



Senate Fiscal Agency
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Senate Bill 1141 (as passed by the Senate)
Sponsor: Senator Alan L. Cropsy
Committee: Judiciary

Date Completed: 5-5-04

RATIONALE

The Drug Dealer Liability Act allows someone injured by an individual abuser of a controlled substance to bring an action against a person who participated in the illegal marketing of the controlled substance (a drug dealer). The market area (county or counties) in which a person is presumed to have participated in the illegal marketing of a "market area controlled substance" (generally, a Schedule 1 opiate, cocaine, methamphetamine, or marihuana) depends upon the person's participation level, which is defined in terms of the quantity of the substance. The amount of drugs referred to in those definitions reflect quantities that previously applied to the underlying controlled substance violations of the Public Health Code. The amounts specified in the Code, however, have been revised in recent

years. Some people believe that the quantities specified in the Drug Dealer Liability Act's participation levels should be consistent with the amounts stated for the underlying Public Health Code violations.

CONTENT

The bill would amend the Drug Dealer Liability Act to revise the amounts of controlled substances in the definitions of Level 1, 2, 3, and 4 participation in the illegal marketing of controlled substances, for purposes of an action brought under the Act.

The bill would revise the definition of the levels of participation, as shown in Table 1.

Table 1

Participation Level	Controlled Substance		Marihuana	
	Current	Proposed	Current	Proposed
1	650 grams or more	1,000 grams or more	16 lbs. or more; or 100 plants or more	45 kg. or more; or 200 plants or more
2	225 or more grams but less than 650	450 or more grams but less than 1,000	8 or more lbs. but less than 16; or 75 or more plants but less than 100	5 kg. or more but less than 45; or 20 or more plants but fewer than 200
3	50 or more grams but less than 225	50 or more grams but less than 450	4 or more lbs. but less than 8; or 50 or more plants but less than 75	Less than 5 kg.; or fewer than 20 plants
4	Less than 50 grams	Less than 50 grams	1 or more lbs. but less than 4; or 25 or more plants but less than 50	N/A

Under the Act, if a person participated in the illegal marketing of a market area controlled substance, his or her market area for that controlled substance is the following:

- For "level 4 participation", each county in which the person participated in illegal marketing.
- For "level 3 participation", each county described above for level 4 participation, plus all counties with a border contiguous to each of those market areas.
- For "level 2 participation", each county described above for level 3 participation, plus all counties with a border contiguous to each of those market areas.
- For "level 1 participation", all of Michigan.

MCL 691.1603

BACKGROUND

Public Act 665 of 2002 amended the Public Health Code to revise the penalties for manufacturing, creating, delivering, possessing, or possessing with intent to manufacture, create, or deliver a Schedule 1 or 2 narcotic or cocaine. The penalties are based on the amount of drugs involved in the violation. Previously, the violation with the most severe penalty involved 650 grams or more. Other violation levels involved 225 grams or more, but less than 650; 50 grams or more, but less than 225; less than 50 grams (for manufacture, creation, delivery, or possession with intent); 25 grams or more, but less than 50 (for possession); and less than 25 grams (for possession). Under the amendments made by Public Act 665, those violation levels now are 1,000 grams or more; 450 grams or more, but less than 1,000; 50 grams or more, but less than 450; less than 50 grams (for manufacture, creation, delivery, or possession with intent); 25 grams or more, but less than 50 (for possession); and less than 25 grams (for possession).

Public Act 221 of 1994 amended the Public Health Code to revise the penalties for marijuana violations. Previously, manufacturing, delivering, or possessing with intent to manufacture or deliver marijuana had been a felony punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both, regardless of the amount of marijuana involved. Under the amendments made by Public Act 221, the

penalties are based on the amount of marijuana, or the number of marijuana plants, involved in the violation. The most severe penalties apply when the violation involves at least 45 kilograms or at least 200 plants. Other violation levels involve at least five but less than 45 kilograms, or at least 20 but fewer than 200 plants, and less than five kilograms or fewer than 20 plants.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would revise the participation level definitions in the Drug Dealer Liability Act to bring them into conformity with the Public Health Code. The quantities specified in the bill reflect the amount of drugs for various controlled substance violations that have been changed since the Drug Dealer Liability Act was signed into law in 1994.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no impact on State or local government.

Fiscal Analyst: Bethany Wicksall

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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.