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SFA

BILL ANALYSIS

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House Bill 5125 (Substitute H-2 as passed by the House)
House Bill 5126 (Substitute H-2 as passed by the House)
Sponsor: Representative Michael Bishop
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 2-26-02

CONTENT

House Bill 5125 (H-2) would amend the Michigan Penal Code to prohibit and provide criminal penalties for the possession, manufacture, sale, or distribution of certain devices or tools that can shield merchandise from electronic theft detection or that can deactivate or remove a theft detection device. House Bill 5126 (H-2) would amend the Code of Criminal Procedure to include in the sentencing guidelines a felony violation of House Bill 5125 (H-2).

House Bill 5126 (H-2) is tie-barred to House Bill 5125, and both bills would take effect on April 1, 2002.

House Bill 5125 (H-2)

The bill would prohibit a person from doing any of the following:

- Possessing a laminated or coated bag or device that was intended to shield merchandise from detection by an electronic or magnetic theft detector, with the intent to commit or attempt larceny.
- Manufacturing, selling, offering for sale, distributing, or attempting to manufacture, sell, offer for sale, or distribute a laminated or coated bag or device that was intended to shield merchandise from detection by an electronic or magnetic theft detector, knowing or reasonably believing that the bag or device would be used to commit or attempt larceny.
- Possessing a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise, with the intent to use it to deactivate a theft detection device on, or to remove one from, any merchandise without the permission of the merchant or person owning or lawfully holding the merchandise, with the intent to commit or attempt larceny.
- Manufacturing, selling, offering for sale, or distributing a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise, without the permission of the merchant or person owning or lawfully holding the merchandise, knowing or reasonably believing that the tool or device would be used to commit or attempt larceny.
- Deactivating a theft detection device or removing a theft detection device from any merchandise in a retail establishment before purchasing the merchandise, with the intent to commit or attempt larceny.

A violation of the bill would be a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$500. If the offender had a prior conviction for a violation of the bill, the violation would be a felony punishable by up to four years' imprisonment and/or a

maximum fine of \$2,000.

House Bill 5126 (H-2)

The bill would include in the sentencing guidelines possessing, manufacturing, selling, or distributing a theft detector shield or theft detector deactivation tool or deactivating or removing a theft detection device, with intent to commit larceny and with a prior conviction. The offense would be a Class G felony against property, with a statutory maximum sentence of four years' imprisonment, as proposed by House Bill 5125.

Proposed MCL 750.360a (H.B. 5125)
MCL 777.16r (H.B. 5126)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate impact on State and local government. There are no data to indicate how many people would be convicted of the proposed offenses. A first-time offender would be guilty of a misdemeanor and could receive up to one year's imprisonment and/or a fine of up to \$500. Local units would incur the cost of probation and incarceration, which varies by county from \$27 to \$65 per day. Repeat offenders would be guilty of a felony punishable by up to four years' imprisonment and/or a fine of up to \$2,000. The State would incur the costs of felony probation, estimated to be \$4.38 per day, and incarceration, at an average annual cost of \$25,000. In the absence of data, if five new offenders were convicted of a repeat offense and received the longest possible minimum sentence, it would cost the State \$240,000.

Fiscal Analyst: Bethany Wicksall

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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.