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BILL ANALYSIS



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House Bill 4632 (Substitute H-1 as passed by the House)
 House Bill 4633 (Substitute H-1 as passed by the House)
 Sponsor: Representative William Van Regenmorter
 House Committee: Criminal Justice
 Senate Committee: Judiciary

Date Completed: 9-22-03

CONTENT

House Bills 4632 (H-1) and 4633 (H-1) would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to revise the prohibition against throwing an object at a vehicle; provide for enhanced misdemeanor and felony penalties, depending on the resulting damage or injury; and include felony violations in the sentencing guidelines.

The bills would take effect on October 1, 2003, and House Bill 4633 (H-1) is tie-barred to House Bill 4632.

House Bill 4632 (H-1)

Under the Michigan Penal Code, it is a misdemeanor to throw a stone, brick, or other "missile" at a motor vehicle, passenger train, sleeping car, passenger coach, express car, mail car, baggage car, locomotive, caboose, freight train, street car, or trolley car. (A misdemeanor for which no other penalty is specified is punishable by up to 90 days' imprisonment and/or a maximum fine of \$500.)

Under the bill, the violation would apply to throwing a stone, brick, or other "dangerous object" at any of those types of vehicles, and would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$100. If the violation caused property damage, injury, or death, it would be punishable as shown in Table 1.

Table 1

Result of Violation	Type	Maximum Fine	Maximum Imprisonment
Property Damage	misdemeanor	\$500	1 year
Injury but not serious impairment or death	felony	2,000	4 years
Serious impairment	felony	5,000	10 years
Death	felony	10,000	15 years

A criminal penalty provided for under the bill could be imposed in addition to any penalty that could be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

“Serious impairment” would mean that term as defined in Section 58c of the Michigan Vehicle Code. Under that section, “serious impairment of a body function” includes one or more of the following:

- Loss of a limb or the use of a limb.
- Loss of a foot, hand, finger, or thumb or the use of a foot, hand, finger, or thumb.
- Loss of an eye or ear or the use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.
- Loss of an organ.

House Bill 4633 (H-1)

The bill would include in the sentencing guidelines the felony offenses proposed by House Bill 4632 (H-1), as shown in Table 2.

Table 2

Offense	Felony Class	Category	Statutory Maximum
Throwing or dropping a dangerous object at a vehicle, causing injury	F	person	4 years
Throwing or dropping a dangerous object at a vehicle, causing serious impairment	D	person	10 years
Throwing or dropping a dangerous object at a vehicle, causing death	C	person	15 years

MCL 750.394 (H.B. 4632)
777.16s (H.B. 4633)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bills 4632 (H-1) and 4633 (H-1) would have an indeterminate fiscal impact on State and local government.

There are no statewide data to indicate how many offenders are currently convicted of the misdemeanor of throwing or dropping a dangerous object at a vehicle. Local units of government are responsible for the costs of misdemeanor probation and incarceration in a local facility, which vary by county. They would incur any additional costs related to increasing the maximum period of incarceration for this offense from 90 to 93 days.

There are also no data to indicate how many of those offenders would be charged instead with any of the three proposed felonies, or how many offenders are currently charged with other felonies for committing one of the acts included in the proposed felonies. Local units of

government would incur the cost of participation in community corrections programs and the costs of incarceration in a local facility. The State would incur the cost of felony probation at an annual average cost of \$1,750, and incarceration in a State facility at an average annual cost of \$27,000.

Under sentencing guidelines, an offender convicted of the Class F offense (causing injury) would receive a recommended sentence range from 0-3 months to 17-30 months. For each offender convicted, sent to prison, and given the longest allowable minimum sentence of 32 months, it would cost the State \$72,000.

An offender convicted of the Class D offense (causing serious impairment) would receive a recommended sentence range from 0-6 months to 43-76 months. For each offender convicted, sent to prison, and given the longest allowable minimum sentence of 80 months, it would cost the State \$180,000.

An offender convicted of the Class C offense (causing death) would receive a recommended sentence range from 0-11 months to 62-114 months. For each offender convicted sent to prison, and given the longest allowable minimum sentence of 120 months it would cost the State \$270,000.

Table 3 shows the sentencing guidelines minimum range and the longest minimum sentence for the proposed felonies.

Table 3

Offense	Felony Class	Sentencing Guidelines Minimum Range	Longest Allowable Minimum Sentence (2/3 of Maximum Sentence)
Throwing or dropping a dangerous object at a vehicle, causing injury	F	0-3 months to 17-30 months	32 months
Throwing or dropping a dangerous object at a vehicle, causing serious impairment	D	0-6 months to 43-76 months	80 months
Throwing or dropping a dangerous object at a vehicle, causing death	C	0-11 months to 62-114 months	120 months

Public libraries would benefit from any additional revenue raised from increased penal fines.

Fiscal Analyst: Bethany Wicksall