



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



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 650 (Substitute S-1 as reported)  
Senate Bill 651 (Substitute S-1 as reported)  
Sponsor: Senator Alan L. Cropsey (Senate Bill 650)  
Senator Alan Sanborn (Senate Bill 651)  
Committee: Judiciary

### **CONTENT**

Senate Bill 650 (S-1) would amend the Public Health Code to do the following:

- Include pseudoephedrine in provisions that prohibit the possession of ephedrine.
- Increase the prohibited amount from more than 10 grams to more than 12 grams.
- Exempt from the prohibition any pediatric product and a product formulated to prevent the conversion of the active ingredients into methamphetamine.

The Code prohibits a person from possessing more than 10 grams of ephedrine, alone or in a mixture. A violation is a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,000. The bill would include possession of pseudoephedrine in that provision and raise the prohibited level to more than 12 grams.

The offense does not apply to any of the following: a person who possesses ephedrine pursuant to a license issued by the State or the United States to manufacture, deliver, dispense, possess with intent to manufacture or deliver, or possess a controlled substance, prescription drug, or other drug; a person who possesses ephedrine for retail sale pursuant to a sales tax license; a person who possesses ephedrine in the course of his or her business of selling or transporting ephedrine to a person described above; a person who, in the course of his or her business, stores ephedrine for sale or distribution to a person described above; or an individual who possesses ephedrine pursuant to a prescription. The bill would include pseudoephedrine in those exceptions.

The bill also would exclude from the prohibition 1) any product that the State Board of Pharmacy, upon a manufacturer's application, exempted because it had been formulated in a way that effectively would prevent the conversion of the ephedrine or pseudoephedrine into methamphetamine and 2) any pediatric product primarily intended for administration to children under 12 years old according to label instructions.

Senate Bill 651 (S-1) would amend the Code of Criminal Procedure to revise the sentencing guidelines listing for possession of more than 10 grams of ephedrine. The offense is listed as a Class G controlled substances felony with a statutory maximum penalty of two years' imprisonment. The bill would refer to possession of 12 grams or more and include pseudoephedrine in that provision. The bill is tie-barred to Senate Bill 650.

The bills would take effect on January 31, 2004.

MCL 333.17766c (S.B. 650)  
777.13n (S.B. 651)

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State and local government.

According to the Department of Corrections Statistical Report, in 2001 no offenders were convicted of possessing more than 10 grams of ephedrine. There are no data to indicate whether increasing the prohibited amount to more than 12 grams would reduce the number of convicted offenders, or whether adding possession of pseudoephedrine to this offense would increase the number of convicted offenders. Offenders would receive a sentencing guidelines minimum sentence range from 0-3 months to 7-16 months. Because the longest allowable minimum sentence would be less than 18 months, offenders would likely receive probation or incarceration in a local facility. The State would incur the cost of felony probation at an average annual cost of \$1,750, while local units of government would incur the cost of incarceration, which varies by county.

Public libraries would benefit from any additional penal fine revenue raised due to the proposed changes.

Date Completed: 10-20-03

Fiscal Analyst: Bethany Wicksall

Floor\sb650

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.