

PENALTIES FOR MARIJUANA MANUFACTURE, DELIVERY, OR POSSESSION WITH INTENT

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House Bill 5105 as introduced
Sponsor: Rep. Pauline Wendzel
Committee: Regulatory Reform
Complete to 10-22-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5105 would amend the Public Health Code to revise the penalties for manufacturing or delivering marijuana or possessing marijuana with the intent to manufacture or deliver it.¹ Penalties for a violation are based on the amount of the substance involved. In addition to changing existing substance amounts, maximum terms of imprisonment, and maximum fines, the bill would newly prescribe penalties based on amounts of marijuana concentrate (resin).²

Under current law, a person convicted for a violation is guilty of a crime as follows:

- If the amount is less than five kilograms, or fewer than 20 plants, a felony punishable by imprisonment for up to four years or a fine of up to \$20,000, or both.
- If the amount is five kilograms or more but less than 45 kilograms, or 20 plants or more but fewer than 200 plants, a felony punishable by imprisonment for up to seven years or a fine of up to \$500,000, or both.
- If the amount is 45 kilograms or more, or 200 plants or more, a felony punishable by imprisonment for up to 15 years or a fine of up to \$10.0 million, or both.

Under the bill, a person convicted for a violation would be guilty of a crime as follows:

- If the amount is 10 kilograms or more but less than 25 kilograms, or 50 plants or more but fewer than 100 plants, or one kilogram or more but less than 2.5 kilograms of marijuana concentrate, a misdemeanor punishable by imprisonment for up to one year or a fine of up to \$20,000, or both.
- If the amount is 25 kilograms or more but less than 125 kilograms, or 100 plants or more but fewer than 500 plants, or 2.5 kilograms or more but less than 12.5 kilograms of marijuana concentrate, a felony punishable by imprisonment for up to two years or a fine of up to \$500,000, or both.
- If the amount is 125 kilograms or more but less than 250 kilograms, or 500 plants or more but fewer than 1,000 plants, or 12.5 kilograms or more but less than 25 kilograms

¹ Specifically, these provisions apply with regard to marijuana; a mixture containing marijuana; or synthetic equivalents of the substances contained in the plant or the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as Δ^1 cis or trans tetrahydrocannabinol and their optical isomers, Δ^6 cis or trans tetrahydrocannabinol and their optical isomers, or $\Delta^3,4$, cis or trans tetrahydrocannabinol and their optical isomers.

² "Marijuana concentrates are simply the concentrated resins from the marijuana plant. Marijuana oils, concentrates, and extracts are all umbrella terms under which there are a host of different product types. Concentrates may be smoked, vaporized, or ingested. The most common types of marijuana concentrates are tinctures, capsules, vaporizer cartridges, hash, shatters, and waxes, though there are many additional names and specifications." Quoted from p. 2: <https://www.michigan.gov/-/media/Project/Websites/cra/consumer-connection/2021-lara-child-marijuana-brochure-APPROVED.pdf>

of marijuana concentrate, a felony punishable by imprisonment for up to four years or a fine of up to \$2.0 million, or both.

- If the amount is 250 kilograms or more, or 1,000 plants or more, or 25 kilograms or more of marijuana concentrate, a felony punishable by imprisonment for up to 10 years or a fine of up to \$10.0 million, or both.

MCL 333.7401

The bill cannot take effect unless HB 5107 is also enacted. That bill would amend the Michigan Regulation and Taxation of Marihuana Act, which regulates adult-use marijuana, to change the amount of marijuana a person who is 21 or older is allowed by law to possess or cultivate, as applicable.

FISCAL IMPACT:

House Bill 5105 would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, revisions to the amounts of marijuana constituting crimes would result in reduced terms of incarceration and increased penal fines. Reduced prison sentences would result in reduced costs for the state related to state prisons and state probation supervision. In fiscal year 2024, the average cost of prison incarceration in a state facility was roughly \$46,200 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,500 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. An increase in the amount of penal fine revenue collected would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Also under the bill, if the amount of marijuana is 10 kilograms or more but less than 25 kilograms, or 50 plants or more but fewer than 100 plants, or if the amount of marijuana concentrate is one kilogram or more but less than 2.5 kilograms, the offense would be a misdemeanor punishable by imprisonment for not more than one year or a fine of not more than \$20,000, or both. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction.

There could also be an impact on local court systems depending on how provisions of the bill affect court caseloads and related administrative costs. Because there is no practical way to determine the number of violations that would occur, an estimate of the amount of costs related to county jails and/or state prisons, penal fine revenue collections, or costs to local courts cannot be made.

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