

BAN CAT AS SCHED. 1 DRUG

House Bill 4103 (Substitute H-1)
First Analysis (2-18-93)

Sponsor: Rep. Beverly Bodem
Committee: Judiciary

THE APPARENT PROBLEM:

The Public Health Code prohibits manufacturing, delivering, and possessing with intent to deliver a controlled substance analogue (that is, a synthetic drug with a chemical structure substantially similar to a controlled substance). However, the prohibition has been inadequate to combat the growing trade in at least one highly addictive designer drug, the substance known as "cat." Cat is said to be a powerful stimulant that produces feelings of exhilaration, heightened awareness, and invincibility that can last for hours or days. Cat evidently emerged from an Ann Arbor laboratory in 1988 or 1989, and has since gained wide popularity in the Upper Peninsula. According to a Department of State Police memorandum of September 30, 1992, the Iron River State Police Post participated in 25 cases related to cat in the first nine months of 1992, and police departments in that area were investigating subjects for cat at least weekly. In fact, the Upper Peninsula apparently has become the "cat" capital of the United States; according to one report, the state police raided 10 "cat" laboratories in the Upper Peninsula between May and September 1992. Concerns exist not only about the extent of the problem in Michigan's north, but also its potential to spread downstate, especially to large urban areas.

Despite the prevalence of the drug, Upper Peninsula prosecutors reportedly are reluctant to prosecute "cat" violations for several reasons. Because cat is not classified as a controlled substance, it must first be established to be a controlled substance analogue, which demands crime laboratory expertise and expense. Further, mere possession of a controlled substance analogue is not a crime under the Public Health Code, meaning that violators can be prosecuted only for manufacture, delivery, or possession with intent to deliver.

Many have urged prompt action to help combat growing problems with cat. To this end, it has been

proposed that cat be added to the list of Schedule 1 controlled substances.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to add 2-(methylamino) propiophenone (also known as methcathinone and cat) to the list of Schedule 1 controlled substances.

MCL 333.7212

BACKGROUND INFORMATION:

Possession of a Schedule 1 controlled substance generally is punishable by up to two years in prison, a fine of up to \$2,000, or both. (Penalties are higher for possession of cocaine or narcotics and lower for possession of marijuana or a hallucinogen.)

Manufacture, delivery, or possession with intent to deliver a Schedule 1 controlled substance generally is punishable by up to seven years in prison and/or a fine of up to \$5,000. (Penalties are higher for cocaine or narcotics, and lower for marijuana.)

Creation, delivery, or possession with intent to deliver a controlled substance analogue is punishable by up to 15 years in prison and/or a fine of up to \$250,000.

FISCAL IMPLICATIONS:

Fiscal information is not available. (2-17-93)

ARGUMENTS:

For:

The bill would aid prosecutions for "cat" in several ways. By classifying "cat" as a Schedule 1 substance, the bill would avert the necessity of demonstrating that the substance is an analogue, which requires

expert testimony showing molecular chemical similarity to a controlled substance and/or expert testimony regarding the psychopharmacology of the substance. Even more importantly perhaps, the bill would enable prosecutors to bring charges for possession of the substance. Currently, a person may be walking around with pockets full of the drug, but escape criminal liability unless manufacture or delivery can be proven.

Against:

The bill falls short of what is necessary to address the problem and forestall similar problems in the future, because it does not address the flaws of current law with regard to controlled substance analogues.

Response:

Such matters give rise to various issues of defining terms, assigning penalties, and the like, all of which demand careful thought and examination. The bill affords a quick solution to the specific problems presented by cat, leaving any broader revision of the law to another bill.

POSITIONS:

The Department of State Police supports the bill.
(2-17-93)