

DESIGNATE MACKINAC BRIDGE AS KEY FACILITY

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Senate Bill 71 (S-1) as passed by the Senate

Sponsor: Sen. John Damoose

House Committee: Transportation and Infrastructure

Senate Committee: Civil Rights, Judiciary, and Public Safety

Complete to 4-14-25

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

SUMMARY:

Senate Bill 71 would amend the Michigan Penal Code to designate the nonpublic parts of the Mackinac Bridge as a key facility, which would make trespassing on that property a felony, instead of the current misdemeanor, if certain conditions were met. A prohibition against using a drone to interfere with the operations of a key facility also would apply to those portions of the Mackinac Bridge under the bill. In addition, with regard to all key facilities, the bill would newly provide that the fact that the barrier enclosing the facility is left open for official business during normal operating hours is not a defense to a prosecution for trespassing at the key facility under the provisions described below.

The act now prohibits a person from intentionally and without authority or permission entering or remaining in or on premises or a structure that belongs to someone else and that is a ***key facility*** if both of the following conditions are met:

- The key facility is completely enclosed by a physical barrier of any kind (which can include a significant water barrier that prevents pedestrian access).
- The key facility is conspicuously posted against entry with signs that meet all of the following:
 - Each sign is at least 50 square inches in size.
 - The letters on the signs are at least one inch high.
 - The signs are spaced to enable a person to see at least one sign at any point of entry on the property.

A person who violates the above prohibition is guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$2,500, or both. (Generally under the code, with some exceptions, trespassing is a misdemeanor punishable by imprisonment in the county jail for up to 30 days or a fine of up to \$250, or both.)

In addition, the code now prohibits a person from knowingly and intentionally using an unmanned aircraft (i.e., a drone) in a manner that interferes with the operations of a ***key facility***, a correctional facility, or another law enforcement facility. A person who violates this prohibition is guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$2,500, or both.

Currently, ***key facility*** means one or more of the following:

- A chemical manufacturing facility.
- A refinery.
- An electric utility facility, not including electric transmission land or right-of-way that is not completely enclosed, posted, and maintained by the electric utility.

- A water intake structure or water treatment facility.
- A natural gas utility facility, not including gas transmission pipeline property that is not completely enclosed, posted, and maintained by the natural gas utility.
- Gasoline, propane, liquid natural gas, or other fuel terminal or storage facility.
- A transportation facility, including a port, railroad switching yard, or trucking terminal.
- A pulp or paper manufacturing facility.
- A pharmaceutical manufacturing facility.
- A hazardous waste storage, treatment, or disposal facility.
- A telecommunication facility, including a central office or cellular telephone tower site.
- A facility substantially similar to a facility, structure, or station described above or a resource required to submit a risk management plan under federal rules related to preventing an accidental release of hazardous substances into the air.

The bill would amend the above list to add the portions of the Mackinac Bridge that are not open to or intended to be used by the public, thus providing that those parts of the Mackinac Bridge are a **key facility** for purposes of the provisions described above.

In addition, the bill would add that it is not a defense to a prosecution under the above provisions that the barrier that encloses a key facility is left open if both of the following apply:

- The barrier is left open during normal operating hours.
- The barrier is left open for official business at the key facility.

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BACKGROUND:

The bill is similar to the introduced version of House Bill 5315 of the 2021-22 legislative session.

FISCAL IMPACT:

Senate Bill 71 would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bill is not known. Violations would be felonies, and new felony convictions would result in increased costs related to state prisons and state probation supervision.

In fiscal year 2024, the average cost of prison incarceration in a state facility was roughly \$46,200 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,500 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue.

The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases.

Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

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■ 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.