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PROHIBIT THE DESTRUCTION OF AGRICULTURAL PROPERTY

House Bill 5249

Sponsor: Rep. James Koetje

Committee: Agriculture and Resource
Management

Complete to 3-26-02

A SUMMARY OF HOUSE BILL 5249 AS INTRODUCED 10-16-01

The bill would add a section to the Michigan Penal Code to prohibit the destruction of agricultural property to intimidate or harass another person. Under the bill, a person who damages or destroys the agricultural property of another person with the intent to frighten, intimidate, or harass the person, or prevent the person from engaging in any lawful profession, occupation, or activity, would be guilty of a crime. In addition, a person who places any object in any agricultural property in order to prevent the lawful growing, harvesting, transportation, keeping, selling, or processing of that agricultural property would be guilty of a crime.

The bill sets forth the penalties for the crimes listed above according to the value of the property that is damaged and the existence of any prior convictions in the following manner:

- A person would be guilty of a misdemeanor punishable by imprisonment not exceeding 93 days, or a fine not exceeding \$500 or three times the value of the damaged property, whichever is greater, or both a fine and imprisonment if he or she damaged property valued at less than \$200.

- A person would be guilty of a misdemeanor punishable by a imprisonment not exceeding one year, a fine not exceeding \$2,000 or three times the value of the damaged property, whichever is greater, or both a fine and imprisonment if he or she damaged property valued at \$200 or more, but less than \$1,000. In addition, a person would be subject to the same penalty if he or she has a prior conviction of damaging or attempting to damage agricultural property valued at less than \$200 with the intent to intimidate.

- A person would be guilty of a felony punishable by imprisonment not exceeding five years, or a fine not exceeding \$10,000 or three times the value damaged property, whichever is greater, or both imprisonment and a fine if he or she damaged property valued at \$1,000 or more and less than \$20,000. In addition, a person would be subject to the same penalty if he or she damages agricultural property valued at \$200 or more and less than \$1,000 with the intent to intimidate and has a prior conviction for violating or attempting to violate the bill. A prior conviction would not include a misdemeanor conviction for damaging property valued at less than \$200.

- A person would be guilty of a felony punishable by imprisonment not exceeding 10 years, or a fine not exceeding \$15,000 or three times the value of the damaged property, whichever is greater, or both imprisonment and a fine if he or she damaged property valued at \$20,000 or more. In addition, a person would be subject to the same penalty if he or she has two

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prior convictions for damaging or attempting to damage agricultural property valued at \$1,000 or more and less than \$20,000. A prior conviction would not include a misdemeanor conviction for damaging property valued at less than \$200.

- If a violation resulted in physical injury to another person, other than serious impairment of a bodily function, the person would be guilty of a felony punishable by imprisonment not exceeding 25 years, or a fine not exceeding \$20,000 or three times the value of the damaged property, whichever is greater, or both imprisonment and a fine.

- If a violation resulted in a serious impairment of body function to another person, the violator would be guilty of a felony punishable by imprisonment for life or any term of years, or a fine not exceeding \$25,000, or three times the value of the property damaged, whichever is greater, or both imprisonment and a fine. "Serious impairment of a body function" would be defined to mean at least one of the following:

- The loss, or loss of use, of a limb, hand, foot, finger, thumb, eye, or ear.
- The loss or substantial impairment of a bodily function.
- A serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Any measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- A subdural hemorrhage or subdural hematoma.

- If the violation resulted in the death of another person, the violator would be guilty of a felony and would be subject to life imprisonment without the possibility of parole. In addition, the person could be fined not more than \$40,000 or three times the value of the damaged property, whichever is greater.

If the prosecuting attorney sought an enhanced sentence due to the defendant having a prior conviction, the prosecutor would have to include on the complaint a statement listing the prior conviction. The existence of a prior conviction would have to be determined by the court, without a jury, at the time of sentencing, or at a separate hearing for that purpose prior to sentencing. The existence of a prior conviction could be established by providing, at the very least, a copy of the judgment of conviction; a transcript of a prior trial, plea-taking, or sentencing; information contained in the presentence report; or the defendant's statement. If the sentence of a person convicted under the bill is enhanced due to a prior conviction, the prior conviction would not be used to further enhance a sentence for the conviction pursuant to MCL 769.10, 769.11, and 769.12 of the Code of Criminal Procedure, which pertain to the punishment of subsequent felonies.

The bill requires the court to order a person convicted of a violation of the bill to pay restitution to the victim. In addition, the court could order the person to pay all research and development costs for the damaged agricultural property and the tuition costs and lost wages of a student conducting research regarding the damaged agricultural property.

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Analyst: M. Wolf

■ 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.