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## ILLEGAL NITROUS OXIDE DEVICES

**House Bills 4996 and 4997**

**Sponsor: Rep. Jason Allen**

**Committee: Criminal Law and Corrections**

**Complete to 5-8-00**

### A SUMMARY OF HOUSE BILLS 4996 AND 4997 AS INTRODUCED 10-14-00

House Bill 4996 would amend Public Act 119 of 1967 (MCL 752.271 et al), which regulates the use of chemical agents with toxic chemicals or organic solvents or both, to amend the title and to prohibit the sale or distribution of certain devices that contain nitrous oxide.

The title of the act would be amended to state that the act would regulate the sale, distribution, and use of certain chemical agents and devices containing certain chemical agents, and to provide penalties. The current law makes it a misdemeanor to inhale or ingest chemical agents for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system, except for the inhalation of anesthesia for medical or dental purposes. The bill would provide that this misdemeanor would be punishable by imprisonment for up to 93 days and/or a fine of \$100.

The bill would also prohibit the sale or distribution of any device with a gross weight of less than eight ounces that contains any quantity of nitrous oxide. However, this prohibition would not apply to anyone who was:

- licensed under the Food Processing Act of 1977 and selling or distributing the device as a grocery product;
- engaged in the business of selling or distributing compressed gases for industrial or medical use and selling or distributing the device in the course of that business;
- a pharmacist, pharmacist intern, or pharmacy as defined in the Public Health Code and dispensing the device in the course of his or her duties.

A first conviction for a violation would be a misdemeanor punishable by no more than 93 days imprisonment and/or a fine of no more than \$100. A second conviction would be a misdemeanor punishable by not more than one year of imprisonment and/or a fine of not more than \$500. A third or further conviction would be a felony punishable by imprisonment for not more than four years and/or a fine of not more than \$2,000. A prior conviction could include a previous violation of not only the bill's provisions, but of a substantially corresponding law of another state, local unit of government of this state or another, or of the United States.

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Finally, the bill would also repeal the provision that makes it a misdemeanor to aid, abet, or encourage someone to violate the act.

House Bill 4997 would amend the Code of Criminal Procedure's statutory sentencing guidelines (MCL 777.17) to include the sale or distribution of an illegal nitrous oxide device. The crime would be a class F crime against public safety with a four year statutory maximum.

Analyst: W. Flory

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.