

TRAFFIC LIGHT CHANGERS

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Senate Bill 842 (Substitute H-2)
Sponsor: Sen. Tony Stamas

Senate Bill 843 (Substitute H-1)
Sponsor: Sen. Judson Gilbert
House Committee: Transportation
Senate Committee: Transportation

First Analysis (2-17-04)

BRIEF SUMMARY: Senate Bills 842 and 843 would amend the Michigan Vehicle Code (MCL 257.616a) and the Code of Criminal Procedure (MCL 777.12e) respectively, to prohibit, and prescribe penalties for, the possession, use, sale, or purchase of a portable signal preemption device.

FISCAL IMPACT: The bills would have an indeterminate impact on state and local correctional systems, depending on how they affected the numbers of offenders under state and local correctional supervision. To the extent that they increased collections of penal fines, they would increase penal fine revenues going to local libraries, which are the constitutionally designated recipients of those revenues.

THE APPARENT PROBLEM:

Police, fire, and other emergency vehicles sometimes are equipped with devices that allow personnel to change traffic lights when responding to emergencies. The devices are called mobile infrared transmitters—or, MIRTs—and they emit an infrared beam, which is detected by a sensor installed on some traffic lights. A MIRT has a range of 1,500 feet, so if it is activated by the driver of an ambulance or fire truck, there is plenty of time for the traffic to clear before the emergency vehicle enters the intersection.

While these infrared devices can help expedite the response of police, firefighters, and emergency medical technicians, many people have expressed concern that the devices, which are readily available to the driving public, also could be used inappropriately.

The primary MIRT system used by emergency responders is marketed by the 3M company and sold under the name Opticom. Reportedly, for a fraction of 3M's price, several companies sell a version of the technology that can be plugged into a car's cigarette lighter and mounted on the dashboard. A MIRT can also be purchased over the Internet for \$300 to \$900.

In order for a MIRT to operate effectively, a traffic light must be equipped with infrared sensors. Not all are. However, there would be the potential for serious traffic accidents

if MIRTs were available to the public, and individuals used them to interrupt the synchronization of traffic lights which are programmed by computers to move vehicles and pedestrians in systematic ways, throughout a community.

Although Michigan law already prohibits interfering with a traffic signal, the violation of that law is a civil infraction. It has been suggested that the use of MIRTs should be specifically prohibited and subject to criminal penalties.

THE CONTENT OF THE BILL:

Senate Bills 842 and 843 would amend the Michigan Vehicle Code (MCL 257.616a) and the Code of Criminal Procedure (MCL777.12e) respectively, to prohibit, and prescribe penalties for, the possession, use, sale, or purchase of a portable signal preemption device. Senate Bill 843 is tie-barred to Senate Bill 842, so that Senate Bill 843 could not become law unless Senate Bill 842 is also enacted. The bills would take effect 90 days after they were enacted.

A more detailed explanation of each bill follows.

Senate Bill 842 would define “portable signal preemption device” as a device with the capability of changing a traffic control signal to green out of sequence which is activated by a person.

The bill would prohibit a person from doing any of the following: 1) possessing or using a portable signal preemption device, unless the person was the operator, passenger, or owner of an authorized emergency vehicle in the course of his or her emergency duties; 2) Selling a portable signal preemption device, except to a person described above; and 3) purchasing a portable signal preemption device for use other than for emergency duties, or when a mail service is in the course of shipping or delivery, or when an employee of a manufacturer or retailer is selling, manufacturing, or transporting the device to an individual or agency.

A person who possessed such a device would be guilty of a misdemeanor punishable by imprisonment for up to 90 days or a maximum fine of \$5,000, or both. A person who used a device would be guilty of a felony punishable as described below, depending on whether the use resulted in a traffic accident, the serious impairment of a body function (as defined in the code), or the death of another person.

Offense	Maximum Years of Imprisonment	Maximum Fine
Use	2	\$10,000
Use causing traffic accident	5	\$15,000
Use causing serious impairment	10	\$20,000
Use causing death	15	\$25,000

If a person sold or purchased a portable signal preemption device, he or she would be guilty of a felony punishable by up to two years' imprisonment or a maximum fine of \$10,000, or both.

These penalties would *not* apply to any of the following: a law enforcement agency in the course of providing law enforcement services; a fire station or a firefighter in the course of providing fire prevention or fire extinguishing services; an emergency medical service or ambulance in the course of providing emergency medical transportation or ambulance services; and an operator, passenger, or owner of an authorized emergency vehicle, in the course of his or her emergency duties.

Further, the bill would not prohibit possession of a signal preemption device for a mail or package delivery service (or its employee or agent) in the course of shipping or delivering the device, or for an employee or agent of a device manufacturer or retailer, in the course of his or her employment.

Senate Bill 843 (H-1) would amend the Code of Criminal Procedure to add using, selling, or purchasing a signal preemption device to the sentencing guidelines, as shown below.

Offense	Felony Class	Statutory Maximum Imprisonment
Use	Class G against public order	2 years
Use causing traffic accident	Class E against public order	5 years
Use causing serious impairment	Class D against a person	10 years
Use causing death	Class B against a person	15 years
Sale or purchase	Class G against public order	2 years

HOUSE COMMITTEE ACTION:

The members of the House Transportation Committee reported out substitute versions of the bills. The substitutes differ from the Senate-passed versions in the following ways.

With regard to Senate Bill 842, the committee members made four changes:

First, the members of the committee narrowed the exemptions. The bill now specifies that *possession* of a signal preemption device would not be prohibited for a) a mail or package delivery service (or its employee or agent) in the course of shipping or delivering the device; and b) an employee or agent of a signal device manufacturer or retailer, in the course of his or her employment. Under the Senate-passed version of the bill, these categories of workers were exempt from possession, and also from using, selling, and purchasing signal preemption devices.

Second, the bill was amended to add a definition of “serious impairment of a body function” to mean that term as defined in section 58c of the code.

Third, Senate Bill 842 was amended to specify that it would take effect 90 days after it was enacted.

Fourth, throughout the bill, the term “signal pre-emption device” was changed to “portable signal preemption device,” and that term was defined to mean “a device with the capability of changing a traffic control signal to green out of sequence “which is activated by a person.”

With regard to Senate Bill 843, the committee members made one change:

The bill was amended to specify that it would take effect 90 days after it was enacted.

ARGUMENTS:

For:

The availability of signal preemption devices to the general public could enable impatient motorists to wreak havoc on the roadways. In addition to causing serious accidents at the intersection where the device was used, an unauthorized user could cause chaos for blocks because traffic lights are often synchronized. There is no reason an average motorist should have the ability to override a traffic light. Signal preemption devices provide emergency response personnel with valuable time in situations where seconds matter, but when used by the wrong people could pose a grave threat to public safety.

According to articles in the *Detroit News* (10-26-03) and the *Washington Post* (11-4-03), the equipment in question came on the market in January 2003 through a Minnesota-based firearms and law enforcement supply company called FAC of America, which invented MIRT as a low-cost, easy-to-install alternative to the 3M product for cash-strapped emergency services departments. Reportedly, although this company takes steps to ensure that MIRTs are not sold to unauthorized individuals, the devices are readily available elsewhere on the Internet, where one website offers plans and kits for making copies of the device.

Apparently, newer 3M receivers installed on some traffic signals can be programmed to lock out transmissions from MIRTs and other knock-off devices, but the receivers already purchased by some communities do not have this capability. These receivers would have to be upgraded at an additional cost, or disabled, in order to prevent their unauthorized use. Furthermore, technological developments could simply make it possible to avoid the lock-out.

Rather than forcing communities to attempt to keep one step ahead of unscrupulous dealers and impatient motorists, the bills would establish criminal sanctions before a dangerous situation arises. In addition to criminalizing the possession and use of signal

preemption devices, the bills would penalize those who sold the devices except to authorized individuals.

Against:

As originally introduced, the bills did not take into consideration the need for public transit officials to interrupt the flow of traffic by manipulating traffic signals, in order that bus drivers can transport their riders efficiently during peak rush-hour traffic.

Response:

Senate Bill 842 has been amended so that the prohibition applies only to *portable* signal pre-emption devices, allowing the land-based stationary units used by public transit systems.

POSITIONS:

The Department of the Secretary of State supports the bill. (1-22-04)

The Department of State Police supports the bill. (1-22-04)

The Michigan Sheriff's Association supports the bill. (2-12-04)

The Michigan Public Transit Association supports House Bill 842 as amended. (2-12-04)

The following organizations have offered written support for the bill: The Oakland County Sheriff's Office (12-1-03), the Office of the Attorney General (1-21-04), the Michigan Association of Fire Chiefs (12-4-03), the Southeast Michigan Association of Fire Chiefs (12-5-03), and the Fraternal Order of Police (1-21-04).

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■ 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.