SB639

TESTIMONY

NEIL ABERCROMBIE
GOVERNOR

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

TED SAKAI
INTERIM DIRECTOR

MARTHA TORNEY
Deputy Director
Administration

Deputy Director
Corrections

KEITH KAMITA
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 639
A BILL FOR AN ACT RELATING TO HEALTH

By
Ted Sakai, Interim Director
Department of Public Safety

Senate Committee on Health
Senator Josh Green M.D., Chair
Senator Rosalyn H. Baker, Vice Chair

Monday, February 4, 2013, 1:15 PM
State Capitol, Room 229

Chair Green, Vice Chair Baker, and Members of the Committee:

The Department of Public Safety **supports** Senate Bill 639 which proposes to make pseudoephedrine and pseudoephedrine containing products a Schedule V controlled substance. The Legislature passed Act 119 in 2012 which mandated that all retail distributors selling products, mixtures, or preparations containing pseudoephedrine electronically report all retail sales data to the National Precursor Log Exchange tracking database. Act 119 also mandated that by January 1, 2015, the Department merges the pseudoephedrine tracking database with the Department's Controlled Substance tracking system. Senate Bill 639 would provide the means for the Department to accomplish this mandate with very little modification to its existing electronic prescription monitoring program.

PSD would like to recommend an amendment to Senate Bill 639 Section 2, page 3 lines 5 through 11 to read as follows:

"(c) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system ~~[, including its salts, isomers, and salts of isomers.~~] **that contain** Pseudoephedrine its salts, optical isomers, and salts of optical isomers as the only active ingredient, or in combination with other active ingredients. Notwithstanding any other law to the contrary, a pharmacist may dispense to a person without a prescription not more than 3.6 grams per day and not more than 9 grams in a 30-day period without regard to the number of transactions, of any product, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts, optical isomers, or salts of optical isomers, except that this limit shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription. All transactions shall be reported on the Department's Electronic Prescription Accountability System in accordance with Chapter 329, Part VIII."

PSD recommends that on page 4, lines 1 through 3, be deleted and the effective date be moved to section 6 of this bill.

If PSD's recommended amendments to Section 2 of Senate Bill 693 is adopted, then Sections 3 and 4 of Senate Bill 639 would no longer be necessary and request that it be deleted from the bill.

Further, if pseudoephedrine and pseudoephedrine containing products are made a Schedule V controlled substance, the Department requests that Sections 329-73 (Pseudoephedrine permit), 329-74 (Unlawful transport of pseudoephedrine) and 329-75 (Sales of products, mixtures, or preparations) of the Hawaii Revised Statutes be repealed since these sections would no longer be necessary.

If pseudoephedrine is made a Schedule V controlled substance, all dispensers of the drug are mandated to electronically report all dispensations through the Department's electronic prescription accountability system delineated under Chapter 329, Part VIII, Hawaii Revised Statutes.

Senate Bill 639 enacted would allow pharmacies to report all sales on Hawaii's electronic prescription monitoring program, saving on the reporting of data on two separate systems as well as allow the Narcotics Enforcement Division the ability to track the dispensing of this controlled substance.

For these reason, the Department supports passage of Senate Bill 639 with the proposed amendments.

Thank you for the opportunity to testify on this matter.

From: mailinglist@capitol.hawaii.gov
To: HTHTestimony
Cc: annierhollis@gmail.com
Subject: Submitted testimony for SB639 on Feb 4, 2013 13:15PM
Date: Friday, February 01, 2013 9:52:44 AM

SB639
Submitted on: 2/1/2013
Testimony for HTH on Feb 4, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Annie Hollis	Individual	Oppose	No

Comments: I suffer from chronic sinusitis, which is aggravated and worsened by the vog. I have lived in Hawaii for three years, and the vog this year is the worst I've seen. I am constantly congested, with sinus pain and pressure, which then often turns into sinus infections and bronchitis. Cold medication with psuedophedrine is a critical piece of the regime of medical and holistic medicines I need to keep myself healthy, recommended by my doctor. New ingredients like phenylephrine do not have the same effectiveness for my specific condition. While I understand the opposition to psuedophedrine, and I have no problem with scanning my ID and signing for it, nor do I have a problem with pharmacies keeping records for 5 years, this measure goes too far. It will limit my, and others' access, to this necessary over the counter medication. As a social worker and policy advocate, I work a lot, and there is no way I will be able to get a prescription for psuedophedrine every time I need to take it because of my difficult schedule. Additional hurdles to my health and well-being are frustrating and unnecessary. I ask you oppose this measure, or, at the very least, to amend the piece of the legislation making psuedophedrine a Schedule V controlled susbtance. Mahalo.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Healthcare Distribution Management Association

February 4, 2013

The Honorable Sen. Josh Green, M.D.
Chair, Senate Committee on Health
Hawaii State Capitol, Room 229
415 S. Beretania Street
Honolulu, HI 96813

Re: S.B. 639 (PSE Schedule V controlled substance)

Dear Senator Green:

On behalf of its nine full-service wholesale drug distributor members doing business in Hawaii including two with facilities in state, the Healthcare Distribution Management Association (HDMA) respectfully submits the following comments for your consideration regarding S.B. 639. Each and every day, HDMA member companies safely and efficiently deliver nine million healthcare products to more than 200,000 pharmacies, hospitals, nursing homes, physician offices and clinics nationwide.

As an advocate for the safe, reliable, and efficient distribution of the nation's healthcare products supply, HDMA shares the objective of S.B. 639 in preventing precursor chemicals, such as pseudoephedrine, from being purchased in excess or stolen at the pharmacy level and being abused. However, without additional clarifying language S.B. 639 will have a significant, negative impact on legitimate drug distribution that we believe may be unintended. Classifying products that contain pseudoephedrine as a Schedule V controlled substance will require distributors located in Hawaii to place an overwhelming volume of over-the-counter products containing pseudoephedrine in cages within secure warehouses. Schedule V designation would significantly change current inventory practices and safeguards.

Drug distribution centers are highly regulated, secure, restricted access facilities that must pass regular inspections conducted by both the DEA and the Hawaii Board of Pharmacy. Distribution facilities that are currently licensed to distribute other controlled substances are subject to multiple security and recordkeeping procedures that include: (1) employee screening; (2) restricted access; (3) alarm systems; (4) self-locking and self-closing doors; and (5) inventory control systems.

As a result, DEA registered controlled substance distributors meet the objectives of S.B. 639 —storing products in a secure, restricted access, highly monitored location with strict recordkeeping requirements. These facilities have not been a source of pseudoephedrine diversion. Therefore, HDMA respectfully asks you to consider adding the following language exempting distributors from the additional storage and handling burdens triggered by S.B. 639:

"This section does not apply to wholesale drug distributors licensed and regulated by the Hawaii Board of Pharmacy and registered with the United States Drug Enforcement Administration, and exempts them from storage, reporting, recordkeeping or physical security control requirements for controlled substances containing pseudoephedrine."

Thirteen states, including Oregon and Mississippi, that have passed legislation or regulations classifying pseudoephedrine as either a Schedule III or V controlled substance have included similar language for wholesale drug distributors. These states recognize that subjecting wholesale distributors to any additional

901 North Glebe Road • Suite 1000 • Arlington, VA 22203
(703) 787-0000 • (703) 935-3200 (Fax) • www.HealthcareDistribution.org

requirements in terms of storage or recordkeeping would be duplicative in light of the strict controls that are already imposed at both the federal and state level.

If you have any questions or need additional information, please do not hesitate to contact me at 703-885-0214.

Sincerely,

Elizabeth A. Lankford
Manager, State Government Affairs
Healthcare Distribution Management Association

HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)
1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

DATE: Monday, February 4, 2013

LOCATION: Conference Room 229

TO: COMMITTEE ON HEALTH
Sen. Josh Green, Chair
Sen. Rosalyn H. Baker, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
LAUREN ZIRBEL, EXECUTIVE DIRECTOR

RE: SB 639 RELATING TO HEALTH

Chair Green, Vice Chair Baker & Committee Members:

In Opposition.

HFIA strongly opposes making pseudoephedrine prescription only because evidence shows that this will not help the problem it is intended to help but it will limit access to needed medication for many law abiding citizens and visitors in the State of Hawaii.

We estimate that upwards to 100,000 citizens and tourists in Hawaii would be required to visit a doctor if a prescription were required to purchase pseudoephedrine products. This would exacerbate current provider shortages through resulting physician office visits.

We estimate sales of pseudoephedrine in Hawaii to be around 250,000 packages.

Most meth is imported into the U.S. as a finished product. Approximately 20% is sourced from the U.S., with 80% from “super labs” and less than 20% from small labs.

Electronic Tracking of PSE Sales Presents a Real Solution for Combating Meth Abuse.

E-logs provide real-time approval or denial of PSE purchases at the point-of-sale, creating no access barriers for the 18 million American households that purchase non-prescription cold and allergy medicines to treat their symptoms.

The Hawaii State Legislature passed legislation enacting electronic tracking of PSE sales in the 2012 Legislative Session.

E-logs enable law enforcement to track real-time activity and search histories, thus identifying "smurfing" operations and labs that might otherwise go undetected. For example, electronic tracking led to 70% of meth lab busts in key Kentucky counties, and reduced illegal sales by more than 90% in a Florida pilot. Nationwide, the NPLEx system blocked over 850,000 boxes, accounting for over 2 million grams of pseudoephedrine in 2011 alone.

A prescription-only policy would fail to limit PSE sales, curb meth use, or enable meth lab detection. In fact, Oregon (a prescription only state) had more meth related deaths in 2010 than they did prior to their Rx law passage. And Mississippi, another Rx state, ranked 10th in the country in meth labs just last year – more than Texas, Florida, New York, and California!

Law enforcement officials have testified before members of Congress about the effectiveness of e-logs, and communicated their concerns that a prescription-only policy would fail to limit PSE sales or enable meth lab detection.

E-tracking can also be combined with a state's meth conviction records. Oklahoma became the first state to enact a law prohibiting sales of PSE to individuals with meth convictions. State officials used their tracking system to identify individuals who had been blocked from making illegal pseudoephedrine purchases and discovered that as many as 60 percent of those being blocked had prior criminal records, many for drug charges. Now Oklahoma will deny any sales of pseudoephedrine to those individuals, even within otherwise legal quantity limits.

Hawaii just passed the most effective solution to PSE crimes. Please give it a chance to work.

Unfortunately, reducing or cutting off supply does not guarantee a reduction in demand or use. Mexico, for example, banned pseudoephedrine nearly three years ago. Yet the country is once again the "primary source of methamphetamine" in the U.S., according to the Justice Department's National Drug Intelligence Center's 2010 threat assessment. In fact, Oklahoma estimates that 70 percent of the meth in their state is from Mexico, in a potent, smokeable form called "ice." Despite extreme actions taken by the Mexican government, drug traffickers and meth cooks have simply found alternative ingredients to use, such as phenylacetic acid, or they illegally smuggle pseudoephedrine to keep meth production viable and profitable.

Thank you for the opportunity to provide testimony.

LEGISLATIVE INFORMATION SERVICES OF HAWAII, INC.
1188 Bishop St., Suite 608, Honolulu, HI 96813
Phone (808)533-6750 - Fax (808)356-0133 Dick Direct: 479-7966
Email: lishawaii@aol.com www.lish.info

Monday February 4, 2013

To: Senate Committee on Health, Senator Josh Green, Chair
Senator Rosalyn H. Baker, Vice Chair

By: Richard C. Botti, President
Legislative Information Services of Hawaii, Inc.

Re: SB 639 Relating to Health—Reclassifying pseudoephedrine to schedule V

Chairs & Committee Members:

On behalf of the over 1,500 members and participants in our Group Health Plan that will be placed at a financial disadvantage if Prescription-only laws are adopted, we oppose SB 639.

Patients would have to make appointments and visit a physician when they desire certain medications that are now available without a prescription. In some cases, they would have to take time off from work, visit a doctor and drive to the pharmacy. These additional steps add up to additional co-pays, increased fuel costs and the potential for lost wages at work.

Consider this: Both HMSA and Kaiser now have a $20 co-pay for a Dr. visit. Add another $10 in gasoline costs to get to the doctor. Add the $5 Rx fee, and you have $35, not counting the time lost in time to visit the doctor to get the prescription which can now be obtained with minimum inconvenience.

Take into consideration the new law passed last year that requires the customer to produce identification that checks if the customer has made any purchases of pseudoephedrine products and any participating state. All of this tells us that this measure punishes the law abiding citizen in favor of those having criminal intent in breaking the law. It simply doesn't make sense, especially when 25 states are now using NPLEx (The National Precursor Log Exchange), which took effect in Hawaii on January 1, 2013. We need to know the following:

- How many boxes were blocked?
- How many grams were blocked?
- How many law enforcement users are registered users per month?
- How will PSE possession work with tourists from other states?
- What will the tax loss in revenue be if SB 369 were to become law?
- What will the impact be on Doctors that have to accommodate the additional patients? In Oklahoma, the change to Rx would have been $59 million.
- Will the flu virus impact business productivity with employees either working with the flu, or taking off to go to the Doctor.

With the above information, we will be in a position to better analyze the effectiveness in making an informed decision.