

---

**Community Safety, Justice, & Reentry  
Committee**

---

**HB 1564**

**Brief Description:** Prohibiting the sale of over-the-counter sexual assault kits.

**Sponsors:** Representatives Mosbrucker, Orwall, Chambers, Graham, Rude and Rule.

**Brief Summary of Bill**

- Prohibits the sale, offering for sale, or provision to individuals of "over-the-counter sexual assault kits."
- Allows for enforcement under the Consumer Protection Act.

**Hearing Date:** 2/7/23

**Staff:** Michelle Rusk (786-7153).

**Background:**

Sexual Assault Kits.

After a person has been the victim of a sexual assault, the person may undergo a forensic examination for the purpose of collecting evidence left behind during the assault. The doctor or nurse conducting the examination preserves the evidence using a sexual assault kit (SAK), also commonly referred to as a rape kit. After the examination, evidence from and custody of a SAK may be transferred to a law enforcement agency to be used during an investigation and subsequent criminal prosecution.

The state has established mandatory testing requirements for SAKs. A law enforcement agency is required to submit a SAK to the Washington State Patrol (WSP) Crime Laboratory for testing within 30 days of receipt, provided that the victim has consented to the testing. Consent is not a

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

condition of submission if the SAK was collected from a non-emancipated minor. The WSP is also required to operate a statewide sexual assault kit tracking system, which must:

- track the location and status of SAKs from the point of collection and then throughout the criminal justice process;
- allow participants in the system to update and track the status and location of SAKs;
- allow victims of sexual assault to anonymously track or receive updates regarding the status of their SAKs; and
- use electronic technology or technologies allowing continuous access.

#### Payment for Sexual Assault Forensic Examinations.

State law prohibits hospitals and other emergency medical facilities from billing or charging a victim, directly or indirectly, for the costs of a sexual assault forensic examination. Hospitals and other emergency medical facilities may seek payment from the state through the Crime Victim Compensation Program.

#### Consumer Protection Act.

The Consumer Protection Act (CPA) prohibits unfair or deceptive acts or practices in trade or commerce, the formation of contracts, combinations, and conspiracies in restraint of trade or commerce, and monopolies. Persons injured by violations of the CPA may bring a civil action to enjoin further violations and recover actual damages, costs, and attorney's fees.

The Attorney General may bring an action in the name of the State, or as *parens patriae* on behalf of persons residing in the State, against any person to enjoin violations of the CPA and obtain restitution. The prevailing party may, in the discretion of the court, recover costs and attorney's fees. The Attorney General may also seek civil penalties up to the statutorily authorized maximums against any person who violates the CPA. Civil penalties are paid to the State.

#### **Summary of Bill:**

#### Prohibition.

A person may not sell, offer for sale, or provide to an individual an over-the-counter sexual assault kit. An over-the-counter sexual assault kit is a sexual assault kit or rape kit that:

- is marketed or presented as over-the-counter, at-home, or self-collected;
- is offered for sale or as a sample to members of the public; and
- purports to allow an individual to independently collect evidence of a sexual assault outside of a collecting facility.

Over-the-counter sexual assault kit does not include a sexual assault kit sold or provided to law enforcement or medical personnel or a collecting facility.

A violation of the prohibition on selling, offering for sale, or providing an individual an over-the-counter sexual assault kit is a *per se* violation of the Consumer Protection Act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 31, 2023.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.