

Legislative Analysis



TASERS: EXPAND AUTHORIZED USE

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House Bill 5435 (Substitute H-2)

Sponsor: Rep. Rick Jones

Committee: Judiciary

First Analysis (9-6-06)

BRIEF SUMMARY: The bill would permit the possession and reasonable use of electro-muscular disruption (EMD) devices by authorized persons employed by a local government to work in a local jail or lockup facility and by private security police officers.

FISCAL IMPACT: The bill would have no fiscal impact on local governmental units.

THE APPARENT PROBLEM:

Public Act 709 of 2002 authorized the possession and reasonable use of devices known as electro-muscular disruption (EMD) devices, commonly known as Tasers, by peace officers, certain state corrections employees, probation officers, licensed private investigators, authorized bail agents, court officers, and even aircraft pilots and crew members. Subsequently, Public Act 338 of 2004 expanded the list of professions that could legally possess and use EMDs to include a local correctional officer if he or she had written authorization from the county sheriff.

Some feel that detention officers who work in city jails or lockup facilities were inadvertently overlooked in the previous legislation. City jails and lockups house arrestees for up to three days (in general, prior to arraignment or transport to the county jail). This can be an especially dangerous period as many arrestees are still under the influence of drugs or alcohol, angry at being arrested, or exhibiting behaviors associated with untreated mental illness. In addition, the initial search of an individual by an arresting officer may not discover hidden weapons that could be used against a detention officer or other arrestee. In testimony presented before the committee, one long-time detention officer with the Lansing Police Department reported taking at least three guns from individuals in the city jail, one hidden in the arrestee's boot, and finding over 500 knives, some of which were used in attacks against him or other officers. Sometimes patrol officers with Tasers can be called in, but that entails a wait of up to 15-20 minutes.

Similarly, some feel that private security police officers, such as the officers that patrol Detroit Metro Airport, should also be allowed to carry and use EMDs. Private security police officers are certified by the same commission that trains and certifies state troopers and police officers. They carry guns and have full police powers, although their authority is restricted to the property of their employers. However, they also face the same dangers when subduing a suspect as peace officers and correctional officers.

THE CONTENT OF THE BILL:

The Michigan Penal Code (MCL 750.224a) allows the possession and use of an electro-muscular disruption device, for example, a TAZER, by certain authorized professionals associated with keeping the peace or making arrests, state and local correctional officers, probation and court officers, and airline pilots and crew members, as long as the individual is properly trained in the safe operation of the device and the device is used in the performance of the person's official duties.

House Bill 5435 would amend the Michigan Penal Code to allow the possession and reasonable use of an electro-muscular disruption (EMD) device by an individual employed by a local unit of government that utilized a city jail or lockup facility who had custody of persons detained or incarcerated in the jail or lockup facility and who was authorized in writing by the chief of police, director of public safety, or sheriff to possess and use the device.

The bill would also allow the possession and reasonable use of an EMD device by an individual employed as a private security police officer as defined in Section 2 of the Private Security Business and Security Alarm Act. (As defined in that act, "private security police" means that part of a business organization or educational institution primarily responsible for the protection of property on the premises of the business organization. Private security police receive certification from the Michigan Commission on Law Enforcement Standards, or MCOLES.)

Further, the bill would make a change that is editorial in nature to clarify that all the listed individuals would need prior training in the use, effects, and risks of an EMD device, and could use the device only while performing official duties.

BACKGROUND INFORMATION:

For more information on electro-muscular disruption devices (EMDs) and the initial legislation authorizing their possession and use, see the House Fiscal Agency/Legislative Analysis Section's analysis of House Bill 6028, which became Public Act 709 of 2002, and analyses prepared by the HFA and the Senate Fiscal Agency on Senate Bill 1328, which became Public Act 338 of 2002.

ARGUMENTS:

For:

Electro-muscular disruptive devices are an effective, non-lethal tool for law enforcement officers and similar professionals to subdue persons who pose a threat to the safety of others. The use of EMDs instead of guns, batons, and chemical sprays by law enforcement personnel around the nation has reduced the number of deaths and injuries to suspects and police and correctional officers alike. The work by detention officers in city jails and lockup facilities is very similar to that of state and local correctional officers. In fact, they house the suspects that, after confession or conviction, will go on to

placement in county jails or state prisons. It is necessary that these officers be equipped with tools that can safely manage unruly arrestees, stop fights between arrestees or staff, or prevent an arrestee from injuring himself or herself or others.

Likewise, private security police, for example, officers that patrol Detroit Metro Airport, face similar situations in subduing suspects faced by state troopers and police officers. These officers are MCOLES certified (the same certifying commission that trains and certifies other law enforcement personnel). Private security police officers are authorized to carry firearms and have full police powers to enforce the laws of the state on their employer's property. Therefore, it is appropriate to extend to private security police officers the same authority to possess and use EMDs enjoyed by peace officers.

Against:

The use of EMDs, most notably Tasers, is still controversial, and legislation to expand their authorized use should be curtailed until more definitive studies are completed. Though widely touted as resulting in fewer and less serious injuries as compared to the use of deadly force, batons, and chemical sprays, Tasers still injure people. Reportedly, more than a dozen law enforcement officers have been injured by Tasers during training exercises, some seriously enough to end their careers. Suspects also have been injured, such as a teenager who experienced ventricular fibrillation, a deadly heart arrhythmia, and was saved by officers using an automated electronic defibrillator (AED) to restore a normal heart rhythm. More recently, additional studies on the effect of Tasers on heart rhythms have shown early results that Tasers may not be as safe as first thought. In addition, people can incur serious injuries associated with falls if they are "tased" while running, standing on unstable surfaces or in trees, ladders, etc. Moreover, Tasers can exacerbate preexisting health conditions. Certainly, the issue deserves more scrutiny. Until more is known about the potential for serious or life-threatening injury, the use of Tasers and other EMDs should be vigorously restricted, not expanded.

POSITIONS:

The Department of State Police supports the bill. (9-6-06)

The Lansing Police Department supports the bill. (9-6-06)

Michigan Taser supports the bill. (9-6-06)

The Court Officers – Deputy Sheriffs Association indicated support for the bill as introduced. (9-6-06)

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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.