

Legislative Analysis



"BATH SALTS" DRUG AS SCHEDULE 1

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House Bill 4565 (Substitute H-1)

Sponsor: Rep. Sharon Tyler

Committee: Judiciary

Revised First Analysis (5-20-11)

BRIEF SUMMARY: The bill would designate a new designer drug most commonly known as "bath salts" as a Schedule 1 drug.

FISCAL IMPACT: Data is not available to determine how many persons will be convicted of offenses related to the new substances included in the list of Schedule 1 controlled substances. To the extent that the bill increases felony and/or misdemeanor convictions related to these substances, it would increase state and/or local incarceration costs. Local incarceration costs at local jails vary by county. The average cost of incarceration in a state prison is roughly \$34,000 per prisoner per year. However, the incremental cost of adding one or more prisoners to the system can vary significantly around this average depending on the availability of open beds. Costs of parole and felony probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year. Any increase in penal fine revenues resulting from the bills would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Yet another designer street drug is gaining in popularity in Michigan and around the nation. Marketed as "bath salts" under innocuous names such as Vanilla Sky, Cloud Nine, Ocean, and Red Dove in head shops, smoke shops, and convenience stores, these products are manufactured from chemicals that produce a reaction more often seen with PCP ingestion. Physical side effects include chest pain, confusion, high blood pressure, tachycardia (a heart arrhythmia), agitation, and tremors but can progress to kidney or liver failure.

Perhaps more alarming are the mental or psychological effects, which include hallucinations, extreme paranoia, and violent behavior. Some users of "bath salts" have remained symptomatic for two to three days, and a few have needed long-term, in-patient psychiatric care. The drugs involved also appear to increase suicidal tendencies.

At least one death in Michigan has been associated with an over-dose of "bath salts," and so many young adults began presenting at emergency rooms in the Upper Peninsula this year after ingesting "bath salts" that three counties issued emergency bans and confiscated "bath salts" products from local stores.

According to the National Conference of State Legislatures, as of April 15th, 15 states have taken action to ban one or more of the drugs used in the manufacture of "bath salts,"

and 31 states have introduced legislation to regulate or ban at least one of the chemicals used in the products. Federal legislation has also been introduced to ban at least two of the "bath salt" chemicals. In light of the extreme health risks posed by ingestion of these products, legislation has been introduced to designate several of the primary chemicals used in "bath salts" as a Schedule 1 controlled substance.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to designate a new designer drug most commonly known as "bath salts" as a Schedule 1 drug. Schedule 1 drugs, which are considered to have a high risk of abuse and to have no legitimate medical purpose, include heroin, LSD, marijuana, MDMA (ecstasy), and methamphetamines.

House Bill 4565, which would take effect August 1, 2011, is similar to Senate Bill 259 as passed by the Senate.

Specifically, House Bill 4565 would amend the Public Health Code (MCL 333.7212) to include all of the following in the list of Schedule 1 controlled substances:

** Methylenedioxypropylamphetamine, also known as Bath Salts, MDPV, Charge Plus, Cloud Nine, Hurricane Charlie, Ivory Wave, Ocean, Red Dove, Scarface, Sonic, White Dove, and White Lightning.

** 5, 6-Methylenedioxy-2-aminoindane, also known as MDAI and Woof-Woof.

** Naphyrone (Naphthylpropylamine), also known as NRG-1 and Rave.

** Pyrovalerone (1-(4-Methylphenyl)-2-(1-pyrrolidinyl)-1-pentanone).

Further, the bill would amend the list of drugs in Schedule 1 to refer to Mephedrone instead of Mephadrone and would include additional trade and other names for that substance, including Miaow Miaow, Bubble Love, Plant Food, Drone, and Neo Doves.

Under current provisions of the health code, a person who engaged in unlawful conduct involving the above drugs would be subject to the following penalties:

- Manufacture/delivery/possession with intent to deliver – a felony punishable by a maximum of seven years' imprisonment and/or a fine of not more than \$10,000.
- Possession – a felony punishable by up to two years' imprisonment and/or a fine of not more than \$2,000.
- Use – a misdemeanor punishable by up to one year imprisonment and/or a fine of not more than \$1,000.

ARGUMENTS:

For:

Schedule 1 controlled substances have no known or accepted medical uses and pose a high risk of addiction and/or serious health risks. The new synthetic drug known as "bath salts" certainly fits this description. Users have reported that the "trip" provided by "bath

salts" is "horrible," and yet experience significant cravings to snort, shoot up, or ingest more. Emergency rooms have seen a dramatic increase in "bath salts" cases. Physical symptoms can range from high blood pressure and chest pain to liver or kidney failure and even death. Several deaths across the nation, and one in Michigan, have been associated with "bath salts." Perhaps even more serious are the mental effects. Some users have been reported to be extremely violent – attacking themselves or others, including law enforcement officers, with knives, swords, or firearms while in the midst of strong delusions or hallucinations. The drug is also known to place users at increased risk of suicide. While high, users don't respond to sedatives and other medications used to subdue agitated or violent individuals, placing police, health care workers, and the public at risk of harm when trying to offer help. Worse yet, in some individuals, "bath salts" appear to trigger a psychotic break. It can take days or weeks for some to come down. A few even have needed to be institutionalized for long-term psychiatric treatment as a result of the drug.

However, without the bill's enactment, the sale, possession, and use of "bath salts" will remain legal. Placing these substances on Schedule I along side of drugs such as cocaine, heroin, and hallucinogens will not only make them illegal, but will trigger the same penalties in place for drugs such as LSD, K-2, Salvia Divinorum, and Khat. As new designer drugs hit the streets, laws need to be updated to give law enforcement agencies the tools to protect the health and well-being of the state's residents.

The bill would not impact sales or possession of legitimate bath salts used in bathing to relax tight muscles or soothe skin. Those bath salts do not contain the prohibited chemicals. The product banned by the bill typically comes from China and contains chemicals that would not be safe or appropriate to dissolve in bath water and are not safe for ingestion. Though the products targeted by the bill often contain warnings that they are not intended for human consumption, that is exactly the purpose for which they are manufactured.

Response:

The problem with making synthetic drugs illegal is that the underground chemists can simply change a single ingredient or tweak a molecule to make a new version immune from the new law. Perhaps a better approach would be to criminalize a drug based on the harm it caused to users rather than trying to list its main chemical components. Of course, this would only be for substances which have no accepted medical use.

POSITIONS:

The Prosecuting Attorneys Association of Michigan supports the bill. (5-12-11)

The Michigan Probate Judges Association indicated support for the bill. (5-12-11)

The Michigan Pharmacists Association indicated support for the bill. (5-12-11)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.