Legislative Analysis

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CLASSIFYING ETIZOLAM AS A SCHEDULE 1 DRUG

House Bill 4089 as reported from committee
Sponsor: Rep. Sue Allor
Committee: Health Policy
Complete to 4-29-21

SUMMARY:

House Bill 4089 would amend the Public Health Code to add etizolam to the list of schedule 1 controlled substances in Part 72 (Standards and Schedules) of Article 7 (Controlled Substances). The bill lists the chemical composition of etizolam: (4-(2-chlorophenyl)-2-ethyl-9-methyl-6*H*-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine). It also includes the following trade and other names for the drug: Etilaam, Etizest, Depas, Etizola, Sedekopan, Pasaden.

Controlled substances are classified based on the risk of abuse or harm. Schedule 1 drugs include heroin, LSD, and Ecstasy and have no currently accepted medical use. Schedule 2 drugs have the highest potential for abuse of the medically acceptable drugs and include Dilaudid, OxyContin, and fentanyl. A detailed breakdown is in **Background**, below.

The bill would take effect 90 days after its enactment.

MCL 333.7212

BACKGROUND:

Etizolam

The U.S. Food and Drug Administration has not approved any drugs containing etizolam, which means that it cannot be legally imported, distributed, or prescribed in the United States for use as a drug. It is not currently controlled under the federal Controlled Substances Act.[1] However, it is sold commercially as a medicine in Japan, Italy, and India.[2]

Drug schedules

Section 7204 of the Public Health Code requires a substance to be scheduled similarly to how it is scheduled under federal law. However, as the code authorizes the "administrator," defined as the Michigan Board of Pharmacy, to add, delete, or reschedule drugs and substances listed as scheduled substances, a substance may be listed, deleted, or rescheduled differently than under federal law. Designation as a schedule 1 to 5 controlled substance is generally based on whether the substance has a currently accepted medical use in treatment in the United States and also on the substance's relative potential for abuse and likelihood of causing dependence. Under the code, substances are placed on the list of Michigan controlled substances as follows:

> ***Schedule 1*** substances have a high potential for abuse, have no accepted medical use in treatment in the United States, or lack accepted safety for use in treatment under medical supervision. Heroin, LSD, marijuana, and "ecstasy" are examples of schedule 1 drugs.

[1] https://deadiversion.usdoj.gov/drug_chem_info/etizolam.pdf
[2] https://www.who.int/medicines/access/controlled-substances/Final_Etizolam.pdf?ua=1

Schedule 2 substances have a high potential for abuse, have currently accepted medical use in treatment in the U.S. (or accepted medical use with severe restrictions), and may lead to severe psychic or physical dependence. Examples include morphine, cocaine, fentanyl, and drugs such as OxyContin, Demerol, Adderall, and Ritalin.

Schedule 3 substances have a potential for abuse that is less than substances listed as schedule 1 or 2 substances, they have currently accepted medical use in treatment in the U.S., and their abuse may lead to moderate or low physical dependence or high psychological dependence. Schedule 3 substances include certain products containing hydrocodone (e.g., Vicodin) or codeine and products used to treat opioid addictions.

Schedule 4 substances have a low potential for abuse relative to substances in schedule 3, they have a currently accepted medical use in treatment in the U.S., and their abuse may lead to limited physical dependence or psychological dependence relative to substances in schedule 3.

Schedule 5 controlled substances generally have a low potential for abuse relative to those on the other schedules and include substances containing lower amounts of codeine and other narcotics than substances listed on other schedules or higher amounts of ephedrine than over-the-counter allergy and cold medications.

FISCAL IMPACT:

By regulating etizolam as a schedule 1 substance under Michigan law, House Bill 4089 would likely result in cost increases for the judiciary and the corrections system and could increase revenues received by law enforcement agencies related to civil asset forfeiture. There are a variety of felonies and misdemeanors in Michigan statute related to controlled substances, and classifying etizolam as a schedule 1 substance (when it is currently unregulated) would likely result in an increase in criminal cases.

The Public Health Code allows for the seizure of property in controlled substances cases and under conditions outlined in the code. Adding etizolam to the list of schedule 1 substances would likely increase the number of cases in which asset forfeiture could occur, though the scope of this expansion is presently indeterminate. For reference, in calendar year 2019, the State Police 2020 Asset Forfeiture Report indicated that there were 4,696 instances of asset forfeiture under the Public Health Code.

POSITIONS:

The following organizations indicated <u>support</u> for the bill (4-15-21):

Michigan Association of Health Plans
Prosecuting Attorneys Association of Michigan

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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.