



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

Senate Bill 350 (as introduced 4-28-11)
Sponsor: Senator Mike Nofs
Committee: Health Policy

Date Completed: 5-3-11

CONTENT

The bill would amend the Public Health Code to make it a misdemeanor to use a false identification to purchase a product containing ephedrine or pseudoephedrine. The offense would be punishable by imprisonment for up to 93 days and/or a maximum fine of \$100.

Under the Code, a person who sells a product that contains any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or salt of an optical isomer of ephedrine or pseudoephedrine, must require a purchaser to produce a valid photo identification that includes the individual's name and date of birth. Additionally, if the retailer does not maintain the products behind a counter or in a locked case, the retailer must maintain a log or record detailing the sale of the product, including the date of sale, the buyer's name and birthdate, and the amount and description of the product sold. The retailer must maintain the log for at least six months and make it available to a law enforcement agency upon request.

Under the bill, if a person used or attempted to use a false identification or another person's identification to purchase a product that contained any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, the person would be guilty of a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of up to \$100.

The penalty would not apply to a person who participated in an undercover operation in which the individual purchased or received the product under direction of his or her employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

The penalty also would not apply to a person who participated in an undercover operation in which the individual purchased or received the product under the direction of the Michigan State Police (MSP) or a local law enforcement agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the product was not under the direction of the MSP or a local law enforcement agency and was not part of the undercover operation.

MCL 333.17766e

Legislative Analyst: Julie Cassidy

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 misdemeanor. Local governments would incur the costs of incarceration in local facilities and/or misdemeanor probation, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Matthew Grabowski

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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.