



**House
Legislative
Analysis
Section**

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ECSTASY: INCREASE PENALTIES

House Bill 6095 (Substitute H-2)

Sponsor: Rep. Jennifer Faunce

House Bill 6096 with committee amendment

Sponsor: Rep. Tom Meyer

Committee: Criminal Justice

First Analysis (6-5-02)

THE APPARENT PROBLEM:

Part hallucinogen and part amphetamine, MDMA, or “ecstasy” as it is more commonly known, is reportedly moving out of the club and rave scene and into the mainstream, primarily among teenagers. Ecstasy is popular for a number of reasons. First of all, it is relatively cheap (about \$20 to \$40 a pill) and easily obtainable. Secondly, it produces a feeling of euphoria and heightened senses, including touch. Further, it is believed by the majority of its users to be safe. Unfortunately, MDMA can induce a deep depression, chest pain, liver damage, panic attacks, insomnia, seizures, kidney and heart failure, and death (about 100 deaths nationally have been attributed to ecstasy use). Last November, a *Detroit Free Press* article reported that British researchers found ecstasy to have a profound effect on human brains, especially for women (11-30-01). Women who had taken more than 50 pills in a lifetime had significantly fewer brain cells than women who had never used ecstasy. According to the British study, users had persistent memory problems and trouble with verbal reasoning and sustaining attention. In addition, the article reported that just fifty tablets were considered as the threshold for developing psychiatric problems. With some teens using several pills a week, usage over just a few months can result in lifetime effects.

Despite the warning signs, ecstasy use continues to grow, especially among teenagers. In another *Detroit Free Press* article dated 2-12-02, the Partnership For a Drug-Free America reported a 20 percent increase since the previous year and a 71 percent increase in use since 1999. The article also reported that a survey of almost 7,000 teens “found that 12 percent of 12- to 18-year-olds had used ecstasy at some point in their lives.”

Apparently, selling ecstasy is highly profitable. About 80 percent or more of ecstasy is manufactured

in the Netherlands, and costs about \$.50 to a \$1 per pill to make. With the high markup, people at every level from producing it to selling it on the street can make a sizable profit. Recognizing the growing danger that ecstasy poses, the U.S. Congress increased federal drug penalties for manufacturing, selling, and possessing ecstasy in 2000, and over a year ago the Detroit division of the U.S. Drug Enforcement Administration (DEA) increased surveillance of the border with Canada and at Detroit Metro Airport. Though MDMA is classified as a Schedule 1 drug in administrative rules [R 338.3113(j)], it has not been placed in statute. As many consider MDMA to be similar to methamphetamine both chemically and in effects, it is believed that penalties should be similar as to those placed in statute for methamphetamine by Public Act 314 of 2000.

THE CONTENT OF THE BILL:

House Bill 6095 would amend the Public Health Code to designate “ecstasy” as a Schedule 1 controlled substance and prescribe penalties for the manufacture, sale or possession of the drug. House Bill 6096 would place the corresponding maximum term of imprisonment in the Code of Criminal Procedure. The bills would take effect January 1, 2003. Specifically, the bills would do the following:

House Bill 6095 would amend the Public Health Code (MCL 333.7214 et. al.) to include 3, 4-methylenedioxymethamphetamine (also known as ecstasy and MDMA) as a Schedule 1 controlled substance. A person who manufactured, created, delivered, or possessed with intent to manufacture, create, or deliver ecstasy would be guilty of a felony, punishable for up to 20 years, a fine of up to \$25,000, or both.

House Bills 6095 and 6096 (6-5-02)

A person who knowingly or intentionally possessed ecstasy (except with a valid prescription) would be guilty of a felony, punishable by imprisonment for up to 10 years, a fine of up to \$15,000, or both. A person who used ecstasy (unless obtained with a valid prescription) would be guilty of a misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$2,000, or both.

Further, a person who created, manufactured, delivered, or possessed with the intent to do the same with a counterfeit substance classified as ecstasy would be guilty of a felony punishable by imprisonment for not more than 10 years, a fine of not more than \$10,000, or both.

(Note: To be classified as a Schedule 1 substance under the Public Health Code, a substance must have a high potential for abuse and no accepted medical use as a treatment in the United States, or must lack accepted safety for use in treatment under medical supervision. Schedule 1 substances include opiates, opium derivatives, listed hallucinogenic substances, and marijuana used for nontherapeutic purposes.)

House Bill 6096 would amend the Code of Criminal Procedure (MCL 777.13m) to specify that delivery or manufacture of 3, 4-methylenedioxymethamphetamine would be a Class B felony involving a controlled substance with a maximum term of imprisonment of 20 years. Possession of 3, 4-methylenedioxymethamphetamine would be specified as a Class D felony involving a controlled substance with a 10-year maximum term of imprisonment.

The bill is tie-barred to House Bill 6095.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

MDMA, or ecstasy, is one of a number of potentially dangerous drugs that have been adopted by the young as a club or rave drug. Like rohypnal and GHB before it, ecstasy produces a state of euphoria sought by club goers and others, but carries similar dangers. Ecstasy use is increasing rapidly by young teens, many of whom believe that it is completely safe. Medical and mortality statistics show otherwise. As ecstasy gains in popularity and use, so do the number of physical and psychiatric illnesses and deaths

attributed to its use. Currently, MDMA is classified as a Schedule 1 drug in the state's administrative rules, but not in statute. The bill would rectify this by codifying the administrative rule provisions and giving MDMA the same penalties as recent legislation did for methamphetamine. Hopefully, as manufacturers, dealers, and users are prosecuted under the bill's provisions, the message will get out that ecstasy's temporary euphoria is not worth the long-term legal penalties. This may save many from even longer-term physical or psychiatric harm.

Against:

According to information supplied by Families Against Mandatory Minimums (FAMM), ecstasy is not equivalent to other controlled substances, including methamphetamine, in terms of addictiveness, physical harm to the user, or in terms of violence or criminal activity associated with its use. However, House Bill 6095 would give MDMA the same penalties as for methamphetamine. Granted, ecstasy is a dangerous drug and poses health risks; therefore classification as a controlled substance is warranted. However, the penalties for its manufacture, sale, and use should be commensurate with the harm it causes to society and to the user. The effects so far attributed to ecstasy use do not justify having an identical penalty structure to methamphetamine.

In addition, to be a Schedule 1 drug, a substance must have a high potential for abuse and no accepted medical use as a treatment in the United States, or must lack accepted safety for use in treatment under medical supervision. Some researchers, however, believe that MDMA may have some potential as a therapeutic medicine, including use as an alternative treatment for end-stage cancer and other diseases and mental conditions. Yet, classifying MDMA as a Schedule 1 drug prevents any approved clinical research from being conducted.

Further, ecstasy is primarily used by young teens. Imposing such harsh sentences accomplishes little other than using up money that could be spent on educational campaigns, tighter border patrols, rehabilitation and treatment programs, and drug prevention programs.

POSITIONS:

Representatives from the Office of Attorney General testified in support of the bills. (6-4-02)

Families Against Mandatory Minimums (FAMM) is opposed to the bills as drafted. (6-4-02)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.