



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5492 (as passed by the House)
Sponsor: Representative Kevin Elsenheimer
House Committee: Health Policy
Senate Committee: Judiciary

Date Completed: 11-28-06

CONTENT

The bill would amend the Public Health Code to delete the exemption for equipment, a product, or material that may be used in the preparation or smoking of tobacco or smoking herbs, other than a controlled substance, from the Code's prohibition against selling drug paraphernalia or offering it for sale. The bill would take effect 90 days after its enactment.

The Code prohibits a person from selling drug paraphernalia, or offering it for sale, knowing that the drug paraphernalia 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 a controlled substance into the human body. A violation is a misdemeanor, punishable by up to 90 days' imprisonment and/or a maximum fine of \$5,000. If a person 18 years of age or older violates the prohibition by selling or offering to sell drug paraphernalia to a person under 18, the violation is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$7,500.

The prohibition against selling or offering to sell drug paraphernalia does not apply to any of the following:

- An object sold or offered for sale to a person licensed under Article 15 (Occupations) of the Code or under the Occupational Code, or any intern, trainee, apprentice, or assistant in a profession licensed under Article 15 or the Occupational Code, for use in that profession.
- An object sold or offered for sale to any hospital, sanitarium, clinical laboratory, or other health care institution, including a penal, correctional, or juvenile detention facility, for use in that institution.
- An object sold or offered for sale to a dealer in medical, dental, surgical, or pharmaceutical supplies.
- Equipment, a product, or material that may be used in the preparation or smoking of tobacco or smoking herbs other than a controlled substance.
- A blender, bowl, container, spoon, or mixing device not specifically designed for use as drug paraphernalia.
- A hypodermic syringe or needle sold or offered for sale for the purpose of injecting or otherwise treating livestock or other animals.
- An object sold, offered for sale, or given away by a State or local governmental agency or by a person specifically authorized by a State or local governmental agency to prevent the transmission of infectious agents.

As noted above, the bill would delete from that list equipment, products, or material that may be used in the preparation or smoking of tobacco or smoking herbs, other than a controlled substance.

MCL 333.7457

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of violating Section 7453 (which prohibits the sale of drug paraphernalia) under the bill. To the extent that the change in exemptions resulted in increased convictions for violating Section 7453, local governments would incur the costs of misdemeanor prosecution, probation and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Bill Bowerman
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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.