



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4508 (Substitute H-2 as passed by the House)
Sponsor: Representative Jeff Irwin
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 8-17-15

CONTENT

The bill would amend Article 7 (Controlled Substances) of the Public Health Code to provide that a conveyance used only to purchase or receive not more than one ounce of marihuana for personal use would not be subject to forfeiture.

The amendment would apply to proceedings begun on or after the bill's effective date.

The bill would add the proposed language to Section 7521, which describes property that is subject to forfeiture. This includes the following:

- A controlled substance that has been manufactured, distributed, used, possessed, or acquired in violation of Article 7.
- Raw material, product, or equipment that is used, or intended for use, in manufacturing, compounding, processing, or delivering a controlled substance in violation of Article 7.
- Property that is used or intended for use as a container for property described in either of the first two provisions.
- A conveyance, including an aircraft, vehicle, or vessel used or intended for use to transport property described in either of the first two provisions, for the purpose of sale or receipt.

The provision that applies to a conveyance is subject to several exceptions. These include a conveyance for any of the following violations:

- The unauthorized use of, or possession of with intent to use, an imitation controlled substance.
- The use of a controlled substance or controlled substance analogue that was not obtained from, or pursuant to a valid prescription or order of a practitioner.
- The knowing or intentional possession of marihuana, LSD, peyote, mescaline, dimethyltryptamine (DMT), psilocin, psilocybin, or a Schedule 5 controlled substance.

MCL 333.7521

BACKGROUND

Under Article 7 of the Public Health Code, property that is subject to forfeiture may be seized upon process issued by the circuit court. Property also may be seized without process under certain circumstances.

When property is seized, forfeiture proceedings must be instituted promptly. If property is seized without process and its value does not exceed \$50,000, the owner must be notified

and a person claiming an interest in the property may file a claim. If a claimant files a bond as required, forfeiture proceedings must be instituted. If no claim is filed, the property must be declared forfeited and disposed of.

When property is forfeited under Article 7, the local unit of government that seized it, or the State if the property was seized by or in the custody of the State, may retain it for official use, sell that which is not required by law to be destroyed and is not harmful to the public, require the Michigan Board of Pharmacy to take custody of the property and remove it for disposition, or forward it to the U.S. Department of Justice's Drug Enforcement Administration for disposition.

If the local unit or the State sells property, the proceeds must be deposited with the treasurer or treasurers of the entity or entities having budgetary authority over the seizing agency or agencies, and used to pay expenses of the forfeiture and sale. The court must distribute the balance to the treasurer or treasurers. Money received by a seizing agency and all interest and other earnings on the money must be used only for law enforcement purposes, as appropriated by the entity with budgetary authority.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill could potentially have a fiscal impact, in an amount that cannot be determined at this time, on law enforcement agencies by making a conveyance used to purchase and receive not more than one ounce of marijuana for personal use not subject to forfeiture. This could reduce the amount of forfeiture proceeds distributed to the agencies that would seek forfeiture of conveyances under those circumstances.

Fiscal Analyst: Bruce Baker

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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.