

Legislative Analysis



***SALVIA DIVINORUM* & *SALVINORIN A*: CLASSIFY AS SCHEDULE 1 DRUG**

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House Bill 5700

Sponsor: Rep. Michael Sak

Committee: Health Policy

Complete to 2-27-08

A SUMMARY OF HOUSE BILL 5700 AS INTRODUCED 2-12-08

Salvia divinorum, sometimes called Diviner's Sage, is a member of the sage genus and the Lamiaceae (mint) family with psychoactive properties, and *salvinorum A* is the main active psychotropic molecule in *Salvia divinorum*. According to the Sloan-Kettering Institute, the herb "has been cultivated by the Mazatec people of Mexico for centuries for use as a hallucinogen during religious ceremonies."

House Bill 5700 would amend the Public Health Code to classify *Salvia divinorum* and *salvinorum A* as Schedule 1 drugs. The bill would also delete an obsolete provision pertaining to a marihuana controlled substances therapeutic research program that no longer is in operation.

The code's penalty provisions for unlawful acts involving controlled substances would also apply to activities associated with *Salvia divinorum* or *salvinorum A*. Use of either substance would be a misdemeanor punishable by not more than one year and/or a fine of not more than \$1,000. Felony provisions would apply for conduct involving knowingly possessing *Salvia divinorum* or *salvinorum A*; manufacturing, creating, delivering, or possessing with intent to deliver either substance; or owning or using buildings, vehicles, or places to manufacture a controlled substance or a counterfeit substance.

(Note: The penalty provisions of the code prescribe lower penalties for some violations involving LSD, peyote, and other hallucinogens. For example, use of a hallucinogen is a six-month misdemeanor and simple possession is a one-year misdemeanor. However, since the bill would not specifically include *Salvia divinorum* and *salvinorin A* in Sections 7403(2)(c) and 7404(2)(c), the higher imprisonment maximums would apply—a 1 year misdemeanor for use and two-felony for simple possession.)

BACKGROUND INFORMATION:

Following federal law, the Public Health Code classifies controlled substances under one of five "schedules." Scheduled drugs must have the potential for abuse (where, in general, the abuse is associated with a stimulant or depressive effect on the central nervous system) and are either (a) illegal and without any medically accepted use in the United States (all schedule 1 drugs), or (b) prescription drugs with medically accepted uses in the United States that have a potential for psychological or physical dependence

in addition to the potential for abuse (schedules 2, 3, 4, and 5) A Schedule 2 drug would have a higher potential for dependence and abuse than would a Schedule 5 drug.

Schedule 1 drugs—all of which are illegal—must have a high potential for abuse and no accepted medical use in treatment in the United States or lack accepted safety for use in treatment under medical supervision (MCL 333.7211). In addition to opiates and opium derivatives (including heroin), schedule 1 includes hallucinogenic drugs (such as LSD and mescaline) and non-therapeutic uses of marijuana.

FISCAL IMPACT:

The bill's fiscal impact on state and local correctional systems would depend on how it affected the number of misdemeanor and felony convictions and the severity of sentences. There are no data to indicate how many people might be convicted of offenses involving the substances to be proscribed by the bill. To the extent that the bill increased the number of misdemeanor sentences, local costs of jail incarceration or misdemeanor probation supervision, both of which vary by jurisdiction, could increase.

To the extent that the bill increased the number of felony sentences, the state could incur increased costs of prison incarceration or felony probation supervision. The average appropriated cost of prison incarceration is roughly \$32,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision average about \$2,000 per supervised offender per year. To the extent that more felons were sentenced to jail, affected counties could experience increased costs; jail costs vary by county.

Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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