



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5822 (Substitute H-2 as reported by the Committee of the Whole)

Sponsor: Representative Rick Jones

House Committee: Health Policy

Senate Committee: Health Policy

CONTENT

The bill would amend the Public Health Code to make it a felony to sell or distribute a product containing ephedrine or pseudoephedrine through the mail, internet, telephone, or other electronic means, subject to certain exceptions.

A person who violated the prohibition would be guilty of a felony punishable by imprisonment for up to four years and/or a maximum fine of \$5,000.

The bill would not apply to any of the following:

- A pediatric product intended primarily for administration to children under age 12, according to label instructions.
- A product containing pseudoephedrine in a liquid form if pseudoephedrine were not the only active ingredient.
- A product that the State Board of Pharmacy, upon application of the manufacturer or certification by the United States Drug Enforcement Administration as inconvertible, exempted from the bill because the product was formulated in a way that effectively prevented the conversion of the active ingredient into methamphetamine.
- A person who dispensed a product specified in the bill pursuant to a prescription.

Additionally, the bill would not apply to a person who, in the course of his or her business, sold or distributed products described above to either a person licensed by the State to manufacture, deliver, dispense, or possess with intent to manufacture or deliver a controlled substance, prescription drug, or other drug; or a person who ordered those products for retail sale pursuant to a license issued under the General Sales Tax Act.

The bill would take effect October 1, 2006. It is tie-barred to Senate Bill 1282, which would include a violation of House Bill 5822 as a Class F controlled substances felony in the sentencing guidelines.

Proposed MCL 333.7340

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offense. 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.

Date Completed: 5-30-06

Fiscal Analyst: Lindsay Hollander