

Senate Fiscal Agency
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Senate Bill 827 (Substitute S-1 as reported)
Sponsor: Senator Dale L. Shugars
Committee: Health Policy

CONTENT

The bill would amend the Public Health Code to remove criminal penalties regarding the creation, delivery, or possession of an official prescription form. The bill is tie-barred to House Bills 5260, 5261, and 5262, which, as passed by the House, would amend the Code to eliminate provisions that require use of official prescription forms, and to require the establishment of an electronic monitoring system for dispensed controlled substances.

The Code provides that a person who manufactures, creates, delivers, or possesses with intent to manufacture, create, or deliver an official prescription form, or counterfeit official prescription form, is guilty of a felony punishable by imprisonment for up to 20 years, a fine of up to \$25,000, or both. The bill would delete this provision, but retain a provision that makes it a felony, punishable by up to seven years' imprisonment, up to a \$5,000 fine, or both, to manufacture, create, or deliver (or possess with intent to manufacture, create, or deliver) a prescription form or counterfeit prescription form.

Further, the Code provides that a person who knowingly or intentionally possesses an official prescription form (unless obtained in a valid manner from a practitioner) is guilty of a felony punishable by imprisonment for up to one year, a fine of up to \$2,000, or both. The bill would delete this provision, but retain a provision that makes it a misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$1,000, or both, to possess a prescription form knowingly or intentionally (unless it was validly obtained).

MCL 333.7401 et al.

Legislative Analyst: G. Towne

FISCAL IMPACT

According to the Department of Corrections (DOC) Statistical Report, in both 1998 and 1999, only one offender was convicted of violating or attempting to violate MCL 333.7401 with regard to manufacturing, creating, delivering (or possessing with intent to manufacture, create, or deliver) an official prescription form. If one assumes that as in previous years, one offender would commit this offense but instead would be convicted for violating this section without the distinction of an "official" prescription form, and would receive the maximum sentence, which would be seven years rather than 20, then the State would save \$286,000. The maximum penal fine also would be \$5,000, instead of \$25,000, which would decrease the amount of funds available for libraries.

The DOC Statistical Report also says that no offenders in 1998 or 1999 were convicted for violating MCL 333.7403 with regard to possessing either an official prescription form or a prescription form. The bill would eliminate the distinction between the two offenses, leaving a single offense punishable as a misdemeanor with a maximum fine of \$1,000, which would shift the responsibility for incarceration and probation costs from the State to local units of government and decrease the amount of funds available for libraries.

Date Completed: 11-30-01

Fiscal Analyst: B. Wicksall

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Analysis available @ <http://www.michiganlegislature.org>

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.