

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 182 (Substitute S-1 as reported by the Committee of the Whole)

Sponsor: Senator Bev Hammerstrom

Committee: Judiciary

CONTENT

The bill would amend the Public Health Code to include as a Schedule 5 controlled substance ephedrine, a salt of ephedrine, an optical isomer of ephedrine, a salt of an optical isomer of ephedrine, or a compound, mixture, or preparation containing that substance. Inclusion of ephedrine in Schedule 5 would not preclude prosecution under the Code's current prohibition against possessing more than 10 grams of ephedrine alone or in a mixture.

Products would not be included in Schedule 5 if they could lawfully be sold over the counter (OTC) without a prescription under Federal law; were labeled and marketed in a manner consistent with the pertinent OTC regulations; were manufactured and distributed for legitimate medical use; were not marketed, advertised, or labeled for an indication of stimulation, mental alertness, energy, weight loss, appetite control, or muscle enhancement; and either were in a solid dosage form and packaged as prescribed in the bill, or were anorectal preparations containing not more than 5% ephedrine.

A food product or dietary supplement containing ephedrine would not be included in Schedule 5, if it contained not more than 25 milligrams of ephedrine alkaloids or the maximum amount allowed by the U.S. Food and Drug Administration (FDA), whichever was less, and contained no other controlled substance; contained no hydrochloride or sulfate salts of ephedrine alkaloids; and were packaged with a prominent label that stated the amount in milligrams of ephedrine per serving or dose, the amount that constituted a serving or dose, the maximum recommended dosage of ephedrine for a healthy adult according to the FDA, and that improper use could be hazardous to a person's health.

The bill also would prohibit delivery of a food product or dietary supplement containing ephedrine to a person under 18 years of age. The bill would make exceptions for a physician or pharmacist, a parent or guardian, or a person authorized by a parent or guardian. A person could not advertise or represent in any manner that a product containing ephedrine caused euphoria, ecstasy, a "buzz" or "high", or an altered mental state, or that it heightened sexual performance or increased muscle mass. A violation relating to a food product or dietary supplement would be a misdemeanor, punishable by up to 93 days' imprisonment and/or a maximum fine of \$100.

MCL 333.7208 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local government for the costs of incarceration and/or the receipt of fine revenue. There are no data available to indicate how many people would be convicted of dispensing, selling, or otherwise giving the ephedrine products detailed in the bill to an individual under 18 or how many people could be convicted of advertising such a product in an prohibited manner. The cost of incarceration varies by county between \$27 and \$65 daily and fine revenues go to public libraries.

Date Completed: 5-13-99

Fiscal Analyst: K. Firestone

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Analysis available @ <http://www.michiganlegislature.org>

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.