



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4505 (Substitute H-1 as passed by the House)
Sponsor: Representative Peter J. Lucido
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 8-17-15

CONTENT

The bill would amend Article 7 (Controlled Substances) of the Public Health Code to provide that a plaintiff in an action under the article would have the burden of proving a violation of the article by clear and convincing evidence.

The bill would apply to proceedings begun on or after the bill's effective date. The bill would take effect 90 days after its enactment.

The bill would add the proposed language to Section 7521, which describes property that is subject to forfeiture. This includes the following:

- A controlled substance that has been manufactured, distributed, used, possessed, or acquired in violation of Article 7.
- Raw material, product, or equipment that is used, or intended for use, in manufacturing, compounding, processing, or delivering a controlled substance in violation of Article 7.
- Property that is used or intended for use as a container for property described in either of the first two provisions.
- A conveyance, including an aircraft, vehicle, or vessel used or intended for use to transport property described in either of the first two provisions, for the purpose of sale or receipt, subject to several exceptions.
- Any other drug paraphernalia.

When property is forfeited under Article 7, the local unit of government that seized it, or the State if the property was seized by or in the custody of the State, may retain it for official use, sell that which is not required by law to be destroyed and is not harmful to the public, require the Michigan Board of Pharmacy to take custody of the property and remove it for disposition, or forward it to the U.S. Department of Justice's Drug Enforcement Administration for disposition.

If the local unit or the State sells property, the proceeds must be deposited with the treasurer of the entity having budgetary authority over the seizing agency and used to pay expenses of the forfeiture and sale. The court that has jurisdiction over the forfeiture proceedings must distribute the balance to the treasurer or treasurers of the entity or entities having budgetary authority over the seizing agency or agencies. Money received by a seizing agency and all interest and other earnings on the money must be used only for law enforcement purposes, as appropriated by the entity with budgetary authority.

MCL 333.7521

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill could potentially have a fiscal impact, in an amount that cannot be determined at this time, on law enforcement agencies by raising the standard of proof under which assets can be forfeited to those agencies. This could result in a reduction in the amount of assets forfeited to the Department of State Police and local law enforcement agencies. In addition, the Attorney General and local prosecutors could incur increased costs, also of an undetermined amount, due to the higher standard of proof (and thus increased prosecutorial effort) required in cases in which asset forfeiture is an issue.

Fiscal Analyst: Bruce Baker

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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.