



Senate Fiscal Agency  
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**BILL ANALYSIS**

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House Bill 5492 (as reported without amendment)  
Sponsor: Representative Kevin Elsenheimer  
House Committee: Health Policy  
Senate Committee: Judiciary

**CONTENT**

The bill would amend the Public Health Code to delete the exemption for equipment, a product, or material that may be used in the preparation or smoking of tobacco or smoking herbs, other than a controlled substance, from the Code's prohibition against selling drug paraphernalia or offering it for sale. The bill would take effect 90 days after its enactment.

The Code prohibits a person from selling drug paraphernalia, or offering it for sale, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body. A violation is a misdemeanor, punishable by up to 90 days' imprisonment and/or a maximum fine of \$5,000. If a person 18 years of age or older violates the prohibition by selling or offering to sell drug paraphernalia to a person under 18, the violation is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$7,500.

The Code includes exceptions to the prohibition against selling or offering to sell drug paraphernalia, including equipment, a product, or material that may be used in the preparation or smoking of tobacco or smoking herbs other than a controlled substance. The bill would delete that exception.

MCL 333.7457

Legislative Analyst: Patrick Affholter

**FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of violating Section 7453 (which prohibits the sale of drug paraphernalia) under the bill. To the extent that the change in exemptions resulted in increased convictions for violating Section 7453, local governments would incur the costs of misdemeanor prosecution, probation, and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Date Completed: 11-30-06

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