



Senate Fiscal Agency
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Senate Bills 134 and 135 (as introduced 2-16-21)
Sponsor: Senator Curtis S. VanderWall (S.B. 134)
Senator Rick Outman (S.B. 135)
Committee: Health Policy and Human Services

Date Completed: 3-18-21

CONTENT

Senate Bill 134 would add Section 410c to the Michigan Penal Code to prohibit a person from distributing, delivering, selling, or possessing with intent to distribute, deliver, or sell a drug masking product, and prescribe misdemeanor and felony penalties for violating Section 410c.

Senate Bill 135 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felony prescribed in Senate Bill 134 as a Class E crime against public ordinance with a statutory maximum of five years' imprisonment.

Senate Bill 135 is tie-barred to Senate Bill 134. Senate Bill 134 is described in greater detail below.

The bill would create Section 410c to prohibit a person from distributing, delivering, selling, or possessing with intent to distribute, deliver, or sell a drug masking product. "Drug masking product" would include synthetic urine, human urine, a substance designed to be added to human urine, or a substance designed to be added to or used on human hair or oral fluid, for the purpose of defrauding an alcohol or a drug screening test. "Synthetic urine" would mean a substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine.

Except as otherwise provided, a person who violated Section 410c would be guilty of a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$1,000, or both. A person who violated Section 410c for commercial purposes would be guilty of a felony punishable by up to five years' imprisonment or a maximum fine of \$5,000, or both. "Commercial purposes" would mean an activity undertaken with the purpose of providing a product for monetary compensation.

Proposed MCL 750.410c (S.B. 134)
MCL 77.16t (S.B. 135)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

Senate Bill 134

The bill would have a negative fiscal impact on the State and local government. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails.

Additionally, new felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under the bill's provisions. The average cost to State government for felony probation supervision is approximately \$3,100 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$5,400 per prisoner per year. Any additional revenue from imposed fines would go to local libraries.

Senate Bill 135

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Fiscal Analyst: Joe Carrasco

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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.