



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4594 (Substitute H-1 as passed by the Senate)
House Bill 4595 (Substitute H-1 as passed by the Senate)
House Bill 4596 (as passed by the Senate)
Sponsor: Representative Leslie Mortimer (H.B. 4594)
Representative Richard Ball (H.B. 4595)
Representative Bill Caul (H.B. 4596)

House Committee: Health Policy
Senate Committee: Education

Date Completed: 6-12-06

RATIONALE

Drug-free zones around schools were first created under Public Act 12 of 1988, which established higher penalties under the Public Health Code for individuals over 18 who delivered or were found guilty of possession with intent to deliver controlled substances to a minor within 500 feet of school property. Later amendments to the Code expanded the drug-free zones to 1,000 feet around school property, and 1998 amendments created drug-free zones around public and private parks as well. Initially, the drug-free zones were established to deter drug dealers from loitering near schools and selling to school-age children and adolescents. Over the past decade, however, school officials and others also have become concerned about the abuse of anabolic steroids by students.

Student athletes have been known to take steroids to increase muscle mass, improve performance, or increase strength or endurance. Athletes sometimes face tremendous pressure from coaches, parents, college recruiters, and others, and in some cases may be tempted to use some performance-enhancing substances to gain a competitive advantage. The problem is not limited to athletes, however. Reports indicate that some girls as young as nine have used steroids as a dieting aid or to achieve a particular physical appearance.

Steroids are listed in the Public Health Code as Schedule 3 controlled substances and,

under Section 333.7403 of the Code, knowing and intentional possession of such substances without a prescription is a felony, punishable by imprisonment, a fine, or both. In addition, the Code provides increased penalties for individuals found in possession of anabolic steroids, gamma-butyrolactone, or other controlled substances on school property or in public or private parks. Some believe that the Code also should include enhanced penalties for simple possession of those substances within 1,000 feet of school property or a park.

CONTENT

The bills would amend the Public Health Code and the Code of Criminal Procedure to include the possession of a controlled substance or gamma-butyrolactone (GBL) within 1,000 feet of school property, or within 1,000 feet of a public or private park, in provisions that prescribe criminal penalties for individuals 18 years old or older who commit controlled substance or GBL offenses on school property or in a park.

The bills are described in detail below.

House Bill 4594 (H-1)

Under the Public Health Code, an individual 18 years of age or older who violates

Section 7401b or Section 7403(2)(a)(v), (b), (c), or (d) by possessing GBL or a controlled substance on school property must be punished by a term of imprisonment, a fine, or both, of not more than twice that authorized under those sections. The bill would extend that provision to individuals who possessed those substances within 1,000 feet of school property.

For this purpose, "school property" means a building, playing field, or property used for school purposes to impart instruction to children in grades kindergarten through 12, when provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses.

(Section 7403 prohibits a person from knowingly or intentionally possessing a controlled substance, a controlled substance analogue, or a prescription form unless it was obtained through a valid prescription or by order of a practitioner in the course of his or her professional practice. Anabolic steroids are listed as Schedule 3 controlled substances under administrative rules (R 338.3122). Section 7403(2) establishes penalties for violations involving specific substances.

Section 7401b of the Public Health Code prohibits a person from manufacturing, delivering, possessing with intent to deliver, or knowingly or intentionally possessing GBL or any substance containing GBL, except for use in a commercial application that is not for human consumption. A person who violates the section is guilty of a felony, and knowing or intentional possession of GBL is punishable by imprisonment for up to two years and/or a maximum fine of \$2,000. All other violations under the section are punishable by imprisonment for up to seven years and/or a maximum fine of \$5,000.)

House Bill 4595 (H-1)

The Public Health Code provides that an individual 18 years of age or older who violates Section 7401b or Section 7403(2)(a)(v), (b), (c), or (d) by possessing a controlled substance or GBL in a public or private park may be punished by a term of imprisonment of up to two years. The bill would extend that provision to possession of those substances within 1,000 feet of a public or private park.

For this purpose, "public park" means real property owned or maintained by this State or a political subdivision of the State that is designated by the State or political subdivision as a public park. "Private park" means real property owned or maintained by a private individual or entity that is open to the general public or local residents for recreation or amusement.

House Bill 4596

The bill would amend the Code of Criminal Procedure to include in the sentencing guidelines a controlled substance offense or offense involving GBL in or near a public or private park in violation of Section 7410a of the Public Health Code (the section House Bill 4595 (H-1) would amend). A violation would be categorized as a controlled substance offense subject to a statutory maximum term of two years.

The bill is tie-barred to House Bill 4595.

MCL 333.7410 (H.B. 4594)
333.7410a (H.B. 4595)
777.18 (H.B. 4596)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A lot of attention has been given to problems with drugs in schools, but the specific problem of steroid abuse often has been overlooked. The use of anabolic steroids has been prohibited in most sports since the 1980s, but in the intervening years, reports of steroid abuse among prominent athletes have steadily accumulated. Baseball players Mark McGwire and Barry Bonds are only two examples of famous athletes who are suspected of having used performance-enhancing drugs. There also have been doping scandals at the Olympics, and recurring problems in collegiate sports. Such incidents set a poor example for student athletes who are driven to succeed, and who also often face tremendous pressure from parents, coaches, and teammates. In these situations, students may be tempted to take steroids as a shortcut to higher athletic performance. Reportedly, in some cases coaches or

athletic trainers actually have supplied their students with steroids, encouraging students to bulk up to improve the team's prospects. The school locker room, weight room, and practice fields should be safe places for students to improve their strength, performance and athletic ability without being solicited by unscrupulous individuals to take performance enhancers.

In addition, news reports have indicated that some girls have begun using steroids to lose weight or to alter their physical appearance. The negative side effects of steroids for women are just as damaging as for men, but also include the development of masculine physical traits, menstrual difficulties, and smaller breasts, among other effects. Adolescents may not be aware of these dangers, however, and could be led to ingest dangerous substances without fully understanding the consequences.

By setting higher penalties for the possession of steroids within 1,000 feet of school property or parks (which sometimes are used as practice fields), the bills would discourage individuals from exploiting adolescents' concerns over their athletic ability or body image.

The bills would not apply only to steroid possession, however. The increased penalties also would apply to possession of other controlled substances as well as GBL, a nervous system depressant that gained some notoriety in the late 1990s because of its strong sedative effects. Unlike steroids, which often are obtained through gyms or athletic contacts, GBL can be bought from street dealers. The liquid is thought to have some strength-building benefits, increasing growth hormones, although depending on the dosage, it can act as a powerful sedative, putting the consumer into an unconscious state from which he or she may be unwakeable. The effect varies sharply with the dosage, and can be magnified when combined with alcohol. For these reasons, GBL (and its analogue GHB) has been identified as a possible "date rape" drug, and is considered to have a high potential for abuse.

These substances have no place around students. Under the bills, individuals found guilty of possessing GBL or controlled substances, including steroids, within 1,000

feet of a school or park would face higher criminal penalties under the Public Health Code. Currently, those penalties apply only to offenders who are found delivering or possessing with intent to deliver certain substances. The bill would send a message that the possession of prohibited substances near school property and public and private parks also could carry significant consequences.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of possessing gamma-butyrolactone or a controlled substance within 1,000 feet of school property, or a public or private park. In 2003, 21 offenders were convicted of possession on school property, and no offenders were convicted of possession in a park. Of these, one was sentenced to prison, 10 were sentenced to probation, five were sentenced to jail, and five received other types of sentences. To the extent that extending the zones to include the area within 1,000 feet of school property or a park would result in increased incarceration time, local governments would incur the costs of incarceration in local facilities, which vary by county.

The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

H0506\s4594a

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.