



HF 567 – Synthetic Drugs (LSB1434HV.1)

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Fiscal Note Version – As amended by **H-8289** to the Senate amendment **H-1340**

Description

House File 567, as amended by **H-8289**, to the Senate amendment **H-1340**, involves imitation controlled substances and the Medical Cannabidiol Act. The bill repeals and replaces the current Act and creates a new Iowa Code section that covers more debilitating medical conditions and allows broader access to the list of qualified individuals with a medical cannabidiol card.

The amendment also defines imitation controlled substance and enhances penalties, modifies the controlled substance list to include new synthetic drug products, and lengthens the time the Pharmacy Board is allowed to temporarily designate substances as controlled substances before the General Assembly must take action to codify the changes.

Background

Medical Cannabidiol Act

Possession of medical cannabidiol for patients diagnosed with intractable epilepsy was enacted in 2014 Iowa Acts, chapter 1125. Since the Program inception, as of April 14, 2016, the Medical Cannabidiol Act Registration Card Program has received 70 applications for cannabidiol registration cards; 66 applications were approved and three were denied. Renewal applications have also occurred. These applications have resulted in a total of 148 applications approved and 118 issued.

Synthetic Drugs

Synthetic drug products (marketed under various names) are man-made chemicals marketed as a “legal” high. Synthetic cannabinoids are applied to plant materials to simulate marijuana. Synthetic cathinones are man-made chemicals related to amphetamines. The contents and effects of synthetic cannabinoids and cathinones are unpredictable due to constantly changing chemicals used in the manufacturing process that are without quality controls or government regulatory oversight. The chemical compositions are constantly changing to avoid newly enacted laws to place the products on the scheduled list of controlled substances. Currently, if the Pharmacy Board designates a new substance as controlled, the General Assembly has 60 days upon convening to make corresponding changes in Iowa Code chapter **124** or the temporary designation is nullified. Nationwide, in calendar year 2012, 51 new synthetic cannabinoids were identified, 31 new cathinones were identified, and 76 other synthetic compounds were identified for a total of 158 new synthetic drug products entering the marketplace. Side effects of synthetic drugs can include severe agitation and anxiety, nausea, vomiting, tachycardia, elevated blood pressure, tremors and seizures, hallucinations, dilated pupils, suicidal and harmful thoughts/actions, chest pain, extreme paranoia, hallucinations, delusions, and violent behavior.

The impact to the Iowa correctional system operating budget is the cost difference between a serious or aggravated misdemeanor (\$222 per case) and a Class B or C felony (\$452 per case).

The table below shows FY 2010-2014 convictions for imitation controlled substances, according to the Justice Data Warehouse: The overall conviction rate is 25.0%.

Offense Class	FY 2010-2014 Convictions
Serious Misdemeanor	1
Aggravated Misdemeanor	19
Total Convictions	20

The following table shows the FY 2010-2014 offender-based convictions for imitation controlled substances, by race/ethnicity, according to the Justice Data Warehouse. Data was available for 11 of the 20 convictions recorded.

Conviction Offense Class	White	Black	Other
Serious Misdemeanor	100.0%	0.0%	0.0%
Aggravated Misdemeanor	60.0%	30.0%	10.0%
Total Convictions	63.6%	27.3%	9.1%

Refer to the Legislative Services Agency (LSA) [Minority Impact Statements Memo](#) dated January 26, 2016, for information related to minorities in the criminal justice system.

Assumptions

Medical Cannabidiol Act

- Of the patients with an eligible diagnosis, it is estimated that 1.7% will apply for a medical cannabidiol card. This will lead to the following applications per debilitating medical condition:
 - Cancer: 2,848 patients
 - Multiple Sclerosis: 45 patients
 - Seizures: 375 patients
 - AIDS or HIV: 39 patients
 - Crohn's Disease: 101 patients
 - Amyotrophic Lateral Sclerosis (ALS)
 - Terminal Illness: Unknown.
 - Total: 3,410 patients
- The ratios of caregivers to patients in other state programs varies by eligible medical conditions, with more severe diagnosis usually always having a caregiver. Based on Minnesota estimates for eligible medical conditions, an estimated 1,050 primary care givers may also apply for cards.
- The amendment requires that the program operate on a self-sustaining basis. To accomplish this, it is assumed that the IDPH will adopt rules with fees of \$100 for patients, \$25 for patients with a financial hardship, and \$100 for caregivers.
- The issuance of a card costs the Department of Transportation (DOT) \$10. This is funded by the Road Use Tax Fund. It is assumed this cost will be offset by the fee revenue.
- The Chronic Conditions appropriation to the IDPH includes \$25,000 for the Medical Cannabidiol Program. It is assumed the appropriation will be discontinued.
- The IDPH will require staff to implement and administer the program before fee revenue becomes available in FY 2017. There will also be costs and time spent associated with updating databases, processing applications, updating rules, and oversight. Initial work will involve the Bureau Chief, half the Program Manager for the year, 2.0 FTE position Clerk Specialists, half the support costs and all of the database programming costs.

Synthetic Drugs

- Conviction and sentencing patterns will not change, for an average of four convictions a year. While the conviction rate may increase with increased imitation controlled offense

levels there is no way to estimate what that impact will be. Therefore, the assumption being used is that the conviction pattern will remain the same.

- The impact on minorities will remain consistent with current data.
- The average state cost for one Class C felony conviction ranges from \$7,800 to \$18,400.
The average state cost for one Class B felony conviction ranges from \$9,600 to \$34,800.

The LSA [Correctional Impact Statements Memo](#) dated February 18, 2016, contains additional information.

Fiscal Impact

Medical Cannabidiol Act

Due to the nature of the needs for getting implementation work done outlined in the assumptions, it is estimated that \$266,000 for FY 2017 will be needed. The following table outlines the estimated budget of the Medical Cannabidiol Program for FY 2017 and FY 2018.

Budget for the Medical Cannabidiol Program		
	<u>FY 2017</u>	<u>FY 2018</u>
Revenue		
Card Application Fees	\$ 407,000	\$ 407,000
Total Revenue	\$ 407,000	\$ 407,000
Expenditures		
<u>Department of Public Health</u>		
Salary	\$ 235,000	\$ 235,000
Support	31,000	15,000
Database	100,000	0
Total Department of Public Health	\$ 366,000	\$ 250,000
<u>Department of Transportation</u>		
Card Issuance	\$ 45,000	\$ 45,000
Total Expenditures	\$ 411,000	\$ 295,000
Net Impact	\$ -4,000	\$ 112,000
Full Time Equivalents (FTEs) Needed	4.1	4.1

Synthetic Drugs

The additional cost for enforcement and regulation by law enforcement agencies at the state and local level is expected to be minimal.

Additional costs to the Judicial Branch for enhanced penalties in this bill are minimal.

The fiscal impact at the most will be \$140,000 per year (average of four convictions at the maximum Class B felony conviction cost of \$35,000).

Correctional Impact

Medical Cannabidiol Act

The bill creates a new civil penalty of up to \$1,000 per violation. It is unknown at this time how many violations under Iowa Code chapters [124](#) and [453B](#) will occur related to the changes in this bill and the correctional impact cannot be estimated.

Synthetic Drugs

The correctional impact is expected to be minimal due to the low number of convictions under current law. Enhancing the penalties will increase the incarceration rate and lengthen the term of supervision, both in the state prison system and Community-Based Corrections (CBC). Offenders convicted under the provisions of this bill will remain under supervision longer than current law.

Minority Impact

To the extent convictions occur under the provisions of the bill, there will be a minority impact, specifically to Blacks. Blacks comprise approximately 3.4% of the Iowa population but represent approximately 27.3% of the convictions impacted under this bill.

Sources

Department of Public Health
Department of Transportation
LSA Analysis and Calculations
Office of National Drug Control Policy
Department of Public Safety
State Court Administrator's Office
Criminal Justice and Juvenile Planning Board

/s/ Holly M. Lyons

April 26, 2016

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
