



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 660 (Substitute S-3 as reported)
Sponsor: Senator Roger Kahn, M.D.
Committee: Government Operations

CONTENT

The bill would amend the Public Health Code to specify that marihuana, including pharmaceutical-grade cannabis (PGC), would be a Schedule 2 controlled substance if it were manufactured, obtained, dispensed, possessed, or grown in compliance with the Code and as authorized by Federal authority; provide for the licensure of facilities that manufactured, cultivated, and tested PGC; allow facilities to sell PGC to pharmacists and pharmacies; provide for PGC prescriptions; and provide for the issuance of enhanced PGC registration cards to patients.

The bill would amend Article 7 (Controlled Substances) of the Code to specify that marihuana would be a Schedule 2 controlled substance as described above. The bill also would include marihuana in Schedule 2 for the purpose of treating a debilitating medical condition as authorized under the Code and the Michigan Medical Marihuana Act. Currently, marihuana is a Schedule 1 controlled substance.

The bill would add Article 8 (Pharmaceutical-Grade Cannabis) to the Code to do the following with respect to the licensure of facilities:

- Prohibit a person from manufacturing, distributing, prescribing, or dispensing pharmaceutical-grade cannabis without a controlled substance license under Article 7.
- Require the Department of Community Health (DCH) to license facilities to cultivate, manufacture, and test PGC.
- Establish licensure criteria, and require an applicant to submit personal history information and fingerprints for criminal history checks.
- Require the DCH to establish a Pharmaceutical-Grade Cannabis Licensed Facility Registry, which would be an online database available to the public.
- Establish operating requirements for licensed facilities.
- Require pharmaceutical-grade cannabis to meet specific standards, and require licensed facilities to irradiate all PGC before delivery.
- Limit the liability of a licensed facility in a product liability action.
- Allow the DCH to charge fees for activities and services provided under Article 8.
- Require the fees to be deposited in the "Pharmaceutical-Grade Cannabis Fund", which the bill would create and the DCH could use to administer and enforce Article 8.

Article 8 would do the following with respect to the delivery and prescription of pharmaceutical-grade cannabis:

- Require a licensed facility to sell PGC only to a licensed pharmacist or retail pharmacy, to be dispensed only to eligible patients and other licensed facilities.

- Allow a physician to recommend the issuance of an "enhanced pharmaceutical-grade cannabis registration card" to a patient if the physician believed that PGC would treat or alleviate the patient's debilitating medical condition.
- Allow the DCH to issue a registration card to a recommended patient who had not been convicted of a controlled substance offense.
- Require a person to surrender his or her registry ID card issued under the Michigan Medical Marihuana Act before receiving an enhanced PGC registration card.
- Require the DCH to enter certain information into the Law Enforcement Information Network for each card issued.
- Specify information that a prescription for PGC would have to include.
- Provide that a prescription could not allow an individual to obtain more than two ounces of PGC within a 30-day period.
- Prohibit PGC from being prescribed to an individual under 18 years of age.
- Restrict access to information submitted to the DCH under Article 8.

Article 8 would do the following with respect to enforcement:

- Require the DCH to conduct annual inspections of licensed facilities.
- Allow the DCH to delegate its inspection responsibilities to local health departments, which the State would have to reimburse.
- Allow the DCH, after an investigation and a hearing, to suspend or revoke a facility's license.
- Allow the DCH to suspend a facility's license without a hearing, in an emergency.
- Establish misdemeanor penalties for an owner, operator, or agent of a licensed facility who knowingly violated Article 8 or established or operated a licensed facility in violation Article 8.
- Provide that a licensed facility, or an owner, operator, officer, director, manager, or employee of a facility would not be subject to arrest, prosecution, or penalty, and could not be denied any right or privilege, for the cultivation, distribution, and sale of PGC under Article 8.
- Preempt local ordinances regarding PGC facilities, except limitations on the number allowed and reasonable zoning regulations.

The bill also would require the DCH to promulgate rules necessary to carry out Article 8.

The bill specifies that Articles 7 and 8 would not apply to conduct permitted under the Michigan Medical Marihuana Act.

The bill also would amend other articles of the Public Health Code to include references to Article 8 in provisions concerning disciplinary procedures; provisions regulating pharmacy practice; and a prohibition against disciplining health facility employees for reporting malpractice.

MCL 333.7212 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The fiscal impact of Senate Bill 660 (S-3) is contingent upon the reclassification of marihuana as a Schedule 2 controlled substance, which would not occur unless authorized by the Federal government. The analysis below assumes that marihuana would be reclassified. Otherwise, the bill would have no fiscal impact on State or local government.

The bill would allow the Department of Community Health to charge "reasonable" fees for licensing, registration, inspection, testing, and other activities related to the production and distribution of pharmaceutical-grade cannabis. The Department would be required to set

the fees at such a level that the revenue collected did not exceed the amount necessary to fund the Department's activities.

The bill is written so that there would be no net fiscal impact on the DCH or local health departments. The DCH would undertake a number of activities, including promulgation of rules, licensing pharmaceutical-grade cannabis facilities, performing background checks on operators and employees, conducting annual inspections of licensed facilities, establishing a licensed facility registry, issuing registration cards, ensuring that registration card data were entered into the Law Enforcement Information Network, monitoring pharmaceutical grade cannabis as a Schedule 2 controlled substance, reporting to the Legislature, and taking action to suspend or revoke licenses through a hearing process. The costs of these activities would be offset by the fees charged.

The bill would permit the DCH to delegate inspections for approval or renewal of licenses to local public health departments as long as an ad hoc committee including representatives of the local public health departments approved and the State reimbursed the local public health department the full amount of fees collected. As such, there would be no anticipated net fiscal impact on local government from the delegation of inspections.

The bill could have a negative fiscal impact on the Department of Licensing and Regulatory Affairs (LARA). This Department currently administers the Medical Marihuana Program (MMP), which issues registry cards to individuals whose doctors have recommended marihuana for the treatment of their symptoms. Registered individuals pay an initial fee of \$100 for a registry card and \$100 to renew the card every two years thereafter. Under the bill, individuals who wished to obtain pharmaceutical-grade cannabis would have to surrender their registry card under the Michigan Medical Marihuana Act and instead obtain an enhanced registration card from the DCH. This would cause an indeterminate loss of revenue for LARA as some registrants changed registration card types, but this revenue loss would not substantially affect LARA's operations as the revenue currently generated by the MMP is in excess of what is required to operate the program. A loss of MMP revenue would serve to reduce the rate at which surplus funds accrue.

The bill would create a new misdemeanor for establishing or operating a pharmaceutical-grade cannabis licensed facility in violation of the regulations detailed under the bill. The misdemeanor would be punishable by a maximum term of imprisonment of 90 days, 180 days, or two years, and a maximum fine of \$10,000, \$50,000, or \$100,000, depending on whether the offender had prior convictions or committed the offense intentionally. There are no data to indicate how many individuals would be convicted of the proposed offense. Any convictions under the bill would increase the costs of incarceration and community supervision. Any penal fine revenue would benefit public libraries, which are the constitutionally designated recipients of that revenue. Violators charged with or convicted of the misdemeanor also could be charged with any other applicable crime committed while violating the proposed regulations.

Date Completed: 11-7-13

Fiscal Analyst: Steve Angelotti
Dan O'Connor
Josh Sefton

Floor'sb660

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.