

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3238/P1dn  
PJH:klm

September 28, 2015

Heather,

Please review this draft to ensure it is consistent with your intent. After reviewing the materials you sent over, I determined that I could draft these new statutes in Chapter 961, which contains the Uniform Controlled Substances Act and some miscellaneous provisions.

I created in the draft a definition of a “masking agent” that covers any device or substance “intended to defraud, circumvent, interfere with, or provide a substitute for a bodily fluid in conjunction with a lawfully administered drug test.” In the draft, the penalties associated with possessing, using, manufacturing, delivering, and advertising a masking agent are similar to the penalties assessed for the same acts as they relate to drug paraphernalia. If you would like a different definition or different penalties, please let me know.

There are a few other places in the statutes where I thought it was appropriate to add the new violation; in the draft, masking agents are subject to seizure and forfeiture, violations relating to masking agents may disqualify a person from operating a traveling sales crew, and a person is immune from prosecution for possessing a masking agent if the person summons emergency aid for another person who is suffering an overdose. I did not add the masking agent provisions to statutes that would allow for local regulation of the agents or for special provisions for minors. I felt that those were beyond the scope of the request, but I can add them if you wish.

Please let me know if you would like to discuss any provisions or if you would like any other changes. When the draft meets your approval, I will redraft it in introducible form.

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