

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 543 < 2nd Edition >
SHORT TITLE: Controlled Substances/Classif.-AB
SPONSOR(S): Senators Forrester and Carpenter

FISCAL IMPACT

	Yes ()	No ()	No Estimate Available (X)		
	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>

REVENUES

EXPENDITURES

Department of Correction—No estimate available
Judicial Branch—No estimate available, but minor fiscal impact likely
Justice Department –No fiscal impact

POSITIONS: 0

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch and Dept. of Correction

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:

This bill amends the classification of certain controlled substances to be consistent with federal law governing controlled substances.

1. This bill amends G.S. 90-90(1)a by adding Dihydroetorphine to the list of Schedule II controlled substances.
2. This bill amends G.S. 90-90(5) by deleting Dronabinol from the list of Schedule II hallucinogenic substances. G.S. 90-91 is amended by adding Dronabinol to the list of Schedule III controlled substances.

3. The bill repeals G.S. 90-91(1), removing Ketamine from its current classification as a Schedule III controlled substance. G.S. 90-91(b) is amended to include Ketamine to the list of Schedule III controlled substances having a depressant effect.
4. This bill amends G.S. 90-92(a)(1) by adding Zaleplon to the list of Schedule IV depressants. G.S. 90-92(a)(3) is amended by adding Modafil to the list of Schedule IV stimulants.

ASSUMPTIONS AND METHODOLOGY:

According to the Justice Department, the proposed legislation, which adds three drugs to the schedules of controlled substances and re-schedules two substances now currently controlled, would not have a fiscal impact on the SBI Crime Lab. Given the infrequency of these substances, the Lab considers these drugs obscure. Moreover, there have not been a significant number of offenses involving the drugs to substantiate a measurable impact on the court system or the prison population. Below is additional information from the Administrative Office of the Courts and the Sentencing Commission to further support this conclusion.

Judicial Branch and Department of Correction

Section 1: Dihydroetorphine

This section adds Dihydroetorphine to the list of Schedule II controlled substances. Administrative Office of the Courts (AOC) does not have data to determine how many defendants would be charged with the manufacture, sell or deliver, possession, or other drug offenses relating to Dihydroetorphine. However, they estimate the number of cases to be minimal and to have an insignificant impact on the court system.

Since this substance is not currently classified as a controlled substance, there is no historical data from which to estimate impact on the prison population. But, it should be noted that sale of a Schedule II controlled substance is a Class G offense, and the possession of a Schedule II controlled substance is a Class H offense. Because there are no surplus prison beds available for the five year Fiscal Note horizon and beyond, each active sentence would create the need for an additional prison bed and have a fiscal impact on the Department of Correction.

Section 2: Dronabinol

This section moves Dronabinol from a Schedule II to a Schedule III controlled substance. Since the AOC database contains only one specific breakout for Schedule II drugs – cocaine—and all others are combined, there is no historical data to determine how many defendants were charged with the manufacture, sell or deliver, possession, or other drug offense relating to Dronabinol. Nonetheless, AOC assumes that there would not be a significant increase in the number of such charges as a result of this amendment.

As stated previously, sale of a Schedule II controlled substance is punishable as a Class G felony, while sale of a Schedule III controlled substance is punishable as a Class H felony. Under the proposed bill, Sentencing Commission estimates for every five convictions for sale of Dronabinol that there would be the need for one less prison bed each year.

Moreover, the manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver a Schedule II controlled substance is punishable as a Class H felony, whereas it is punishable as a Class I felony for Schedule III controlled substances. Sentencing Commission projects that for every five convictions for these offenses that this could result in the need for one less prison bed per year.

Section 3: Ketamine

AOC is unable to determine how many defendants were charged with the manufacture, sell, delivery, possession, or other drug offense relating to Ketamine. Since this section does not create a new offense or make any offense class changes, it is not expected to have an impact on the prison population or on the court system.

Section 4: Zaleplon and Modafil

The addition of Zaleplon and Modafinil as Schedule IV controlled substances could create additional violations of manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver, a controlled substance (G.S. 90-95(a)(1)) and possess a controlled substance (G.S. 90-95(a)(3)). However, these substances are not currently classified as controlled substances, so there is no historical data from which to estimate impact on the prison population and the court system.

In FY 1999/00 there were 41 convictions for offenses involving Schedule IV controlled substances. According to Sentencing Commission, if the addition of these controlled substances resulted in five additional convictions for sale of a Schedule IV controlled substance, which is currently a Class H offense, this would result in the need for two additional prison beds the first year and three additional prison beds the second year. If the addition of these controlled substances resulted in five additional convictions for possession of a Schedule IV controlled substance, currently a Class I offense, this would result in the need for one additional prison bed the first year and two additional prison beds the second year.

Although an estimate cannot be determined, AOC does not feel that the number of such charges would be so large as to result in a substantial impact on the court system.

TECHNICAL CONSIDERATIONS: None

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