

Legislative Analysis



K2: PROHIBIT USE AND POSSESSION

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6038 (Proposed Substitute H-1)
Sponsor: Rep. Rick Jones

House Bill 6226 as introduced
Sponsor: Rep. Lisa Brown
Committee: Judiciary

Complete to 6-4-10

A SUMMARY OF HOUSE BILL 6038 (PROPOSED H-1) AND HOUSE BILL 6226 AS INTRODUCED 6-1-10

House Bill 6038 would make any substance that mimics the effects of marijuana, such as an herbal substance known as K2, a Schedule 1 drug. House Bill 6226 would prohibit the use or possession of such synthetic cannabinoids and make a violation a misdemeanor.

Specifically, the bills would do the following:

House Bill 6038 would amend the Public Health Code (MCL 333.7212) to add several compounds representing synthetic cannabinoids to the list of drugs that are considered Schedule 1 drugs.

[Following federal law, the Michigan Public Health Code classifies controlled substances under one of five "schedules." Schedule 1 drugs, which are considered to have a high risk of abuse and to have no legitimate medical purpose, include heroin, LSD, marijuana, MDMA (ecstasy), and methamphetamines. To date, only Kansas and Missouri have prohibited the use, possession, and/or sale of K2.]

House Bill 6226 would amend the Public Health Code (MCL 333.7403 and 333.7404) to prohibit the use or possession of a synthetic cannabinoid listed as a Schedule 1 drug. Knowingly or intentionally possessing the prohibited compounds would be a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not more than \$2,000. Using the prohibited substances would be a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100, or both.

The bill is tie-barred to House Bill 6038.

[Under Section 7401(2)(b)(ii), manufacturing, delivering, or possessing with intent to deliver a controlled substance classified as a Schedule 1, 2, or 3 drug, other than marijuana or substances for which a specific penalty apply, is a felony punishable by imprisonment for not more than seven years and/or a fine of not more than \$10,000. By comparison, the felony penalties for the manufacture or delivery of, or the possession with the intent to deliver, marijuana are based on the weight of the drug or number of

plants involved in the crime and range from imprisonment for not more than four years and/or a fine of not more than \$20,000 up to 15 years and/or a fine of not more than \$10 million.]

FISCAL IMPACT:

To the extent that the bills increased the numbers of felony sentences, the state could incur increased costs of incarceration or felony probation supervision. The average appropriated cost of prison incarceration is roughly \$33,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year. To the extent that misdemeanor convictions increased under the bill, local units of government could incur increased costs of jail incarceration or misdemeanor probation supervision, both of which vary with jurisdiction.

Any increase in penal fine revenues would benefit local libraries, which are the constitutionally-designated recipients of those revenues.

The bills have no fiscal implications for the regulatory division of the Department of Community Health which oversees controlled substances and Article 7 of the Public Health Code.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Susan Frey
Bob Schneider

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.