



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5273 (Substitute H-1 as reported without amendment)
Sponsor: Representative Tom Casperson
House Committee: Transportation
Senate Committee: Transportation

Date Completed: 6-8-04

RATIONALE

Public Act 118 of 2002 amended the Motor Carrier Safety Act to increase the penalty for violating the Act while transporting a package required to be marked or labeled under Federal regulations as a hazardous material, and prohibit and prescribe a penalty for transporting a hazardous material without a hazardous material endorsement. While Public Act 118 was enacted in response to the terrorist attacks of September 11, 2001, the penalties also apply to drivers for certain industries, such as the propane industry, who commit unintentional, minor violations of the Act. Some people believe that these violators should not be subject to a criminal penalty.

CONTENT

The bill would amend the Motor Carrier Safety Act to revise the penalties, and create separate offenses, for the improper transportation of hazardous materials.

Currently, a person or entity convicted of violating the Act or a rule promulgated under it while transporting a package required to be marked or labeled under Federal regulations (49 CFR parts 100 to 180) is guilty of a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of \$500. Under the bill, the person or entity would be responsible for a State civil infraction and could be ordered to pay a fine of up to \$500.

The Act also makes it a misdemeanor for a person or entity to transport hazardous material for which a placard is required under Federal regulations if the person does

not have a hazardous material endorsement on his or her driver license. A violation is punishable by up to one year's imprisonment and/or a maximum fine of \$500. The bill would retain this penalty, but refer to a motor carrier instead of a person or entity.

Under the bill, a person or entity identified in the provisions described above who knowingly or willfully violated the Act or a rule promulgated under it would be, upon conviction, guilty of a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of \$500 for each violation.

If a person or entity caused injury or death during a violation of the Act, while a vehicle transporting a package required to be marked or labeled was used, he or she would be guilty of a misdemeanor punishable by up to one year and/or \$500.

MCL 480.17c

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

Public Act 118 of 2002 was enacted to prevent individuals from using hazardous materials to commit acts of terrorism. Some commercial drivers who have a legitimate reason to transport hazardous materials but have committed minor violations of the Act, however, may be penalized in the same manner as a terrorist would be punished.

Under the bill, violators would be punished according to the seriousness of their offenses, rather than all being treated as would-be terrorists. Those who inadvertently violated the Act would be guilty of a State civil infraction, while those who did so knowingly and willfully, or caused injury or death, would be guilty of a misdemeanor with the possibility of imprisonment.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government.

Changing the existing violation from a misdemeanor to a State civil infraction, would eliminate the possibility of probation and incarceration as sanctions for this offense. As misdemeanor probation and local incarceration costs are incurred by local units of government, this would potentially decrease local corrections costs. The associated fine also would become a civil fine rather than a penal fine, so revenue would be directed to State and local units of government rather than to public libraries.

There are no data available to estimate the fiscal impact of creating two new offenses. If offenders in these circumstances otherwise would be convicted of the existing offense, there would be no impact. If offenders otherwise would be convicted of more serious offenses with longer sentences, and instead would be convicted of one of the proposed misdemeanors punishable by up to only one year of incarceration, the bill would potentially decrease corrections costs.

Fiscal Analyst: Bethany Wicksall

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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.