

FIRST ANALYSIS

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House Bill 4500 (Substitute S-1 as reported)**House Bill 4512 (Substitute S-1 as reported)****Sponsor: Representative David M. Gubow (House Bill 4500)****Representative William Browne (House Bill 4512)****House Committee: Public Health****Senate Committee: Judiciary****Date Completed: 1-22-88****RATIONALE**

The abuse of prescription drugs is a nationwide problem. According to a report by the U.S. Comptroller General, more Americans have abused or misused prescription drugs than have used illegal drugs such as cocaine, hallucinogens, or heroin.

A State Prescription Abuse Data Synthesis Committee (known as "PADS") was formed by gubernatorial directive in 1983 to coordinate the efforts and resources of State and Federal agencies, law enforcement officials, and State professional associations in order to analyze the problem of prescription drug abuse and to recommend solutions. The Committee held a conference on prescription drug diversion and abuse in 1985 and published reports and recommendations in 1984 and 1985. With the cooperation of the Department of Licensing and Regulation, a number of the Committee's recommendations have been developed, including a proposal to increase sanctions for those who violate controlled substance laws and are involved in some way, or desire to become involved with, the legal prescription drug industry.

CONTENT

House Bills 4500 (S-1) and 4512 (S-1) would amend the Public Health Code to specify that people who had been convicted for a criminal offense relating to a controlled substance would be prohibited for three years from having a "direct financial interest" in the manufacture, distribution, prescription, or dispensation of controlled substances or from working at a job that involved direct access to controlled substances. Violators would be subject to a civil fine of up to \$25,000. The bills would not apply to people who had been convicted of misdemeanors that either a) were not directly related to the manufacture, delivery, possession, use, or distribution of a controlled substance, or b) were the result of unintentional clerical or record-keeping errors.

In addition, House Bill 4512 (S-1) provides that a license to manufacture, distribute, prescribe, or dispense a controlled substance would have to be denied or revoked by the administrator of the Office of Substance Abuse Services if the applicant or licensee had been convicted of a felony under a State or Federal law relating to a controlled substance. Currently, license denial, suspension, or revocation for such a conviction is permissive.

An individual whose license was limited, suspended or revoked under the bill could apply to the Michigan Board of Pharmacy for a reinstatement. In the case of a revoked license, reinstatement could not be applied for until three years following the date of revocation.

The administrator could reinstate a license if he or she were satisfied that the applicant was of good moral character, and should be permitted in the public interest to have his or her license reinstated or revocation or suspension removed.

As a condition of reinstatement, the administrator could impose a disciplinary or corrective measure authorized under the Act.

The bill would also change the penalty for a person who knowingly or intentionally refused or knowingly failed to make, keep, or furnish any record, notification, order form, statement, invoice, or other information required under the Act. Currently, the offense is a misdemeanor, punishable by imprisonment of not more than two years, or a fine of not more than \$25,000, or both. The bill would make it a felony, punishable by imprisonment for not more than four years, or a fine of not more than \$30,000, or both.

MCL 333.7311 (House Bill 4500)

MCL 333.7311 et al. (House Bill 4512)

SENATE COMMITTEE ACTION

The Senate Judiciary Committee adopted a substitute to House Bill 4500. The Senate substitute added a provision under which a license to manufacture, distribute, prescribe or dispense a controlled substance would have to be revoked or denied if the applicant or licensee had been convicted of a felony relating to a controlled substance.

The Committee also adopted a substitute to House Bill 4512. The substitute added conditions under which a controlled substance license that had been revoked under the bill could be reinstated.

FISCAL IMPACT

House Bill 4500 (S-1) would result in an indeterminate increase in fine revenues. The magnitude of the increase would depend on the number of violations and the degree and cost of enforcement.

House Bill 4512 (S-1) would have an indeterminate impact on State revenues. The direction and magnitude of the impact would depend on the number of violations; the degree and cost of enforcement; and the type of penalty imposed.

ARGUMENTS**Supporting Argument**

According to U.S. Drug Enforcement Administration (DEA)

H.B. 4500 & 4512 (1-22-88)

data, in 1983 Michigan ranked number one among the states in per-capita consumption of commonly abused prescription drugs. By the second quarter of 1986 (the most recent date for which DEA information is available), and after amphetamine rule amendments were adopted by the State Boards of Medicine and of Osteopathic Medicine and Surgery, Michigan's ranking of per-capita prescription drug consumption dropped dramatically in several categories.

Illegal drug diversion by licensed practitioners is one major way in which prescription drug abuse is abetted. Adding civil fines, mandating license revocations, and tightening prescription drug reporting requirements would make illegal diversion more difficult and costly for the 1%-2% of the licensed practitioners engaged in illegal drug diversion, and reduce this problem even further.

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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.