



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Hobday

H.B. 4

132nd General Assembly
(As Introduced)

Reps. Cupp and Rogers, Becker, Butler, Carfagna, Dever, Faber, Gavarone, Ginter, Goodman, Hambley, Hill, G. Johnson, Riedel, Schaffer, Scherer, Slaby, Stein, Young

BILL SUMMARY

- Provides that the amount of cocaine involved in a drug trafficking or possession offense, as measured for sentencing purposes, includes a compound, mixture, preparation, or substance containing cocaine.
- Declares an emergency.

CONTENT AND OPERATION

The bill modifies the wording of the Drug Trafficking and Drug Possession Laws¹ in connection with the penalties for trafficking and possession of cocaine. Under current law, unchanged by the bill, a person is guilty of trafficking in cocaine if the drug involved is cocaine or a compound, mixture, preparation, or substance containing cocaine. The language describing the offense of possession of cocaine is essentially the same.² However, for sentencing purposes, the amount of the drug involved is stated in terms of grams "of cocaine." The bill removes the words "of cocaine" in connection with the amount involved throughout the drug trafficking and possession statutes.³

In *State v. Gonzales*, the Ohio Supreme Court interpreted the current wording of the penalties for cocaine possession to mean that the state must prove the weight of pure cocaine, absent any filler, to determine the applicable penalty.⁴ By removing "of

¹ R.C. 2925.03 and 2925.11.

² R.C. 2925.03(C)(4) and 2925.11(C)(4).

³ R.C. 2925.03(C)(4)(c) through (g) and 2925.11(C)(4)(b) through (f).

⁴ *State v. Gonzales*, 2016-Ohio-8319 (decided December 23, 2016).

cocaine" from the penalty provisions for trafficking or possession of cocaine, the bill allows the measurement of the amount involved to include any compound, mixture, preparation, or substance containing cocaine.

The bill declares an emergency to ensure that the penalty structure that applied to trafficking and possession of cocaine before the Ohio Supreme Court's holding in *State v. Gonzales* will continue to be valid.⁵

HISTORY

ACTION	DATE
Introduced	02-01-17

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⁵ Section 4.

