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## INCREASE PENALTIES FOR THROWING OR DROPPING OBJECT AT VEHICLES

House Bill 4632 as enrolled  
Public Act 182 of 2003

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Public Act 183 of 2003

Sponsor: Rep. William Van Regenmorter  
House Committee: Criminal Justice  
Senate Committee: Judiciary

Second Analysis (1-13-04)

### ***THE APPARENT PROBLEM:***

In February of 2003, two teenagers tossed bricks off a highway overpass in the Grand Rapids area. One brick struck a vehicle, breaking the windshield and causing serious injury to the driver. The victim lost her right eye and has suffered permanent nerve damage to portions of her face and scalp. Most of the bones of her face were crushed and she has already had multiple reconstructive surgeries; many more surgeries will be needed in the near future.

Under the penal law, throwing a brick at a vehicle is a misdemeanor punishable by up to 90 days in jail, a fine of \$100 or less, or both. As this penalty seemed inappropriate to the pain and suffering caused to the victim, and since the brick was “dropped” as opposed to “thrown”, prosecutors had to look to other assault provisions. One of the teenagers has since pled guilty to one charge of assault with intent to do great bodily harm less than murder, a felony punishable by up to 10 years imprisonment, not more than a \$5,000 fine, or both. The other young man has been charged with two counts of assault with intent to commit great bodily harm less than murder and two counts of felonious assault, which carries a possible four years imprisonment and/or a \$2,000 fine for each count.

This is not an isolated incident. In June of 2003, a motorist in Virginia was struck by a 70-pound rock that was pushed onto the interstate. At last report, the woman remained in a coma. The same week, two teenagers threw a watermelon off an interstate overpass at a car, injuring the 70-year-old driver. Later that same month, a motorist in Western Michigan was hit by a water balloon thrown from a car going in the opposite direction. The impact

shattered the windshield and sent the driver to the hospital where over 200 shards of glass were removed from his head and neck. Had his glasses not protected his eyes, this man also could have sustained more serious injury. The investigation continues, with no suspects being immediately apprehended. Though the victim acknowledged the “attack” was probably meant as a prank, the speeds of the two vehicles turned the water balloon into a dangerous object – one capable of killing.

These two recent Michigan incidents have underscored the fact that the current penalties for throwing an object at a car, train, bus, or other vehicle are woefully inadequate in light of the serious injuries or death that can occur, and that objects are often dropped off bridges or propelled by sling shots, paintball guns, or other devices. Legislation has been offered to create a tiered-penalty structure that would include felony penalties. In addition, it has been recommended that the law be revised to include all dangerous objects and objects that may be dropped or propelled by some means.

### ***THE CONTENT OF THE BILLS:***

The Michigan Penal Code makes it a misdemeanor to throw a stone, brick, or other missile at a passenger train, sleeping car, passenger coach, express car, mail car, baggage car, locomotive, caboose, or freight train or at a street car, trolley car, or motor vehicle. As an unspecified misdemeanor, the penalty is punishable by imprisonment for up to 90 days, a fine of not more than \$500, or both. House Bill 4632 would include “dropping” or “propelling” an object and would

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create a felony level offense, and House Bill 4633 would place the new felony offenses within the sentencing guidelines. House Bill 4633 is tied-barred to House Bill 4632. The bills would take effect January 1, 2004.

House Bill 4632 would amend the code (MCL 750.394) to also prohibit dropping a stone on the abovementioned vehicles and train cars, replace “missile” with “dangerous object”, and establish a five-tiered penalty structure. If a violation did not result in property damage or injury to a person, a violator would be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both. If the violation caused property damage, the person would be guilty of a misdemeanor punishable by imprisonment for not more than one year, a fine of not more than \$500, or both.

A violation causing injury to any person, but not serious impairment or death, would be a felony punishable by imprisonment for not more than four years, a fine of not more than \$2,000, or both. Causing serious impairment, as defined by the Michigan Vehicle Code (MCL 257.58c), would be a felony punishable by imprisonment for not more than 10 years, a fine of not more than \$5,000, or both. Causing the death of a person would be a felony punishable by imprisonment for not more than 15 years, a fine of \$10,000, or both.

The above penalties could be imposed in addition to any penalty that may be imposed for any other criminal offense that arose from the same conduct or for any contempt of court that arose from the same conduct.

House Bill 4633 would amend the Code of Criminal Procedure (MCL 777.16s) to specify that throwing or dropping a dangerous object at a vehicle causing injury would be a Class F felony against a person with a maximum term of imprisonment of four years. Throwing or dropping a dangerous object at a vehicle causing serious impairment would be a Class D felony against a person with a maximum term of imprisonment of 10 years. Throwing or dropping a dangerous object at a vehicle causing death would be a Class felony against a person with a maximum sentence of 15 years imprisonment.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bills would have an indeterminate fiscal cost for the state and local units of government. There are no data to

indicate the frequency with which misdemeanor convictions are obtained under the current statute. To the extent that the bills increased the numbers of offenders receiving state or local criminal sanctions (including probation supervisions and/or terms of incarceration) or increased offenders’ lengths of incarceration, they could increase local costs (for misdemeanor offenders) or state costs (for felony offenders). To the extent that House Bill 4632 increased collections of penal fines, it would increase those revenues going to local libraries, which are the constitutionally-designated recipients of penal fine revenues. (1-12-04)

### ***ARGUMENTS:***

#### ***For:***

There have been several incidents recently involving objects thrown at or dropped on moving vehicles. In all instances, the drivers have been injured – some seriously. People have died in the past, such as a Detroit woman who was killed when a bowling ball was dropped on her car from an overpass. Many times these “attacks” are meant by their perpetrators as pranks – funny acts not meant to harm. Often in movies and television shows objects are dropped on or thrown or propelled at vehicles as entertainment. Rarely is the potential for injury revealed. However, as two recent Western Michigan incidents have shown, serious injuries can result from objects being thrown at or dropped on vehicles, especially when those vehicles are moving.

The bills are needed because the current laws do not always fit the elements of an incident. For instance, the penal code prohibits and penalizes “throwing” a brick, stone, or missile at a vehicle, but not dropping or using a slingshot, paintball gun, or other device to propel the object. Some assault charges require proving intent to do harm, which, in the case of dropping or throwing an object at a car, may be difficult to do. The adage says to let the punishment fit the crime; currently, the punishment is inadequate.

The legislation would remedy the situation in several ways. House Bill 4632 would not require proof of intent to cause an injury. The penalty would be based entirely on the action and the outcome. Either a person threw, propelled, or dropped an object at or on a vehicle, or didn’t. Either injury occurred, or it didn’t. A minor incident would be a misdemeanor with a \$100 fine and/or up to 93 days in jail. The increase to a maximum 93 days in jail will trigger fingerprint and record keeping requirements that will

enable law enforcement officials to track any repeat offenses.

As the damage or injuries caused by an action increased, so would the consequences for the offender. An act causing injury would carry a penalty identical to that for felonious assault (up to four years imprisonment and/or up to a \$2,000 fine), but an act causing serious injury or death could result in imprisonment of up to 10 or 15 years, respectively, plus increased fines. In short, the bills provide a penalty harsh enough to act as a deterrent for dangerous behavior, and yet provide justice for victims.

***Against:***

The bills as written are broad and could encompass throwing snowballs or kids playing baseball or hockey. For example, children having a snowball fight may unintentionally hit a passing car. The same is true of any ball sport played in the driveway or front yard. If the driver swerved and hit a tree, would even young children face such stiff penalties? Also, since this new crime category does not need proof of intent to cause damage or injury, would it also encompass acts that inadvertently resulted in property damage or personal injury? For instance, would an errant golf ball or softball soaring over a boundary fence subject a person to penalties under the bill should the ball strike a vehicle?

***Response:***

Young children are treated more informally in court than adults or juveniles tried as adults. Therefore, it is unlikely that these penalties would be applied to young children. As in most cases, the prosecutor has discretion over how to charge an offense and judges have discretion as to whether a youth would be prosecuted as a juvenile or an adult. The intent of the bill is to provide harsher penalties for actions that have the potential to cause serious injury and death. Deliberately dropping or throwing an object at a moving car or vehicle is different than an errant ball or snowball accidentally striking a passing car.

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