

Legislative Analysis



SALE OR TRANSFER OF ILLEGALLY-OBTAINED ELECTRIC OR NATURAL GAS SERVICE

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Senate Bill 1311

Sponsor: Sen. Buzz Thomas

Senate Bill 1312

Sponsor: Sen. Dennis Olshove

House Committee: Energy and Technology

Senate Committee: Judiciary

Complete to 6-28-10

A SUMMARY OF SENATE BILLS 1311 & 1312 AS PASSED BY THE SENATE 6-22-10

Senate Bill 1311 would amend the Michigan Penal Code to make it a felony for a person to sell or transfer, or attempt to sell or transfer, an electric or natural gas provider's product or service to any other person, knowing or having reason to know that the product or service was obtained illegally. A first offense would be punishable by imprisonment of not more than five years, a fine of not more than \$5,000, or both. A second or subsequent offense would be punishable by imprisonment for not more than five years, a fine of not more than \$10,000, or both. (MCL 750.282a)

Senate Bill 1312 would amend the Code of Criminal Procedure to put this new felony crime into sentencing guidelines as a Class E felony against property with a statutory maximum of five years. (MCL 777.16o)

Senate Bill 1312 is tie-barred to Senate Bill 1311, meaning that it would only take effect if Senate Bill 1311 is enacted into law.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on state and local government. There are no data to indicate how many offenders would be convicted of the proposed offense. An offender convicted of the Class E offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months, with a statutory maximum sentence of five years. An offender convicted of this offense also would be subject to a fine of up to \$5,000, or \$10,000 for a repeat offense. Local governments would incur the costs of incarceration in local facilities, which vary by county. The state would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a state facility at an average annual cost of \$34,000, a figure that includes various fixed administrative and operational costs. Additional penal fine revenue would benefit public libraries, which are the constitutionally-designated recipients of those revenues.

DETAILED SUMMARY:

Senate Bill 1311 would add a new Section 282a to the Michigan Penal Code making it a felony for a person to sell, transfer, or attempt to sell or transfer the product or service of an electric provider or natural gas provider to any other person, if the person knew or had reason to know that the product or service was obtained illegally.

A first offense would be punishable by imprisonment for not more than five years, or a fine of not more than \$5,000, or both. If the person had a previous conviction for violating this section, the offense would be punishable by imprisonment for not more than five years, or a fine of not more than \$10,000, or both.

"Electric provider" would mean that term as defined in the Clean, Renewable, and Efficient Energy Act" (Public Act 295 of 2008). Generally speaking, "electric provider" under that act means any person or entity regulated by the Public Service Commission (PSC) for the purpose of selling electricity to retail customers in Michigan, a municipally-owned electric utility, a cooperative electric utility, or an alternative electric supplier. See MCL 460.1005(a).

"Natural gas provider" would mean that term as defined in the Clean, Renewable, and Efficient Energy Act" (Public Act 295 of 2008). Generally speaking, "natural gas provider" under that act means an investor-owned business engaged in the sale and distribution of natural gas within Michigan with PSC-regulated rates. See MCL 460.1009(a).

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