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## BILL ANALYSIS



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Senate Bill 99 (as introduced 2-1-11)  
Sponsor: Senator Rick Jones  
Committee: Judiciary

Date Completed: 2-7-11

**CONTENT**

**The bill would amend the Public Health Code to extend the penalties for possession of marihuana to the possession of several synthetic cannabinoid compounds, Catha Edulis, and Salvia Divinorum (which were added to the list of Schedule 1 controlled substances by Public Act 171 of 2010).**

Under the Code, a person may not knowingly or intentionally possess a controlled substance or controlled substance analogue unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice. A violation involving marihuana is a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$2,000, or both.

The bill would extend that penalty to the possession of Catha Edulis, Salvia Divinorum, and each of the following synthetic cannabinoids:

- (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210.
- 2-[1R,3S]-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, also known as CP47,497, and its side chain homologues.
- 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.
- 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.
- (2-methyl-1-propyl-1H-indol-3-YL)-1-naphthalenyl-methanone, also known as JWH-015.
- [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-YL]-1-naphthalenyl-mentanone, also known as JWH-200.
- 1-(1-pentyl-1H-indol-3-YL)-2-(2-methoxyphenyl)-ethanone, also known as JWH-250.

MCL 333.7403

**BACKGROUND**

Public Act 171 of 2010 added several synthetic cannabinoids and other substances, including Catha Edulis and Salvia Divinorum, to the Public Health Code's list of Schedule 1 controlled substances. (A Schedule 1 controlled substance is a substance that 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. Marihuana is a Schedule 1 controlled substance under both Federal and Michigan law.)

Public Act 169 amended Sections 7403 and 7404 of the Public Health Code to extend the penalties for possession and use of marihuana to the possession and use of Catha Edulis, Salvia Divinorum, and the synthetic cannabinoids. Public Acts 169 and 171 took effect on October 1, 2010.

Late in the 2009-10 legislative session, Public Act 352 of 2010 amended Section 7403 of the Public Health Code to address a different issue. Public Act 352, however, did not include the references to synthetic marihuana and other substances that were enacted by Public Act 169. Consequently, the criminal penalties for *possession* of synthetic marihuana, Catha Edulis, and Salvia Divinorum enacted by Public Act 169 were repealed by Public Act 352, which took effect on December 22, 2010.

Public Act 352 did not affect the penalty for *use* of synthetic marihuana or the other listed substances, or the provisions of Public Act 171. Therefore, synthetic marihuana remains classified as a Schedule 1 controlled substance and its use remains subject to the criminal penalties in Section 7404 of the Public Health Code, as provided for by Public Act 169. Furthermore, because synthetic marihuana is a controlled substance, its *possession* is still prohibited under Section 7403. Instead of being subject to the misdemeanor penalty that applies to the possession of marihuana, however, possession of synthetic marihuana presumably is subject to a catchall felony penalty for possession of other Schedule 1 controlled substances.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders will be convicted of possession of synthetic marijuana or the other substances and subject to the misdemeanor penalty. Local governments would incur the costs of incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Matthew Grabowski