

Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5556 (as reported without amendment)
House Bill 5557 (Substitute S-1 as reported)
Sponsor: Representative Jennifer Faunce (House Bill 5556)
Representative Mike Kowall (House Bill 5557)
House Committee: Criminal Law and Corrections
Senate Committee: Judiciary

CONTENT

House Bill 5556 would amend the Public Health Code to do the following:

- Prohibit the manufacture, delivery, or possession of gamma-butyrolactone (GBL).
- Include GBL in the Code's prohibition against delivery of a drug to commit or attempt to commit criminal sexual conduct (CSC).
- Subject the GBL offenses to enhanced penalties under the Code's drug-free school zone and drug-free park zone provisions and for delivery to a minor.
- Expand the Code's property forfeiture provision for drug violations.

House Bill 5557 (S-1) would amend the Code of Criminal Procedure to include in the sentencing guidelines the proposed felony GBL offenses. The bill is tie-barred to House Bill 5556. The bills would take effect on January 1, 2001.

Under House Bill 5556, manufacturing, delivering, or possessing with intent to manufacture or deliver GBL or anything containing GBL would be a felony, punishable by up to seven years' imprisonment and/or a fine of up to \$5,000. Knowingly or intentionally possessing GBL or anything containing GBL would be a felony, punishable by up to two years and/or \$2,000. The bill would not apply to use of GBL in a "commercial application" and not for human consumption.

The bill would include GBL in provisions that do the following: make it a felony, punishable by up to 20 years' imprisonment, to deliver a controlled substance in order to commit or attempt to commit any degree of CSC or assault with intent to commit CSC; provide for enhanced penalties when a person 18 or older delivers less than 50 grams of a Schedule 1 or 2 narcotic or cocaine to a person under 18 who is at least three years younger than the distributor; mandate that an individual who is 18 or older and possesses certain controlled substances on school property be punished by a term of imprisonment and/or a fine of up to twice that otherwise authorized for the violation; and provide that a person 18 or older may be punished by up to two years' imprisonment if he or she delivers, or possesses with intent to deliver, less than 50 grams of a Schedule 1 or 2 narcotic or cocaine to a minor in a park or within 1,000 feet of a park, or possesses certain controlled substances in a park.

Under House Bill 5557 (S-1), delivery of GBL to commit or attempt to commit CSC would be a Class C felony against a person; delivery or manufacture of GBL would be a Class E controlled substance felony; and possession of GBL, or delivery or distribution of GBL in a park, would be a Class G controlled substance felony (with statutory maximum penalties as described above).

MCL 333.7401a et al. (H.B. 5556)
777.13 & 777.18 (H.B. 5557)

Legislative Analyst: P. Affholter

FISCAL IMPACT

House Bills 5556 and 5557 (S-1) would have an indeterminate fiscal impact on State and local government.

There are no data to indicate how many offenders would be convicted of delivering GBL to commit or attempt to commit criminal sexual conduct. The felony would be a Class C offense for which the sentencing guidelines recommendation ranges from 0-11 months to 62-114 months. Assuming that five offenders a year would be sentenced to and serve the maximum of the sentencing guideline range, given an average annual cost of incarceration of \$22,000, the cost of incarceration to the State would be \$1,045,000 per year. If the offenders were to receive sentences at the lower end of the sentencing guidelines range, local units of government would incur the costs of incarceration, which vary among the counties.

Additionally, there are no data to indicate how many offenders could be convicted of delivering or manufacturing gamma-butyrolactone or of possessing GBL. These felony offenses would be, respectively, a Class E offense which carries a sentencing guidelines recommendation ranging from 0-3 months to 24-38 months, and a Class G offense for which the sentencing guidelines recommendation ranges from 0-3 months to 7-23 months. Assuming that five offenders a year would be convicted of each felony offense and receive and serve the maximum of the sentencing guideline range, given an average annual cost of incarceration of \$22,000, the cost of incarceration to the State would be \$560,000 per year. If the offenders were scored at the lower end of the sentencing guideline range, local units of government would incur the costs of incarceration.

According to the Department of Corrections statistical report, in 1998, there were 13 people convicted of possessing marijuana on school property (MCL 333.7410(4)(d)). This crime has a maximum sentence of two years, which is similar to the proposed penalty for delivering or distributing GBL in a park. The proposed offense would be a Class G offense with a sentencing guidelines recommendation range of 0-3 months to 7-23 months. Assuming that 13 offenders a year would be found guilty of this offense, given an average annual cost of incarceration of \$22,000, the cost of incarceration to the State would be \$550,000 per year. Since the maximum penalty for this offense is two years and a minimum sentence cannot be more than two-thirds of the maximum sentence, most offenders would receive a nonprison sentence, and then the costs of incarceration would be incurred by local units of government.

Date Completed: 9-22-00

Fiscal Analyst: K. Firestone

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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.