

Legislative Analysis



REVISE EXCEPTIONS TO PROHIBITIONS ON CARRYING CERTAIN WEAPONS

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House Bill 4262 (as reported with committee amendment)

Sponsor: Rep. Frank Foster

Committee: Tourism

Complete to 3-11-13

A REVISED SUMMARY OF HOUSE BILL 4262 AS REPORTED FROM COMMITTEE 3-7-13

The bill would amend Chapter XXXVII (Firearms) of the Penal Code to revise provisions that describe when individuals can carry certain knives and other dangerous weapons concealed on their persons or in their vehicles.

Section 227 of the Penal Code contains a general prohibition against carrying certain types of stabbing instruments (dagger, dirk, stiletto, double-edged nonfolding stabbing instrument of any length) and other dangerous weapons that are concealed on the person or, whether concealed or not, carried in a vehicle. Currently, in Section 227, there is an exception for weapons carried in an individual's dwelling house, place of business, or on other land owned by the individual, and also an exception for hunting knives.

House Bill 4262 would retain those exceptions but also allow weapons to be carried in transit between those specified locations if those weapons are *securely encased* and *not readily accessible for immediate use*. The bill also would allow the weapons to be carried for hunting, fishing, or trapping purposes, or for use as a tool in the course of the person's trade, occupation, or hobby, without those restrictions.

The bill also would rewrite the Section 227 so that the general prohibition would apply to a double-edged non-folding knife of any length and "any other object designed, manufactured, or intended to be used to cause death or injury to any person," when concealed on the person or, whether concealed or not, carried in a vehicle. Specific references to a dagger, dirk, and stiletto would be removed. The bill also would allow for a person found in violation of the section to be fined, imprisoned, or both fined and imprisoned, whereas current law only allows for a fine or imprisonment, but not both.

Under **Section 226**, generally speaking, a person who, with intent to use the weapon unlawfully against the person of another, goes armed with a pistol or other firearm, a razor, or a knife, or any other dangerous or deadly weapon or instrument is guilty of a felony punishable by imprisonment for not more than five years or by a fine of not more than \$2,500.

House Bill 4262 would retain that provision but remove references to daggers, dirks, and stilettos, and remove language referring to knives with blades over three inches in length.

It also would allow for a person found in violation of Section 226 to be fined, imprisoned, or both fined and imprisoned, whereas current law only allows for a fine or imprisonment, but not both.

As amended, the bill would take effect 90 days after being enacted.

"Readily accessible for immediate use" would mean an object that is carried on the person or within close proximity to the person and in a manner so that it can be retrieved and used as easily and quickly as if carried on the person.

"Securely encased" would mean the object is fully enclosed in a sheath, pouch, or case or the object is stored in a locked or unlocked glove compartment.

MCL 750.226, 750.227, & 750.231

FISCAL IMPACT:

The bill would have an indeterminate impact on the costs of state and local correctional systems. Data is not available to determine how the bill would affect the number of felony convictions that result from relevant offenses. To the extent that the bill resulted in additional civil fine revenue, that revenue would benefit local libraries, which are the constitutionally-designated recipient of those funds.

During calendar year 2011, there were 2,156 felony convictions related to carrying dangerous weapons under either MCL 750.226 or MCL 750.227 of current law. Around 16% of those convictions resulted in prison sentences, whereas around 17% resulted in local jail sentences. The remainder resulted in either probation, an alternative sanction, or probation with the potential for jail time.

POSITIONS:

Department of State Police is neutral on the bill. (3-7-13)

Michigan United Conservation Clubs supports the bill. (2-28-13)

BACKGROUND INFORMATION AND DISCUSSION:

The Penal Code currently prohibits carrying certain types of knives concealed on your person or carried in a vehicle but does allow for those weapons to be carried in a dwelling house, place of business, or on other land owned by the individual, and as a hunting knife. As a result, the law would seem to allow individuals to transport their weapons between these permitted locations. According to testimony, many people do in fact transport their weapons but have experienced inconsistent enforcement of the prohibition on carrying weapons on their person or in a vehicle from law enforcement officers.

Many hunters have concerns about the prohibition because it is common for them to take knives hunting and leave them in a vehicle. Despite not possessing the knife with the intent of using it as a weapon or to commit a crime, an individual in that situation would be in violation of the law. The bill would attempt to codify what has apparently become a common practice to allow individuals to transport knives, and would add some required precautions, including keeping the weapons securely encased.

The bill would also expand the number of circumstances in which an individual could carry a knife, including for hunting, fishing, trapping, or for use as a tool in the course of a hobby or occupation that reasonably requires its use.

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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.