



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 565 (Substitute S-1 as reported)
Sponsor: Senator Jud Gilbert, II
Committee: Judiciary

(as passed by the Senate)

Date Completed: 9-17-07

RATIONALE

It is a felony under the Michigan Penal Code to break and enter, or enter without breaking, certain structures, enclosures, or vehicles, with intent to commit a felony or larceny in them. Reportedly, some prosecutors have declined to pursue charges of breaking and entering or entering without breaking in cases of theft from shipping containers because the containers are not specifically listed in the Penal Code's prohibitions. Thus, some people believe that shipping containers should be included in the statutory prohibitions against breaking and entering and entering without breaking in order to punish those who steal from shipping containers and to provide a deterrence to those thefts.

CONTENT

The bill would amend the Michigan Penal Code to extend to shipping containers the Code's prohibitions against breaking and entering and entering without breaking. The bill would take effect 180 days after its enactment.

Under the Code, it is a felony punishable by up to 10 years' imprisonment for a person to break and enter a tent, hotel, office, store, shop, warehouse, barn, granary, factory, or other building, structure, boat, ship, or railroad car, with intent to commit a felony or larceny in that place or structure.

It is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$2,500 for a person 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, with intent to commit a felony or larceny in it.

The bill would include a shipping container in these provisions.

"Shipping container" would mean a standardized, reusable container for transporting cargo that is capable of integrating with a railcar flatbed or a flatbed semitrailer.

MCL 750.110 & 750.111

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

According to testimony before the Senate Judiciary Committee by the president of the Michigan Railroad Association, intermodal shipping containers for the transport of cargo by ship, railroad, and truck increasingly are targets for larceny. These containers may be stored temporarily in shipping yards after being removed from one mode of transportation and before being transferred to another, leaving them vulnerable to thieves. Evidently, prosecuting attorneys in some Michigan counties have been reluctant or unable to prosecute cases of theft from shipping containers as breaking and entering, or entering without breaking, because shipping containers are not specifically listed among the structures, enclosures, and vehicles to which those crimes apply. By including shipping containers in the Penal Code's

prohibitions against breaking and entering, and entering without breaking, the bill would enable prosecutors to pursue those felony charges, thereby providing for an appropriate punishment for those offenders and, perhaps, serving as a deterrent against theft from shipping containers.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of breaking and entering a shipping container or entering a shipping container without breaking. It is possible that offenders committing these offenses could already be prosecuted under the sections of the Code that the bill would amend. To the extent that offenders are not currently prosecuted under these sections but would be under the bill, 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 \$31,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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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.