

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2014**

Bill Number: S.280 Name of Bill: Senator Dick Sears

Agency/Dept: VSP Author of Bill Review: Detective Sergeant Michael O'Neil

Date of Bill Review: 1/30/14 Status of Bill: (check one):

Upon Introduction  As passed by 1<sup>st</sup> body  As passed by both bodies

Recommended Position:

Support  Oppose  Remain Neutral  Support with modifications identified in # 8 below

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**Analysis of Bill**

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**1. Summary of bill and issue it addresses.**

*This Bill proposes to prohibit pharmacists from filling out-of-state Schedule II narcotics prescriptions written by physicians licensed outside of New England or New York. The Bill also states a Pharmacist may only fill a prescription written if it was written within the preceding five calendar days by a physician licensed in New England or New York. This Bill requires that a pharmacist determine, in accordance with professional standards and personal judgment, that the prescription is authentic and valid and shall verify the prescription by telephonic or other means.*

*This Bill was introduced by Senator Sears in response to concerns raised both by Vermont Law Enforcement and the Vermont Pharmacy Association in regard to individuals presenting prescriptions for narcotics written by physicians outside of Vermont. Vermont has recently seen a large increase in the number of individuals with no ties to Vermont attempting to fill prescriptions for narcotics written by out of state physicians.*

**2. Is there a need for this bill?**

*Yes. The Florida prescriptions recently seen were primarily coming from so called "pain clinics" in the state of Florida. The legitimacy of many of these Florida pain clinics is concerning to both law Enforcement and Pharmacists in Vermont. They are almost always, however licensed and legally practicing within the state of Florida. This does not mean that a legitimate doctor- patient relationship exists, nor is there any means at times for Law Enforcement or Pharmacists to determine if one does exist. Many of the individuals presenting these prescriptions were reported to have made attempts to fill other prescriptions at pharmacy all over the state of Vermont. There was no means of locating or positively identifying these individuals because they had no ties to Vermont. Pharmacists were able at times to provide Law Enforcement with registrations of vehicles driven by the individuals. These registrations usually belonged to out of state rentals cars.*

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

*I do not believe this Bill presents any programmatic implications for VSP.*

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**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?**

*I did not identify any other departments in state government that would be impacted by this bill.*

**5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?**

*I have spoken with Pharmacists in regard to this Bill. James Godfrey, owner of Hotel Pharmacy and President of the Vermont Pharmacy Association, told me he understood the desire and need to deal with individuals presenting out-of-state prescriptions for narcotics. His concern was primarily with prescriptions from Florida. He felt that legislation should only be directed at "individuals" that are not residents of the state of Vermont. He told me he has many customers with valid prescriptions that are either dual residents, college students, transient, etc. He feels these individuals are in Vermont for legitimate purposes and may have legitimate prescriptions. He feels the Bill as proposed would prevent these individuals from filling their legitimate prescriptions.*

*I also spoke with Marty Irons, owner of Beauchamp and O'Rourke Pharmacy and former President of the Vermont Pharmacy Association. He pointed out the following concerns with the Bill as introduced. He told me when the Vermont Pharmacy association sought to have this legislation introduced last year, they were targeting **out of state patients** who had opiate/narcotic prescriptions from **out of state doctors**. This bill includes all patients, Vermont residents or not. He felt, as written, this Bill could be problematic for their two-state residents/snow birds, etc. They did not want to target our own residents. Irons told me VPA also was seeking this restriction in regards to all Controlled Substances Schedule II through IV. The Bill as introduced only addresses schedule II. He felt the language should also be modified so as not to burden out of state students who have residence here while attending schools.*

**6. Other Stakeholders:**

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

*The Vermont Pharmacy Association is going to be a stakeholder on this legislation. The reasons stated above detail what they are likely to support and oppose in this legislation.*

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

*See answer in 6.1.*

**7. Rationale for recommendation:**

*This Bill as proposed would prevent individuals from out-of state from coming to Vermont with the sole purpose of filling prescriptions for narcotics with the intent of diverting or profiting from the illegal sale of these drugs.*

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

*I recommend the Bill be supported with the following modification. The Pharmacists I spoke with identified two specific concerns with the Bill as written. The first, which I feel we should support, is that the Bill should include schedule II through schedule IV controlled substances. The Bill currently is limited to only schedule II controlled substances.*

*The second concern identified is that the Bill should target only Non-Vermont residents. We cannot ignore the fact that Vermont residents have been known to travel to other states, especially Florida, for the purpose of receiving*

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*prescriptions for narcotics with the intent to sell or divert them. I do not feel we should encourage or support this type of change to the Bill. However, It may become necessary for us consider this as a fallback position to get the support needed from the Vermont Pharmacy Association to insure passage of the Bill.*

A handwritten signature in blue ink, appearing to be 'Laura Gray', written over a faint circular stamp.

**Secretary/Commissioner has reviewed this document**

**Date: 2/11/14**

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