



**House  
Legislative  
Analysis  
Section**

Manufacturer's Bank Building, 12th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**SCHOOLS: DRUG-FREE ZONES**

House Bill 5381 with committee amendments  
First Analysis (3-14-90)

**RECEIVED**  
**MAR 21 1990**

Sponsor: Rep. Perry Bullard  
Committee: Judiciary

Mich. State Law Library

***THE APPARENT PROBLEM:***

The prevalence of drugs on and near school grounds has alarmed parents, school officials, and law enforcement officers, who in recent years have called for the development of new tools to enhance efforts to protect children from drug traffickers and punish the drug pushers who prey upon young people. Public Act 12 of 1988 addressed these concerns by creating special penalties for sale or possession of controlled substances on or near school property. Under that law, an adult who delivers less than 50 grams of cocaine or narcotics within the proscribed 500-foot distance is to be punished by at least two years in prison and up to three times the term of imprisonment or fine (or both) that applies elsewhere (however, a court can impose a term under two years if it finds substantial and compelling reasons for doing so). Enhanced penalties also apply to possession with intent to deliver, and repeat offenders are subject to even stiffer penalties. Proponents of the development of "drug-free school zones" criticize the 500-foot distance as inadequate, and urge that Michigan law adopt the 1,000-foot standard contained in federal law and common in other states.

***THE CONTENT OF THE BILL:***

The bill would amend the controlled substances act within the Public Health Code with respect to the special penalties that apply to the sale or possession of controlled substances within 500 feet of school property. The bill would extend this boundary to 1,000 feet from school property. The bill would take effect September 1, 1990.

MCL 333.7410

***FISCAL IMPLICATIONS:***

The House Fiscal Agency says that to the degree the bill led to an increase in the number of defendants sentenced to state prisons, it would increase state costs. (3-13-90)

***ARGUMENTS:***

***For:***

Selling drugs to children is among the most despicable of crimes, and one that warrants stiff penalties. Michigan law recognizes this by providing for enhanced penalties for selling or possessing drugs within 500 feet of school property. By extending the boundaries of the "drug-free zone" to 1,000 feet from school property, the bill would help to keep adult dealers — and their drugs and violence — away from schools, and appropriately punish those who bring their trafficking near schools.

***Against:***

It appears there have been very few prosecutions under the "drug-free school zone" law, and drug dealing near (and in) schools continues to be a most troubling problem. The object of the law is not just to punish dealers, but to get drug dealing away from schools. If the concept of a

drug-free school zone is to succeed, dealers must be made aware of the special penalties and must take them seriously. Some well-publicized arrests and successful prosecutions would certainly have that effect, but so would something that could be accomplished through statute: the posting of signs warning that the reader is within a "drug-free school zone" where special penalties apply.

**Response:** A sign-posting requirement has been considered and rejected for several reasons. For one thing, it raises questions of who is to supply and pay for the signs. More importantly, it could create a way to avoid a conviction under the drug-free school zone law: it could become necessary to show that the zone was properly posted before a dealer could be convicted. If communities wish to publicize the law by posting signs, they may do so.

***Against:***

The wisdom of harsh substance abuse laws, particularly the sort that may severely punish relatively minor offenders, is being questioned. While selling drugs to children is not to be countenanced, a person providing drugs to acquaintances and living one-fifth of a mile from school grounds may not be engaging in the sort of activity that warrants the penalties contemplated by the drug-free school zone law. Such a person might not even be aware of the proximity of the school, much less the existence of the law.

***POSITIONS:***

The Department of State Police supports the bill. (3-14-90)

The Office of Drug Agencies supports the bill. (3-14-90)

Partners Against Crime support the bill. (3-14-90)

The Prosecuting Attorneys Association of Michigan supports the bill. (3-13-90)

H.B. 5381 (3-14-90)