

Senate Fiscal Agency
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House Bill 5174 (Substitute S-3 as reported by the Committee of the Whole)
 House Bill 5175 (Substitute S-2 as reported by the Committee of the Whole)
 House Bill 5176 (Substitute S-2 as reported)
 House Bill 5177 (Substitute S-2 as reported)
 House Bill 5178 (Substitute S-1 as reported by the Committee of the Whole)
 Sponsor: Representative David Robertson (H.B. 5174)
 Representative Mike Nofs (H.B. 5175)
 Representative David Farhat (H.B. 5176)
 Representative Stephen Ehardt (H.B. 5177)
 Representative Tom Casperson (H.B. 5178)

House Committee: Criminal Justice

Senate Committee: Judiciary

CONTENT

House Bills 5174 (S-3) and 5175 (S-2) would amend the Michigan Penal Code and the Public Health Code, respectively, to revise the criminal penalties, and prescribe administrative sanctions, for adulterating drugs or medicine. Under the bills, certain offenses that presently are misdemeanors would be felonies, and would include the element of knowing or reckless conduct. The penalties would depend on whether an offense resulted in personal injury, serious impairment of bodily function, or death, and whether an offender intended to kill or seriously impair two or more individuals, as shown in Table 1.

Table 1

Violation/Result	Imprisonment	Maximum Fine
Violation w/out injury or death	Up to 2 years	\$1,000
Personal injury	Up to 4 years	\$4,000
Serious impairment of bodily function	Up to 5 years	\$5,000
Death	Up to 15 years	\$20,000
Death*	Life without parole	\$40,000
*If the offender intended to kill or seriously impair two or more individuals. It would not be a defense that the offender did not intend to kill a specific individual or seriously impair two or more specific individuals.		

Under the Penal Code, a person who fraudulently adulterates, for the purpose of sale, any drug or medicine in order to render it injurious to health is guilty of a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both. House Bill 5174 (S-3) instead would prohibit a person from knowingly or recklessly adulterating, misbranding, removing, or substituting a drug or medicine in a manner that rendered it injurious to health. In addition, the Code makes it a misdemeanor to sell or offer for sale an adulterated drug or medicine. Under the bill, these violations, as well as possessing for sale, causing to be sold, or manufacturing for sale an adulterated, misbranded, removed, or substituted drug or medicine, would be felonies, punishable as shown in Table 1.

Under the Public Health Code, a person is guilty of a misdemeanor if he or she adulterates, misbrands, or substitutes a drug or device knowing or intending that it be used, or sells, offers for sale, possesses for sale, causes to be sold, or manufactures for sale an adulterated or misbranded drug. House Bill 5175 (S-2) would prohibit a person from

performing these activities knowingly or recklessly. The violations would be felonies, punishable as shown in [Table 1](#).

In addition, the bill would add a felony described above to the grounds that require administrative sanctions by a disciplinary subcommittee of a health profession.

[House Bills 5176 \(S-2\) and 5177 \(S-2\)](#) would amend the Code of Criminal Procedure to include the felonies proposed by House Bills 5174 (S-2) and 5175 (S-2) in the sentencing guidelines, as shown in [Table 2](#).

Table 2

Violation/Result	Felony Level	Maximum Sentence
Adulteration, mixing, etc., w/out injury or death	Class G	2 years
Violation causing personal injury	Class F	4 years
Violation causing serious impairment	Class E	5 years
Violation causing death	Class C	15 years

[House Bill 5178 \(S-1\)](#) would amend the Corrections Code to exclude from the parole board’s jurisdiction offenders sentenced to imprisonment for life without parole under House Bills 5174 (S-3) and 5175 (S-2). Under the Code, a prisoner sentenced to imprisonment for life generally is subject to the parole board’s jurisdiction after serving 15 years.

All of the bills would take effect 90 days after their enactment. House Bill 5176 (S-2) is tie-barred to House Bill 5175; House Bill 5177 (S-2) is tie-barred to House Bills 5174 and 5178; and House Bill 5178 (S-1) is tie-barred to House Bills 5174 and 5177.

MCL 750.16 & 750.18 (H.B. 5174)
 333.16221 et al. (H.B. 5175)
 777.13n (H.B. 5176)
 777.16a (H.B. 5177)
 791.234 (H.B. 5178)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State or local government. There are no data to indicate how many offenders would be convicted of the proposed felonies. [Table 3](#) shows the proposed crime class and sentencing guidelines minimum sentence ranges for each of the five levels of penalty for the proposed offenses. Local units would incur the cost of intermediate sanctions and incarceration in a local facility, both of which vary by county. The State would incur the cost of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000. Public libraries would benefit from any additional penal fine revenue raised from the additional fines.

Table 3

Offense	Crime Class	Minimum Sentence Range
Violations w/out injury or death	G	0-3 months to 7-16 months
Violations resulting in personal injury	F	0-3 months to 17-30 months
Violations resulting in serious impairment of bodily function	E	0-3 months to 24-38 months
Violations resulting in death	C	0-11 months to 62-114 months
Death*	N/A	Life without parole

*If the offender intended to kill or seriously impair two or more individuals.

Date Completed: 6-30-04

Fiscal Analyst: Bethany Wicksall

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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.