HOUSE BILL REPORT

SHB 1254

As Passed House
March 8, 1993

Title: An act relating to controlled substances definitions, standards, and schedules.

Brief Description: Modifying controlled substances definitions, standards, and schedule.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives Dellwo, Morris, Dyer, Springer and Wood; by request of Department of Health.)

Brief History:
Reported by House Committee on:
Health Care, February 11, 1993, DPS;
Passed House, March 8, 1993, 97-0.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Dellwo, Chair; L. Johnson, Vice Chair; Dyer, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Appelwick; Campbell; Conway; Cooke; Flemming; R. Johnson; Lisk; Mielke; Morris; Thibaudeau; and Veloria.

Staff: John Welsh (786-7133).

Background: The Board of Pharmacy is responsible for regulating the manufacture, labeling, delivery, dispensing, distribution, prescription and administering of controlled substances. Controlled substances are drugs with addictive properties and potentials for abuse, listed on five schedules in decreasing addictive potentials of dangerousness. Controlled substances on Schedule I have no recognized medical use, while the others may be prescribed. Controlled substances on Schedule V may or may not require a prescription. The board has authority by rule to add controlled substances to the schedules. Additionally, the federal Drug Enforcement Administration (DEA) may determine drugs as controlled substances.

Definitions are not alphabetized, and definitions for "controlled substance analog," "isomer," and "prescription" are not now included in the Controlled Substances Act.

Currently, there are drugs which do not appear in the statutory schedules that have been determined by the rules of the board and the DEA to be controlled substances.

The board has no authority to classify analogs of controlled substances in Schedule I. An analog is a chemical convertible to a controlled substance.

If the DEA determines that a drug is a controlled substance, the board, prior to classifying it on the schedule, must make a finding that the drug has a high potential for abuse, has no accepted medical use, and cannot be used safely.

The board has no authority by rule to except from the schedules a compound containing a stimulant or depressant that vitiates the potential for abuse by its quantity or combinations.

The board is required to publish annually updated schedules of controlled substances.

The promotion of technical advances in manufacturing controlled substances is not included as a factor in determining the public interest for the purpose of registering applicants to manufacture controlled substances.

The department has no express authority to seize controlled substances where a registrant ceases to practice.

There is no express recognition given for the necessity of a practitioner to dispense or administer a narcotic drug for intractable pain. A practitioner is not prohibited from dispensing a drug for personal use.

There is no authority for the department to share information relative to patterns and trends of illicit drug diversion among other governmental agencies, and coordinate diversion and drug control programs.

The prohibition of possessing or distributing a counterfeit controlled substance should be clarified.

There is a need for technical changes in language.

Summary of Bill: The Uniform Controlled Substances Act is updated generally based upon the Model Uniform Controlled Substances Act adopted by the Commission on Uniform State

Laws, and contains updated definitions, schedules and standards.

The definitions are alphabetized, and definitions for "controlled substance analog," "isomer," and "prescription" are included. The definition of "person" is expanded to include a joint venture, a governmental unit and commercial entity.

Anabolic steroids are included in Schedule III as a class of controlled substances. Other drugs are included in Schedules I, II, III, IV and V.

In addition, the board is authorized to classify controlled substance analogs as controlled substances under Schedule I upon the request of a prosecuting attorney.

Upon the determination by DEA that a drug is a controlled substance, the board may automatically place it on the schedule without making findings as to its potential for abuse.

The board may by rule except from the schedule any compound containing a stimulant or depressant if the quantity or combination vitiates the potential for abuse.

Failure of the board to publish updated schedules of controlled substances does not constitute a defense in any administrative or judicial proceedings.

The promotion of technical advances in the art of manufacturing is considered as a factor in determining the public interest for the purpose of registering an applicant to manufacture controlled substances.

The department is authorized to seize controlled substances from a registrant who has ceased practice.

Medical treatment includes the dispensing or administering of a narcotic for intractable pain. A practitioner may not dispense a controlled substance for personal use.

The department is authorized to share information relative to other governmental agencies on the patterns and trends of illicit drug diversion, and to cooperate to improve the identification of the sources of diversion and improve the enforcement of the laws. The department is to report to the Legislature on the outcome of the program for improving the control and prevention of drug diversion.

It is illegal to possess or manufacture a counterfeit controlled substance, including the devices used to counterfeit them.

Technical changes are made.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: There is a need to conform terminology of state law to the model Uniform Controlled Substances Act, and to update the law consistent with new developments in drug manufacturing technology. Improving processes for countering illicit drug diversion, in cooperation with the federal DEA, is in the interest of the public health and safety.

Testimony Against: None.

Witnesses: Don Williams, Department of Health and Board of Pharmacy (pro); Carl Nelson, Washington State Medical Association; Stu Halsan, Tobacco Industry; Richard Emdee; and Joe Wadsworth, Department of Health.