

SENATE BILL REPORT

SB 5123

As Reported By Senate Committee On:
Judiciary, February 15, 2005

Title: An act relating to the sale of precursor drugs.

Brief Description: Concerning sales of precursor drugs.

Sponsors: Senators Kastama, Rasmussen, Regala and Franklin.

Brief History:

Committee Activity: Judiciary: 1/26/05, 2/15/05 [DPS, w/oRec].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5123 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Hargrove, Rasmussen and Thibaudeau.

Minority Report: That it be referred without recommendation.

Signed by Senators Johnson, Ranking Minority Member; Esser and McCaslin.

Staff: Aldo Melchiori (786-7439)

Background: Precursor drugs are substances that can be used for the illicit manufacture of amphetamines and other synthetic drugs. Any manufacturer, wholesaler, retailer, or other person must require proper identification from the purchaser of precursor drugs, keep records of all transfers, and report to the board of pharmacy (Board) on a schedule. Failure to report is a gross misdemeanor. Sales, transfers, and receipt of drugs containing ephedrine, phenylpropanolamine, and pseudoephedrine are exempt from the reporting requirements.

Shopkeepers and itinerant vendors can purchase ephedrine, pseudoephedrine, or phenylpropanolamine only from wholesalers or manufacturers licensed by the Department of Health (Department). A shopkeeper or itinerant vendor who violates this is first warned by the Board. For subsequent violation, the Board may suspend or revoke their registration. Manufacturers and wholesalers are required to report suspicious transactions in precursor drugs to the Board. Shopkeepers and itinerant vendors who have purchased ephedrine products in a suspicious transaction are subject to sales reporting requirements. These shopkeepers and itinerant vendors must also maintain inventory records of the receipt and disposition of nonprescription drugs. Records must be available for inspection by the Board or any law enforcement agency and must be maintained for two years.

It is a gross misdemeanor to sell at retail more than three packages of products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or a single package containing more than three grams in a single transaction. It is a gross misdemeanor to purchase more than three

packages of products containing these precursor drugs, or a single package containing more than three grams in a 24-hour period. It is also a gross misdemeanor to possess more than 15 grams of these precursor drugs unless the compounds are stored in a home or residence under circumstances consistent with legitimate uses. The Board may impose a civil penalty up to \$10,000 for violations of precursor drug laws.

Summary of Substitute Bill: Before selling or transferring a drug or cosmetic that contains ephedrine, pseudoephedrine, or phenylpropanolamine, a retailer or other person must require photo identification showing the date of birth of the receiver and must have the receiver sign a written log showing the date of the transaction, the name of the receiver, and the amount of the drug or compound. The retailer or other person must also maintain a record of each sale or transfer. This record must contain: the name of the drug or compound, the quantity transferred, the date of transfer, the name of the person receiving the drug or compound, and the method and amount of payment. These records must be maintained for one year and must be available for inspection by the Board. Failure to maintain the records is a gross misdemeanor.

Drugs or compounds containing ephedrine, pseudoephedrine, or phenylpropanolamine are exempt from reporting requirements only if they: (1) are in liquid, liquid capsule, or gel capsule form; (2) the substances are not the only active ingredient; and (3) the drug or compound is lawfully sold without a prescription. The reporting requirements also do not apply to certified traditional Chinese herbal practitioners receiving herbal formulas or transferring herbal formulas to patients. Any manufacturer, wholesaler, retailer, or other person receiving these drugs or compounds from out of state must submit a report of the transfer to the Board unless this exemption applies. The Board may exempt other compounds, mixtures, or preparation containing these substances if the product is determined to have been formulated to effectively prevent conversion into methamphetamine. Cosmetics sold without a prescription are also exempt from the reporting requirement.

Only a licensed pharmacist or licensed pharmacy technician may sell, dispense, or distribute a compound, mixture, or preparation containing these substances as the only active ingredient. Compounds, mixtures, or preparations containing these substances in combination with other active ingredients may be sold in a pharmacy or other licensed nonprescription drug outlets, but must be kept in a location not accessible to customers without assistance.

Substitute Bill Compared to Original Bill: Technical corrections were made to clarify that the new provisions apply to shopkeepers, itinerant vendors, or pharmacies. The reporting requirements do not apply to certified traditional Chinese herbal practitioners receiving herbal formulas or transferring herbal formulas to patients.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: Methamphetamine manufacture was primarily a rural problem, but it has now invaded the cities as well. Legislation similar to this has passed or is being considered in other

states. This will not hurt the consumer because other drugs, that are more difficult to convert, have been developed. Methamphetamine laboratories are a major drain on local resources. When retailers complain about the costs of the bill, they are not considering the costs incurred by taxpayers who are fighting this epidemic. This bill will save criminal justice dollars by eliminating the problem at the source.

Testimony Against: The jury is still out on whether all of the past methamphetamine legislation is working adequately. Washington methamphetamine laboratory production has gone down 33 percent over the last three years. We are one of two states recognized by the federal government for dealing well with this issue. Washington has duplicated Oklahoma's results in controlling methamphetamine manufacture without resorting to the provisions of this legislation. We need to be very careful when we further restrict retailers who have worked with the state on passed legislation and who are now effectively cooperating with law enforcement. The identification requirements are an invasion of the privacy of individuals attempting to purchase legal, over-the-counter medications. These laws are changing faster than retailers can provide training for their employees and develop internal policies.

Who Testified: PRO: Senator Kastama, prime sponsor; Barbara Dolan; Dick Muri, Pierce County Council; Kathy Turner, Mayor, City of Puyallup; Dalan Brokaw, Puyallup Police Department.

CON: Tom Zweiger, WSP; Lis Merten, National Association of Chain Drug Stores; Michael Kartiak; Kathryn Kartiak; Joe Daniels, United Food and Commercial Workers.