

SENATE BILL REPORT

HB 1564

As of March 3, 2023

Title: An act relating to prohibiting the sale of over-the-counter sexual assault kits.

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

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

Brief History: Passed House: 2/27/23, 96-0.

Committee Activity: Law & Justice: 3/08/23.

Brief Summary of Bill

- Prohibits the sale, offering for sale, or provision to individuals of over-the-counter sexual assault kits.
- Makes violations actionable under the Consumer Protection Act.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: Sexual Assault Kits. A victim of a sexual assault may undergo a forensic examination for collecting evidence. 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.

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

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Program.

Consumer Protection Act. The Consumer Protection Act (CPA) prohibits unfair methods of competition or unfair or deceptive practices in the conduct of any trade or commerce. The attorney general is authorized to investigate and prosecute claims under the CPA on behalf of the state or individuals in the state.

A person injured by a violation of the CPA may bring a civil action for injunctive relief, recovery of actual damages, and reasonable attorneys' fees. The courts may increase awarded damages up to three times the actual damages sustained.

Summary of Bill: A person may not sell, offer for sale, or provide to an individual an over-the-counter SAK. An over-the-counter SAK is one 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.

An over-the-counter SAK does not include a SAK 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 SAK is a violation of the CPA.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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