

# Legislative Analysis



## UNLAWFUL ENTRY: SHIPPING CONTAINERS

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**Senate Bill 565 as passed by the Senate**

**Sponsor: Sen. Jud Gilbert, II**

**House Committee: Judiciary**

**Senate Committee: Judiciary**

**First Analysis (2-11-08)**

**BRIEF SUMMARY:** The bill would include, as a B and E, theft from a shipping container.

**FISCAL IMPACT:** The bill's fiscal impact would depend on how it affected the number of felony convictions and the severity of felony sentences. There are no data to indicate the number of offenders who might be affected by the bill. If more offenders were sentenced to prison incarceration or felony probation supervision, the state could incur additional costs. The average appropriated cost per prisoner is about \$32,000 per year, a figure that includes various fixed administrative and operational costs. The average cost of parole and probation supervision is about \$2,000 per supervised offender per year. If more offenders were sentenced to jail, local correctional costs could increase; jail costs vary by county. Any increase in penal fine revenue could benefit local libraries, who are the constitutionally-designated recipients of such revenues.

### **THE APPARENT PROBLEM:**

Shipping containers are used to ship products via railroad flat cars, flatbed semi-trailers, and ocean vessels. From automotive parts, to electronics, to furniture, shipping containers are used to bring a wide range of products to consumers. The containers are off-loaded at shipping yards and warehouses before being loaded again for transport to the next destination. Because containers often sit in yards and warehouses for periods of time before being sent on again, they are particularly vulnerable to thieves. According to the Michigan Railroads Association, rail intermodal traffic has quadrupled since 1980; during that time period, thefts from shipping containers have also increased.

Apparently, however, because shipping containers are not specifically mentioned in a penal code provision prohibiting breaking and entering with the intent to commit a felony or larceny, or entering without breaking to do the same, some county prosecutors in the state have been reticent about charging such thefts as a B and E. Legislation has been offered to address this concern.

### **THE CONTENT OF THE BILL:**

The bill would amend the Michigan Penal Code (MCL 750.110 and 750.111) to extend to shipping containers the act's prohibition on breaking and entering, and entering without breaking. The bill would take effect 180 days after enactment.

Currently, breaking and entering, with intent to commit a felony or a larceny, a tent, hotel, office, store, shop, warehouse, barn, granary, factory, or other building, structure, boat, ship, or railroad car is a felony punishable by imprisonment for not more than 10 years. The bill would extend this provision to include a shipping container. "Shipping container" would mean a standardized, reusable container for transporting cargo that is capable of integrating with a railcar flatbed or a flatbed semi-trailer.

Similarly, it is a felony to enter, without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, with intent to commit a felony or any larceny. The crime is punishable by imprisonment for not more than five years, or a fine of not more than \$2,500. The bill would also extend this provision to include entering a shipping container.

#### ***HOUSE COMMITTEE ACTION:***

The committee did not amend the Senate-passed version of the bill.

#### ***ARGUMENTS:***

##### ***For:***

According to reports in the media, theft of or from shipping containers has become popular because it is a low-risk, high-profit crime. Depending on the cargo being shipped, a single container can carry products approaching a million dollars in value. By including shipping containers in the list of structures for which unauthorized entry constitutes breaking and entering, the confusion over how to charge such an act would be cleared up and more suitable penalties can be imposed.

##### ***Against:***

Reportedly, some would like to see the bill amended to include thefts from semi-trailers, such as the ones left at construction sites, in the breaking and entering statute. However, the penal code already specifically makes such an act a crime, with penalties ranging from a 93-day misdemeanor to a 10-year felony, with fines as high as \$15,000 or three times the value of the property stolen, based on the value of the stolen goods.

#### ***POSITIONS:***

The Department of State Police supports the bill. (2-7-08)

The Michigan Railroads Association supports the bill. (2-7-08)

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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.