



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

BILL



ANALYSIS

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

Senate Bills 357 and 358 (as reported without amendment)
Sponsor: Senator Wayne Kuipers
Committee: Judiciary

Date Completed: 5-16-07

RATIONALE

Public Act 233 of 2006 added criminal penalties to the Michigan Penal Code for unlawfully tampering with, taking, or removing a publicly owned marine safety device, such as a life preserver or throw ring. The 2006 legislation was spurred by the experience of a group formed in 2003 after the drowning death of a Grand Haven teen. The Great Lakes Beach and Pier Safety Task Force began providing educational materials about surviving rip currents and other water-related conditions, and placed water safety equipment such as life rings on beaches and piers. Reportedly, a life ring was stolen just days after water safety equipment initially was placed on the Grand Haven pier and beach, and a total of 22 life rings were stolen in 2005. At the time the 2006 measure was being considered by the legislature, some people apparently expressed an interest in including other public safety devices, such as fire extinguishers and first-aid kits, in the prohibition against unlawful tampering with, taking, or removing marine safety devices. It has been suggested that criminal penalties identical to those in Public Act 233 be enacted for tampering with such public safety devices.

CONTENT

Senate Bills 357 and 358 would amend the Code of Criminal Procedure and the Michigan Penal Code, respectively, to prohibit and prescribe criminal penalties for unlawfully tampering with, taking, or removing a "public safety device" owned or maintained by the State or a political subdivision of the State; and to include felony violations in the sentencing guidelines.

Senate Bill 358 would define "public safety device" as either of the following:

- A device to render emergency medical assistance to an individual, including a first aid kit, an oxygen supply kit, a cardiac defibrillator, or a stretcher.
- A device to prevent or suppress a fire, including a fire detector, fire alarm, or fire extinguisher.

Senate Bill 357 is tie-barred to Senate Bill 358.

Senate Bill 358

The bill specifies that, except as otherwise provided, a person who, without lawful authority, tampered with, took, or removed a public safety device owned or maintained by the State or a political subdivision of the State, knowing or having reason to know that the device was a public safety device, would be guilty of a misdemeanor punishable by up to 93 days' imprisonment, a maximum fine of \$1,000, or both.

A violation that rendered a public safety device unavailable or unusable for rescue when needed, and was the proximate cause of serious impairment of a body function of another person, would be a felony punishable by up to five years' imprisonment, a fine of not less than \$1,000 or more than \$5,000, or both imprisonment and a fine. A violation that rendered a public safety device unavailable or unusable for rescue when needed, and was the proximate cause of the death of another person, would be a felony punishable by up to 15 years' imprisonment, a fine of not less than \$2,500 or more than \$10,000, or both.

"Serious impairment of a body function" would mean that term as it is defined in Section 58c of the Michigan Vehicle Code (MCL 257.58c). Under that section, the term includes one or more of the following:

- Loss of a limb or use of a limb.
- Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
- Loss of an eye or ear or use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.
- Loss of an organ.

Senate Bill 357

The bill would include the felony violations proposed by Senate Bill 358 in the sentencing guidelines. A violation causing serious impairment of a body function would be a Class E felony against a person with a statutory maximum sentence of five years' imprisonment. A violation causing death would be a Class C felony against a person with a statutory maximum sentence of 15 years' imprisonment.

MCL 777.16x (S.B. 357)
Proposed MCL 750.498c (S.B. 358)

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

Just as marine safety equipment is crucial to maintaining safety on Michigan beaches and piers, easy access to other safety equipment, such as first-aid kits, cardiac defibrillators, or fire extinguishers, can mean the difference between life and death for a person in distress in various situations and locations. While tampering with or removing marine safety devices is now punishable by specific criminal penalties, including felony penalties if the violation is the proximate cause of death or serious impairment, a

person who steals other public safety equipment may be charged with larceny or malicious destruction. For those violations, if the property is worth less than \$200, the penalty is up to 93 days' imprisonment and/or a maximum fine of \$500 or three times the value of the property, and there is no provision for enhanced penalties if the theft or destruction results in injury or death. By specifically prohibiting the unlawful removal of or tampering with public safety equipment, the bills not only would bring penalties for those actions in line with the penalties for tampering with or stealing marine safety devices, but also would provide an adequate punishment for those who steal or damage potentially life-saving equipment. The prospect of those penalties also could deter some from taking this equipment for souvenirs or as a prank, thereby keeping safety equipment in places where it may be needed to treat an injured individual or even save a life.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses. An offender convicted of the Class C offense under the bills would receive a sentencing guidelines minimum sentence range of 0-11 months to 62-114 months. An offender convicted of the Class E offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

A0708\S357a

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.