

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 218 (as enrolled)
Sponsor: Senator Philip E. Hoffman
Committee: Education

Date Completed: 7-29-99

RATIONALE

The Public Health Code contains enhanced penalties for an individual aged 18 or older who delivers certain controlled substances to a student in a drug-free school zone. (The penalties are described below in **BACKGROUND**.) This provision was enacted in 1988 in order to combat the prevalence of drugs on and near school grounds. To strengthen the law, a 1994 amendment increased the size of a drug-free school zone from 500 feet to the current 1,000 feet from school property--the standard contained in Federal law and common in other states. It has now been pointed out that obtaining convictions can be difficult because an offender must deliver the drugs (or possess them with intent to deliver) to "a minor who is a student". As a result, the student who receives the drugs must testify against the dealer, which apparently can be a problem. It has been suggested that more offenders could be prosecuted if the enhanced penalties applied to the delivery of drugs to anyone within a drug-free school zone.

CONTENT

The bill would amend the Public Health Code to prohibit an adult from delivering, or possessing with intent to deliver, certain controlled substances to any person, rather than to a minor who is a student, in a drug-free school zone.

MCL 333.7410

BACKGROUND

Under the Public Health Code, delivery of less than 50 grams of cocaine or a Schedule 1 or 2 narcotic in a drug-free school zone requires imprisonment for at least two years but not more than three times the term authorized for the primary offense. For possession with intent to deliver, the maximum term is twice the term authorized for the underlying offense. In either case, an offender also may be fined up to three times the amount otherwise authorized. (The standard penalty for delivering or possessing with intent to deliver less than 50 grams of cocaine or a Schedule 1 or 2 narcotic is

imprisonment for at least one year but not more than 20 years, and a fine of up to \$25,000, or probation for life.) A court may impose a term less than the specified minimum, under either the regular or enhanced penalty provisions, if it finds substantial and compelling reasons to do so.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Although the current law is well-meaning, apparently it is ineffective because an element of the offense is delivery to a student who is a minor. A successful prosecution requires the testimony of the student. A student, however, may be afraid of testifying against a drug dealer, reluctant to admit to receiving drugs, or otherwise unwilling to testify. If the enhanced penalties applied to delivery to *anyone* within a drug-free school zone, however, law enforcement agencies could place young-looking undercover officers in schools to pose as students. By making this change, the bill could have a big impact on combating drug-trafficking in and around schools. Reportedly, offenders in Florida are being prosecuted under a similar law.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State government.

In 1997, there were two offenders committed to correctional facilities for violation of MCL 333.7410, distributing drugs to minors on school property. There are no data available to indicate how many more people would be convicted of delivering a controlled substance on school property if the crime definition were broadened to include a receiver of any age.

Fiscal Analyst: K. Firestone

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