

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: S.183 Name of Bill: Health; regulated drugs; prescription; ephedrine

Agency/Dept: VSP-NIU Author of Bill Review: LT. Kraig LaPorte

Date of Bill Review: 1/21/2014 Status of Bill: (check one):

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies

Recommended Position:

☐ Support ☒ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8

Analysis of Bill

1. Summary of bill and issue it addresses. This bill proposes to require a prescription for the purchase of products know to be used as precursors to the production of methamphetamine. Products containing ephedrine and pseudoephedrine are currently sold over the counter and used as precursors.

Phenylpropanolamine is no longer sold without a prescription due to a proposed increased risk of [stroke](#) in younger women.

2. Is there a need for this bill?

This bill was introduced during the 2013 session. In that same session, legislation was passed to authorize the use of the NPLEX System. This system has been in place in Vermont since October 1, 2013. There is a need to allow the NPLEX System to show its function and effectiveness in the effort to detect and reduce the production of methamphetamines in Vermont. This bill, S.183, is counter productive to the NPLEX law and will "undo" the legislation that was passed in 2013. S.183 should not be viewed as an addition or a way to bolster this effort.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

-In order for ephedrine based products to require a prescription, Vermont would have to schedule these medicines, categorizing them as a controlled substance.

-Authorized healthcare providers are the only ones authorized to issue a prescription. Healthcare providers protect patient information under the guidelines of HIPPA and do not share this information with law enforcement, even when an exemption threshold is reached and they are legally authnORIZED to do so.

-State and federal law currently allow the NPLEX System to track the purchase of these over the counter medicines. This system is able to block sales once daily or monthly purchase limits are met. This system would cease to exist if ephedrine based products were to be categorized as controlled substances. Federal law does not allow for limits or blockage of sales for controlled substances. The dosage controls are set by

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the healthcare provider who is prescribing.

-Controlled substances II-IV would require entrance into the Vermont Prescription Monitoring System (VPMS) which law enforcement does not have access to.

-If categorized as a schedule V, this would terminate the NPLEX System's ability to function (see above bullet concerning NPLEX and controlled substances).

-Any information of suspected abuse/ misuse of controlled substances detected by the use of the VPMS cannot be directly shared with law enforcement.

-The purchase of ephedrine based products in another state, not requiring a prescription, would be legal however the possession of these same medicines in Vermont would be illegal, without a prescription. This would be confusing for both law enforcement and the general public.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

This bill could potentially increase the use of the VPMS which is managed by the Vermont Dept of Health. This would also affect other agencies that investigate prescription drug fraud such as other law enforcement agencies.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

There would be a substantial increase in doctor visits, overloading healthcare providers for items that are a common part of people's lives. Citizens would require more appointments and potentially more time off from work to gain access to prescribers. Pharmacies would see an increase in volume due to the requirements within this bill. With the increase of professional involvement with these products, one could expect to see an increase in price for items containing ephedrine and pseudoephedrine. Insurance coverage would be expected to increase.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Some prosecutors are in favor of this bill but understand the extra burden it places on the public. Prevention coalitions and drug free organizations also support this bill. Insurance companies would increase fees associated with claims filed.

6.2 Who else is likely to oppose the proposal and why?

Citizens of Vermont are opposed to this bill as it would require more to get what is now sold over the counter. A large number of people purchase these with one stop at a pharmacy. This new proposal would require doctor appointments, office visits, and additional waiting at the pharmacy. These additions would increase the cost to consumers. Manufacturers and retailers would oppose this bill. Doctors (and some pharmacists) oppose this bill, citing additional work for something they do not agree should have medical oversight.

7. Rationale for recommendation: Some suggest there is a need for this bill to help curb the efforts of methamphetamine production. Although the use of the NPLEX System was passed during the 2013

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legislative session, this bill is viewed as an addition to the meth reduction effort. Below are facts that reveal this bill reduces the current effort;

Other states that have passed similar legislation as S.183 (Oregon 2006) claim a drastic reduction in the production of methamphetamine. However the following states saw a drastic drop in Meth Labs without such a law: California (93%), Washington (97%), Arizona (97%), Nevada (97%), Utah (99%) and Idaho (94%). NPLEX System implementation is cited for a portion of this reduction. The increase of Mexican made/imported Meth is also part of some explanations reducing the need to produce Meth with increased importation.

It should be noted that in 2010 Meth related deaths in Oregon increased 22%, the most in a single year within the last decade. (Oregon Medical Examiner's Office).

This bill aims to reduce or eliminate "smurfing", a tactic of buying ephedrine based products at multiple locations to remain undetected and thwart efforts to track daily and monthly purchase limits. Multiple purchases are made by multiple people and supplied to those producing methamphetamine. Currently Vermont uses the NPLEX System (National Precursor Log Exchange System) to track daily purchases and limits. This system is a real time, point of purchase tracking system and aids in the detection and elimination of smurfing. If prescriptions are required, an increase of doctor shopping will be used to obtain these precursor products. Law enforcement will lose an effect tool, in NPLEX, to guard against this activity.

The need to use the VPMS by healthcare providers would increase, a system many healthcare providers resist using. Although a new law in 2013 requires doctors to use the VPMS at certain times, regular use of this system is not a staple of most medical practices.

8. Specific modifications that would be needed to recommend support of this bill:

The passage of this bill would eliminate the NPLEX System, which has proven to be a great investigative tool for law enforcement. The restrictions to law enforcement that would follow the requirement of prescriptions for these precursor drugs would handicap law enforcement's efforts to reduce the production of Meth.

A handwritten signature in blue ink, appearing to be "Laura Gray", is written over a faint rectangular stamp.

Secretary/Commissioner has reviewed this document

Date: 01/23/14

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