



**House  
Legislative  
Analysis  
Section**

Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**BAN CAT AS SCHED. 1 DRUG**

House Bill 4103 as enrolled  
Second Analysis (8-10-93)

Sponsor: Rep. Beverly Bodem  
House Committee: Judiciary  
Senate Committee: Family Law, Criminal  
Law, and Corrections

***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-1-phenylpropan-1-one (also known as methcathinone, cat, and ephedrone) to the list of Schedule 1 controlled substances. The bill would take effect May 1, 1993.

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:***

According to the Senate Fiscal Agency, there are no currently available data that would indicate how many individuals would be convicted of either manufacture, delivery, possession with intent to

House Bill 4103 (8-10-93)

deliver, or possession of "cat." Under current law, "cat" violations would have to be prosecuted as controlled substance analogue violations; in 1991, only one person was sentenced to prison for a controlled substance analogue violation. If each year, 10 new offenders were sentenced to prison for two years for a Schedule 1 controlled substance violation involving "cat", annual costs for the Department of Corrections could increase by \$300,000. If 25 new offenders were sentenced for two-year terms, annual costs could increase by \$800,000. (3-26-93)

### ***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.