

Legislative Analysis



POSSESSION AND SALE OF DRUG PARAPHERNALIA

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House Bill 5492

Sponsor: Rep. Kevin Elsenheimer

Committee: Health Policy

Complete to 3-13-06

A SUMMARY OF HOUSE BILL 5492 AS INTRODUCED 12-8-05

House Bill 5492 would amend the Public Health Code (MCL 333.7457) to revise the exemptions regarding possession and sale of drug paraphernalia.

Currently, the Public Health Code prohibits the possession and sale of certain materials and devices that are used by those who violate controlled substances laws. The code also lists exemptions from these prohibitions.

Currently exempt under the law is *equipment, a product, or material which may be used in the preparation or smoking of tobacco or smoking herbs other than a controlled substance*. House Bill 5492 would revise this exemption to apply to *equipment, a product, or material **exclusively** used in the preparation or smoking of tobacco or smoking herbs other than a controlled substance*. (The word "exclusively" would be added.)

[The Public Health Code's definition of "drug paraphernalia" prohibits a person from selling or offering for sale drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. The definition also lists, in greater detail, devices and materials used to prepare drugs that cannot be sold.

The PHC also lists exemptions to these prohibitions, including sales to certain licensed health care practitioners licensed under the Occupational Code; hospitals and clinical labs; and to those who provide medical, dental, surgical, or pharmaceutical supplies. In addition, the code exempts equipment which may be used in the preparation of smoking of tobacco or smoking herbs other than a controlled substances; hypodermic syringes or needles sold for the purpose of treating livestock; and objects given away by state or local government agencies to prevent the transmission of infectious agents.

FISCAL IMPACT:

The fiscal impact is indeterminate.

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