

INCREASE PENALTY FOR VANDALIZING TRAFFIC CONTROL DEVICES

Phone: (517) 373-8080
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House Bill 4187 Substitute H-3 as reported by committee
Sponsor: Rep. Fred Durhal, III
Committee: Criminal Justice
Complete to 11-2-15

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 111 of 2016)

BRIEF SUMMARY: The bill would add a tiered-misdemeanor offense to the Michigan Penal Code for maliciously destroying, defacing, or removing a traffic control device and repeal a section in the Michigan Vehicle with a similar prohibition.

FISCAL IMPACT: To the extent that the bill results in a greater number of convictions, it would increase costs on local correctional systems. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Although current law makes it a misdemeanor offense to alter, damage, or remove a traffic control device or railroad sign or signal, some say the penalty is so low as to provide little deterrence. Vandalism ranges from graffiti and stickers on signs to removal of stop signs and signs warning of curves or hidden intersections, from people shooting at road signs to some removing batteries from electric messaging signs. If the damage or alteration obscures or detracts from the message on the sign, accidents can happen. A removal of a stop sign can result in a deadly collision. Reportedly, thefts of diamond-shaped signs have been increasing; such signs warn of curves, T-intersections, and other road conditions that can pose risks to drivers unfamiliar with the terrain. In addition to the dangers damage to the signs present, repair or replacement of the signs is borne by taxpayers and can be expensive. Some feel that increasing the penalties may bring attention to the seriousness of tampering with or destroying traffic signs.

THE CONTENT OF THE BILL:

House Bill 4187 adds a new section to the Penal Code to create a three-tiered misdemeanor (with higher fines for repeat offenses) for willfully and maliciously damaging, destroying, injuring, defacing, dismantling, tampering with, or removing a traffic control device.

The penalty for a violation, which would be a misdemeanor, would be as follows:

- First offense: imprisonment for not more than 93 days and/or a fine of not more than \$500.

- Second offense: imprisonment for not more than 180 days and/or a fine of not more than \$1,000.
- Third or subsequent offense: imprisonment for not more than one year and/or a fine of not more than \$10,000.

The new section added by the bill would not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law arising out of the same transaction as the violation of this section in addition to being charged with, convicted of, or sentenced for the violation of this section.

"Traffic control device" would mean a sign, signal, electronic traffic control sign or signal, marking, light post, railroad sign or signal, or device not inconsistent with the Michigan Vehicle Code placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic, maintaining highway safety, or providing information to motor vehicle operators.

Repealer. The bill repeals Section 616 of the Michigan Vehicle Code (MCL 257.616). Section 616 prohibits a person without lawful authority to attempt to or in fact alter, deface, injure, knock down, or remove any traffic-control device or railroad sign or signal or any inscription, shield, or insignia upon a traffic-control device or railroad sign or part thereof. Since Section 616 does not prescribe a specific penalty, a violation would therefore fall under the code's general penalty provision—a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of not more than \$100 (MCL 257.901).

The bill takes effect 90 days after enactment.

MCL 750.377d, proposed

ARGUMENTS:

For:

Vandalism to road or traffic signs, especially graffiti, has reportedly been increasing in recent years. Detroit in particular is said to have seen an escalation, including finding bullet holes in electronic messaging signs. Though some incidents are mostly annoying, such as adding a saying or statement to a sign, other alterations or removal of signs can result in serious injuries and even death from accidents. Repairs, restoration, and replacements are borne by local governments (meaning taxpayers). According to the Michigan Department of Transportation, the MDOT Metro Region spent more than half a million dollars in 2012 on graffiti removal. For what it costs to remove graffiti just from Metro Detroit freeways, MDOT estimates that crews could resurface more than six miles on one lane of an asphalt roadway.

Because a lot of vandalism is done under the cloak of darkness, catching the guilty can be difficult, but it is not impossible. Often taggers are known by their work, or tips come in from witnesses. As vandals are apprehended, they should face appropriate penalties to discourage future incidents. The bill would create a misdemeanor penalty with three levels

of possible jail time and fines depending on whether it was a first or repeat offense. Current penalties, with only a possible 90 day stint in jail and/or \$100 fine, are not adequate to discourage vandalism. In addition, the bill's definition of "traffic control devices" is broader and updated to cover more recent types of highway signs, such as mobile and electronic messaging signs.

POSITIONS:

A representative of the County Road Association of Michigan testified in support of the bill. (3-17 and 10-20-15)

The Department of State Police indicated support for the bill. (10-12-15)

Michigan Townships Association indicated support for the bill. (3-17-15)

Michigan Railroads Association indicated support for the bill. (10-20-15)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.