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BILL ANALYSIS



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Senate Bill 1082 (as introduced 4-19-12)
Sponsor: Senator Dave Hildenbrand
Committee: Judiciary

Date Completed: 5-7-12

CONTENT

The bill would amend the Public Health Code to prohibit and prescribe a criminal penalty for selling a named product that currently or previously contained a Schedule 1 controlled substance, without disclosing that it no longer contains the scheduled ingredient or while representing that it currently contains the scheduled ingredient or a similar ingredient.

The bill also would revise the listing of synthetic cannabinoids in Schedule 1.

The bill would take effect 90 days after its enactment.

(A Schedule 1 controlled substance is a substance that has high potential for abuse and has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.)

Sale of Named Product

The bill would prohibit a person from selling or offering to sell a named product, knowing that it previously contained an ingredient that was designated as a Schedule 1 controlled substance, but that it no longer contains the ingredient, without disclosing that the product no longer contains that scheduled ingredient.

The bill also would prohibit a person from selling or offering to sell any other product, knowing that a named product currently or previously contained an ingredient that was designated as a Schedule 1 controlled substance, while representing that it contains the same scheduled ingredient as the named product or that it contains an ingredient that produces the same or a substantially similar physiological or psychological effect as that scheduled ingredient.

A violation would be a misdemeanor punishable by up to 93 days' imprisonment, a maximum fine of \$5,000, or both.

"Named product" would mean either of the following:

- A product having a designated brand name.
- A product having a street or common name with application sufficient to identify the product as a specific product within Michigan or a local unit.

Synthetic Cannabinoids

Under the Code, several specific chemical compounds, all of which are synthetic forms of cannabinoids, are listed in Schedule 1. In addition, Schedule 1 includes synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of cannabis, and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity. The bill would delete all of those from Schedule 1.

The bill instead would list "synthetic cannabinoids" in Schedule 1. "Synthetic cannabinoids" would include any material, compound, mixture, or preparation that is not listed as a controlled substance in Schedules 1 through 5, is not approved by the Food and Drug Administration (FDA) as a drug, and contains any quantity of certain substances listed in the bill, their salts, isomers, and salts of isomers and homologues (analogs), unless specifically excepted, whenever the existence of those salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible with the specific chemical designation.

In addition to the listed chemical compounds, the bill would include in the definition of "synthetic cannabinoids" any other synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids that is not listed in Schedules 2 through 5 and is not approved by the FDA.

MCL 333.7212 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on State and local government. There are no data to indicate how many people would be convicted of the proposed misdemeanor for selling or offering to sell a product that is misrepresented as being similar to the banned product. For those convicted, local units of government could see increased incarceration costs and/or costs of community supervision. Penal fine revenue of up to \$5,000 per violation would benefit public libraries.

Fiscal Analyst: Dan O'Connor

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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.