Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 6028 (Substitute S-1 as reported)
Sponsor: Representative Mickey Mortimer
House Committee: Criminal Justice
Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Penal Code to allow certain persons to possess, use, or sell, for defensive or testing purposes, "a device that uses electro-muscular disruption technology", which would mean a device to which all of the following applied: it was capable of creating an electro-muscular disruption and was used or intended to be used as a defensive device capable of temporarily incapacitating or immobilizing a person by the direction or emission of conducted energy; the device contained an identification and tracking system that, when the device was initially used, dispensed coded material traceable to the purchaser through records kept by the manufacturer; and the manufacturer of the device had a policy of providing this identification and tracking information to a police agency upon the agency's written request.

The Penal Code prohibits the sale or possession of a portable device or weapon from which an electrical current, impulse, wave, or beam designed to incapacitate temporarily, injure, or kill, may be directed. That provision, however, does not prohibit the delivery to or possession by the Department of State Police or any agency or laboratory with prior written approval of, and on conditions established by, the Department Director for the purpose of testing such a device or weapon. The bill would delete that exception to the prohibition. Instead, the bill specifies that the provision would not prohibit either 1) the possession and reasonable use of a device that used electro-muscular disruption technology by a peace officer, corrections officer authorized in writing by the Director of the Department of Corrections, probation officer, court officer, bail agent authorized under the Code to serve in that capacity, licensed private investigator, aircraft pilot, or aircraft crew member, who had been trained in the use, effects, and risks of the device, while performing his or her official duties; or 2) possession solely for the purpose of delivering a device to any governmental agency or to a laboratory for testing, with the prior written approval of the governmental agency or law enforcement agency and under conditions determined to be appropriate by that agency, and possession by the receiving agency or laboratory for the purpose of testing.

Under the bill, a manufacturer, authorized importer, or authorized dealer could demonstrate, offer for sale, hold for sale, sell, give, lend, or deliver an electro-muscular disruption device to a person authorized to possess it, and could possess a device that used electro-muscular disruption technology for any of those purposes.

MCL 750.224a Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. According to data from the Department of Corrections, 36 offenders were convicted of violating the current statute in 2000. There is no information available to indicate whether adding the proposed exceptions would affect the number of offenders convicted of taser violations, which would carry the same penalties as they do under current statute (imprisonment for up to four years and/or a maximum fine of $2,000).

Date Completed: 12-11-02 Fiscal Analyst: Bethany Wicksall