

Legislative Analysis



BZP AS SCHEDULE 1 DRUG

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House Bill 5813 (Proposed Substitute H-1)

Sponsor: Rep. Lisa Brown

House Bill 5920

Sponsor: Rep. Jon Switalski

Committee: Health Policy

Complete to 3-8-10

A SUMMARY OF HOUSE BILL 5813 (PROPOSED SUBSTITUTE H-1) AND HOUSE BILL 5920 AS INTRODUCED 3-3-10

House Bill 5813 would amend the Public Health Code (MCL 333.7212) to include N-benzylpiperazine, also known as BZP, 1-benzylpiperazine, and 1-(phenylmethyl)-piperazine, as a Schedule 1 controlled substance. The bill would also delete references to an obsolete marijuana therapeutic research program.

[If included as a Schedule 1 controlled substance, the penalties for violations pertaining to BZP would be the same as for violations involving methamphetamines (such as ecstasy). The penalty for possession of BZP under the Public Health Code would be a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000, or both. Manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver BZP would be a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$25,000, or both.]

House Bill 5920 is tie-barred to House Bill 5813 and would amend the Code of Criminal Procedure (MCL 777.13m) to include the violations in the corresponding sentencing guidelines. Thus, a violation of MCL 333.7401(2)(b)(i) – delivery or manufacture of methamphetamine or 3,4-methylenedioxymethamphetamine or N-benzylpiperazine would be punishable by a maximum term of imprisonment of 20 years. (A provision of the sentencing guidelines relating to simple possession of either drug was not amended to include N-benzylpiperazine.)

The bill also makes numerous revisions of a technical or editorial nature. In addition, the bill would add a sentencing guidelines provision for a violation of MCL 333.7405(1)(e). Section 7405(1)(e) was added many years ago and more recently amended by Public Act 150 of 2009. The amendment reflects the changes made by PA 150 and specifies that unlawfully dispensing an out-of-state prescription is a Class G felony regarding controlled substances with a two-year maximum term of imprisonment.

BACKGROUND INFORMATION:

Following federal law, the Public Health Code classifies controlled substances under one of five "schedules." 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. In March 2004, the federal Drug Enforcement Administration (DEA) designated BZP as a Schedule 1 drug under the Controlled Substances Act.

According to information from the National Drug Intelligence Center, an agency within the U.S. Department of Justice, BZP (also known as Frenzy or Nemesis) is a stimulant that produces effects similar to methamphetamine (MDMA or ecstasy) but that is 10 to 20 percent less potent than ecstasy. A hallucinogen is sometimes added to BZP. BZP tablets are often sold as ecstasy or promoted as an alternative to ecstasy. Used primarily by teens and young adults at raves, nightclubs, and private parties, the risks are similar to amphetamine use: increased blood pressure and heart and respiration rates, anxiety, blurred vision, dizziness, and insomnia. Chronic abuse of any stimulant can cause irregular heartbeat and can lead to delusions, hallucinations, and paranoia. The risk associated with using illegal drugs is increased in that the amount of the prohibited substance can vary in dosage from tablet to tablet, and is often mixed with other substances such as hallucinogens, cocaine, and dextromethorphan (DXM), a cough suppressant found in many over-the-counter cold medications that can cause "a high" or psychoactive effects. Apparently, because BZP is often pressed into shapes resembling cartoon characters and so looks like children's vitamins, its ability to be marketed to young teens and even pre-teens is particularly alarming.

If included as a Schedule 1 controlled substance, the penalty for possession of BZP under the Public Health Code, or manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver BZP, would be a felony punishable in the same manner as for prohibited conduct involving methamphetamines.

Federal penalties for drug trafficking any amount of BZP is punishable by not more than 20 years for a first offense (not less than 20 years or more than life if death or serious injury occurs) and a \$1 million fine if an individual and \$5 million if not an individual. A second or subsequent offense is punishable by imprisonment for not more than 30 years (not less than life if death or serious injury occurs) and a \$2 million fine if an individual and \$10 million fine if not an individual.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on state and local correctional systems. There are no data to indicate how many offenders would be convicted under the affected provisions of current law. The average appropriated cost of prison incarceration is roughly \$33,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year.

Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

The bill has modest fiscal implications for the regulatory division of the Department of Community Health which oversees controlled substances and Article 7 of the Public Health Code.

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