin or destination of any telecommunications service. The current violation is a misdemeanor, punishable by up to one year's imprisonment and/or a maximum fine of \$500. A violation of the bill would be a felony, punishable by up to four years' imprisonment and/or a maximum fine of \$2,000.

Currently, under the Code, any equipment described in the violations may be seized, and upon conviction, destroyed as contraband or turned over to the person providing the telecommunications service. The bill provides, instead, that any telecommunications device, counterfeit telecommunications device, plans, instructions, or materials could be seized, and, upon conviction, would have to be returned to the owner, unless he or she were convicted of the violation or had prior actual knowledge of and consented to the violation or unless the owner could not be determined or located. Materials not required to be returned to the owner could be destroyed as contraband or retained and used for law enforcement purposes. Materials not required to be returned to the owner also could be turned over to the service provider.

MCL 750.540c & 750.540d

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bills would have an indeterminate impact on the Department of Corrections and local criminal justice agencies.

To the extent that the additional provisions and enhanced penalties resulted in an increase in convictions, and an increase in the use of sanctions, costs could increase. There are no data currently available that might predict the potential number of increased violations.

Date Completed: 5-24-96

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.