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BILL ANALYSIS

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Senate Bills 842 and 843 (as enrolled)  
Sponsor: Senator Tony Stamas  
Senate Committee: Transportation  
House Committee: Transportation

**PUBLIC ACTS 25 & 26 of 2004**

Date Completed: 4-15-04

**RATIONALE**

Police, fire, and other emergency vehicles sometimes are equipped with devices that allow personnel to change traffic lights when responding to emergencies. Preemption systems are coordinated with intersection controllers to provide for an orderly transition to the green light. These mobile infrared transmitters (MIRTs) emit an infrared beam, which is detected by a sensor installed on some traffic lights. Under clear atmospheric conditions, a MIRT has a range of 2,500 feet, allowing traffic to clear before an emergency vehicle approaches an intersection. While these devices can help expedite the response of police, fire-fighters, and emergency medical technicians, many people have expressed concern that the devices also could be used inappropriately by the general public.

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 evidently can be purchased over the Internet for \$300 to \$900. While not all traffic lights are equipped with infrared sensors, it has been pointed out that there is potential for serious traffic accidents if MIRTs are available to the public. Although Michigan law already prohibits interfering with a traffic signal, a violation is a civil infraction. It was suggested that the use of MIRTs should be specifically prohibited and subject to criminal penalties.

**CONTENT**

**Senate Bills 842 and 843 amended the Michigan Vehicle Code and the Code of Criminal Procedure, respectively, to prohibit, and prescribe penalties for, the possession, use, sale, or purchase of a portable signal preemption device.**

Senate Bill 842 defines "portable signal preemption device" as a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence.

The bills will take effect on June 14, 2004.

**Senate Bill 842**

The bill prohibits a person from doing any of the following:

- Possessing or using a portable signal preemption device, except as described below.
- Selling a signal preemption device, except as described below.
- Purchasing a signal preemption device for a use other than emergency duties.

The prohibition against possessing, using, selling, or purchasing a portable signal preemption device does not apply to a law enforcement agency in the course of providing law enforcement services; a fire station or fire-fighter in the course of providing fire prevention or fire extinguishing services; an emergency medical service or ambulance in the course of providing emergency transportation or ambulance services; or an operator, passenger, or owner of an authorized emergency vehicle in the course of his or her emergency duties.

The prohibition against possessing a device also does not apply to a mail or package delivery service or employee or agent of such a service in the course of shipping or delivering a device; or an employee or agent of a device manufacturer or retailer in the course of his or her employment in providing, selling, manufacturing, or transporting a device to an individual described above.

A person who possesses a portable signal preemption device in violation of the bill will be guilty of a misdemeanor punishable by imprisonment for up to 90 days or a maximum fine of \$5,000, or both. An authorized person who uses a device will be guilty of a felony punishable as described in [Table 1](#), depending on whether the use results in a traffic accident, the serious impairment of a body function (as defined in the Code), or the death of another person.

**Table 1**

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 an unauthorized person sells or purchases a portable signal preemption device, he or she will be guilty of a felony punishable by up to two years' imprisonment or a maximum fine of \$10,000, or both.

### **Senate Bill 843**

The bill amends the Code of Criminal Procedure to add using, selling, or purchasing a portable signal preemption device to the sentencing guidelines, as shown in [Table 2](#).

**Table 2**

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

The bill was tie-barred to Senate Bill 842.

MCL 257.616a (S.B. 842)  
777.12e (S.B. 843)

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The availability of portable 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 in which 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 establish criminal sanctions before a dangerous situation arises. In addition to criminalizing the possession and use of signal preemption devices, the bills will penalize those who sell the devices except to authorized individuals.

### **Opposing Argument**

Use of a MIRT should be outlawed but the penalties prescribed under Senate Bill 843 are excessive. Although unauthorized use of a MIRT certainly could disrupt orderly traffic and result in an accident, the potential for causing a serious accident reportedly is very low.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bills will have an indeterminate fiscal impact on State and local government.

There are no data to indicate how many offenders will be convicted of the new offenses involving a portable signal preemption device. Local units of government will incur the cost of misdemeanor probation and the cost of incarceration in a local facility, which vary by county. The State will incur the cost of felony probation at an average annual cost of \$1,800 and the cost of incarceration in a State facility at an average annual cost of \$28,000. Table 3 shows the sentencing guidelines minimum sentence ranges and the cost per offender if an offender were convicted, sentenced to prison, and given the longest allowable minimum sentence for each of the new felonies.

Table 3

Offense	Crime Class	Sentencing Guidelines Minimum Sentence Range (in months)	Cost per offender given longest allowable minimum prison sentence
Use of device	G	0-3 to 7-23	\$53,700*
Use causing an accident	E	0-3 to 24-38	\$88,700
Use causing serious impairment	D	0-6 to 43-76	\$177,400
Use causing death	C	0-11 to 62-114	\$266,100
Sale or purchase	G	0-3 to 7-23	\$53,700*
*Under sentencing guidelines, although it is possible for Class G offenders to receive a prison term, it is unlikely unless they have an extensive prior record. They are much more likely to receive an intermediate sanction or incarceration in a local facility.			

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.