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Senate Bill 1131 (as introduced 11-6-14)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 11-12-14

CONTENT

The bill would amend Article 7 (Controlled Substances) of the Public Health Code to move a material containing limited quantities of a codeine-related narcotic (dihydrocodeinone) from Schedule 3 to Schedule 2.

Under the Code, the following describe Schedule 1, 2, and 3 controlled substances:

- A Schedule 1 controlled substance has high potential for abuse and has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.
- A Schedule 2 controlled substance has high potential for abuse; has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and the abuse of the substance may lead to severe psychic or physical dependence.
- A Schedule 3 substance has a potential for abuse less than the substances listed in Schedules 1 and 2, and has currently accepted medical use in treatment in the United States; and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

The list of Schedule 3 controlled substances includes any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

- Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
- Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.
- Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

Under the bill, the substances described above instead would be listed as Schedule 2 controlled substances.

(Criminal penalties for illegally manufacturing, creating, delivering, possessing with intent to deliver, possessing, and using controlled substances vary and are based, in part, on the schedule in which they are listed.

Penalties for manufacturing, creating, delivering, or possessing with intent to deliver a Schedule 2 narcotic depend on the amount of the substance involved. The penalties range from up to 20 years' imprisonment and/or a maximum fine of \$25,000 (for an amount less than 50 grams) to imprisonment for life or any term of years and/or a maximum fine of \$1.0 million (for 1,000 grams or more). The penalty for those activities involving a Schedule 3 controlled substance is imprisonment for up to seven years and/or a maximum fine of \$10,000.

Penalties for possessing a Schedule 2 narcotic also depend on the amount of the substance involved. The penalties range from up to four years' imprisonment and/or a maximum fine of \$25,000 (for less than 25 grams) to imprisonment for life or any term of years and/or a maximum fine of \$1.0 million (for 1,000 grams or more). Possession of a Schedule 3 controlled substance is punishable by up to two years' imprisonment and/or a maximum fine of \$2,000.

The penalty for illegally using a Schedule 2 narcotic is up to one year's imprisonment and/or a maximum fine of \$2,000. Illegal use of a Schedule 3 controlled substance is punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.)

MCL 333.7214 & 333.7216

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Changing the categorization of certain substances from Schedule 3 to Schedule 2 would change the felony and misdemeanor penalties associated with violations. In calendar year 2013, for the court dispositions associated with these controlled substances, there were approximately 200 people whose felony convictions resulted in a prison sentence. The data do not indicate whether those convictions were the result of the manufacture, possession, or use of the controlled substances listed in the bill. For felony sentence convictions, in the short term, the marginal cost to State government would be approximately \$4,100 per additional prisoner per year. Over the long term, the marginal cost to State government would be approximately \$31,100 per additional prisoner per year. Since the more severe felony and misdemeanor offense penalties would not increase the number of cases, costs to local courts and law enforcement should be unchanged. An increase in the fine revenue collected could increase revenue for public libraries.

Fiscal Analyst: John Maxwell

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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.