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SFA



BILL ANALYSIS

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Senate Bill 106 (as enrolled)
Senate Bill 288 (as enrolled)
Sponsor: Senator Virgil C. Smith, Jr.
Senate Committee: Judiciary
House Committee: Criminal Law and Corrections

PUBLIC ACT 185 of 1999

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Date Completed: 6-15-00

RATIONALE

Public Act 407 of 1984 enacted the Michigan Penal Code's "chop shop" offense. At that time, auto thefts apparently were a major and increasing problem in Michigan, with the value of stolen vehicles and parts totaling over \$1 million per year. It was reported that about 39% of stolen vehicles were taken by professional car thieves for chop shops, where vehicles are broken down into component parts. Before Public Act 407 was enacted, police and courts had to use Michigan's statute prohibiting receiving and concealing stolen property in order to combat these operations. Since a conviction for that offense requires proof not only that the property was stolen but also that the accused knew it was stolen, successful prosecutions were difficult to attain. In addition, the punishment for the receiving and concealing violation was viewed as too lenient for major chop shop operations. Public Act 407, then, enacted the specific prohibition against operating a chop shop and provided for a penalty of up to five years' imprisonment, a maximum fine of \$5,000, or both. Upon a second or subsequent conviction under Public Act 407, an offender could be imprisoned for up to five years and was required to pay a fine of at least \$10,000.

A chop shop case in Detroit indicated that the 1984 Act's penalties for chop shop operation might be insufficient to serve as a deterrent or to penalize offenders appropriately. Reportedly, in that instance, vast police and court resources were used in the investigation and prosecution of the case, resulting in the break-up of a chop shop operation valued at around \$500,000. Some people suggested that the chop shop penalties enacted in 1984 might have been seen by offenders simply as a cost of doing business, and that the maximum prison sentence and fines for operating a chop shop needed to be increased.

In addition, the chop shop law provides for seizure

and forfeiture of vehicles and major component parts, as well as instruments of chop shop operations. Some people believed that the definition of "major component part" needed to be updated.

CONTENT

Senate Bills 106 and 288 amended the Michigan Penal Code and the Code of Criminal Procedure, respectively, to increase the penalties for operating a chop shop, require restitution for that offense, expand the definition of "major component part", and revise the sentencing guidelines classification for operating a chop shop. The bills took effect on April 1, 2000, and Senate Bill 288 was tie-barred to Senate Bill 106.

The Penal Code defines "chop shop" as an area, building, storage lot, field, or any other premises or place in which one or more persons are engaged or have engaged in altering, dismantling, reassembling, or in any way concealing or disguising the identity of a stolen motor vehicle or any major component part of a stolen motor vehicle, or in which there are three or more stolen motor vehicles present or there are major component parts from three or more stolen motor vehicles present.

Senate Bill 106

Under the Penal Code, knowingly owning, operating, or conducting a chop shop or knowingly aiding and abetting another person in owning, operating, or conducting a chop shop is a felony. The penalty enacted in 1984 was up to five years' imprisonment, a maximum fine of \$5,000, or both. For a second or subsequent conviction, the penalty was imprisonment for up to five years and a mandatory fine of at least \$10,000. Under the bill, the violation is punishable by up to 10 years' imprisonment, a maximum fine of \$250,000, or both. A person

convicted a second or subsequent time may be imprisoned for up to 10 years and must be fined at least \$10,000 but not more than \$250,000, or may receive both a prison sentence of up to 10 years and a fine of \$10,000 to \$250,000.

The Penal Code, as amended by Public Act 407 of 1984, also provided that, in addition to any other punishment, a chop shop offender could be ordered to make restitution and that restitution could be imposed in addition to, but not instead of, any imprisonment or fine. The bill made restitution mandatory.

The bill also added an airbag or airbag assembly, and a wheel or tire, to the definition of "major component part".

Senate Bill 288

Under the Code of Criminal Procedure's sentencing guidelines provisions, operating a chop shop (MCL 750.535a) had been categorized as a Class E felony against the public order, with a statutory maximum sentence of up to five years' imprisonment. Under Senate Bill 288, the offense is a Class D felony against the public order, with a statutory maximum sentence of up to 10 years' imprisonment, as provided by Senate Bill 106.

MCL 750.535a (S.B. 106)
777.16z (S.B. 288)

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

Auto theft and chop shop operations are very costly to society. Not only do they result in the loss of individuals' personal property, but they also cost all automobile owners in the form of higher insurance rates. In addition, the resources that law enforcement agencies commit to investigating this crime can amount to much more than can be recovered in the form of penal fines. A lucrative Detroit chop shop operation, for instance, reportedly was valued at around a half-million dollars, yet the maximum fine for a first-time chop shop offense under Public Act 407 of 1984 was only \$5,000 and the maximum prison sentence was only five years. To protect the public more adequately from being victimized by auto theft and higher insurance premiums, and to punish offenders more effectively, Michigan's chop shop law needed more severe penalties.

Supporting Argument

The Penal Code's 1984 chop shop provision allowed a court to order that an offender pay restitution for his or her crimes. Chop shop offenders blatantly steal individuals' personal property for their own financial gain and, as evidenced by the case mentioned above, can be very successful in that endeavor. To establish a more effective deterrent and punishment, the bill made restitution mandatory rather than permissive.

Supporting Argument

Since Senate Bill 106 increased the maximum penalty for operating a chop shop, the crime needed to be reclassified for sentencing guidelines purposes. Senate Bill 288 raised the violation from a Class E felony to a Class D felony, thereby providing for a different set of recommended minimum sentence ranges, calling for longer periods of imprisonment, to be used when a person is convicted of operating a chop shop.

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 106

Senate Bill 106 will have an indeterminate impact on State and local government.

The bill increases the maximum prison sentence for operating a chop shop from five years to 10 years. In 1998, there were 89 convictions for this offense and nine for the attempted offense. Of the convictions for operating a chop shop, 28 or 32% were sentenced to a State prison. The increase in maximum prison sentence will affect offenders who serve the full maximum sentence. There are no data to suggest how many offenders will serve the full

maximum sentence.

Senate Bill 288

Senate Bill 288 will have an indeterminate fiscal impact on State and local government.

The bill changes operating a chop shop from a Class E crime to a Class D crime, resulting in a change of the minimum sentencing range from 0-3 months to 24-38 months, to 0-6 months to 43-76 months.

Assuming that the number sentenced to prison annually for this crime is consistent with the 1998 data, that the minimum sentence imposed is equivalent to the maximum value of the minimum sentencing range, and that each offenders serves the full minimum sentence, given that the average annual cost of incarceration is \$22,000, the costs of incarceration for offenders sentenced for a Class E crime will be \$1,951,000 and as a Class D crime will be \$3,901,000.

Fiscal Analyst: K. Firestone

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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.