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FISCAL IMPACT REPORT

SPONSOR Montoya ORIGINAL DATE 2/23/15
LAST UPDATED _____ HB 354
SHORT TITLE Deceptive Marketing of Mind Altering Products SB _____
ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 354 prohibits any person from selling a product labeled for a specific intended use, which is not the production of an altered state of consciousness, when the person knows, or should know, that the product is primarily used in a manner contrary to the label, to produce an altered state. A violation would constitute an unfair or deceptive trade practice. It would be a violation of the Unfair Practices Act for every individually packaged product sold.

FISCAL IMPLICATIONS

The expansion of protections under the Unfair Trade Practices Act will provide the AG additional powers to bring civil actions and could increase the agency workload. However, the AG did not note a fiscal impact associated with enactment of this legislation.

SIGNIFICANT ISSUES

Synthetic cannabinoids are often sold as "incense" and synthetic cathinones (an amphetamine-like stimulant) are often sold as "bath salts" or "plant food." Both types of products are often marked "not for human consumption" though these products are intended to be introduced into the body and to produce altered mental states, despite the labeling. DOH notes that these substances vary in composition and potency, and little is known about the pharmacology,

toxicology, and safety of the compounds. Because of the variability of concentration and substances, recreational use of these products can lead to unintentional overdose and serious health complications.

TECHNICAL ISSUES

The AGO writes:

HB 354 defines “altered state” as “a person's experience of a depressant, stimulant, hallucinogenic or narcotic effect.” This definition is overly vague, depriving a person of sufficient notice of what conduct is prohibited.

CJ/bb