

SENATE BILL REPORT

SHB 2028

AS OF FEBRUARY 26, 1992

Brief Description: Updating the uniform controlled substances act.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives Appelwick and Paris).

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Martin Lovinger (786-7443)

Hearing Dates: April 2, 1991; February 28, 1992

BACKGROUND:

Illicit drug activity is generally governed by the state's version of the Uniform Controlled Substances Act (UCSA). This act is modeled in part after federal law on the same subject, and is one of the uniform laws produced by the National Conference of Commissioners on Uniform State Laws. The commission periodically reviews uniform laws and makes recommendations to the states for updates and revisions. The commission has recommended various changes in UCSA.

Washington's UCSA is divided into articles dealing with definitions, standards and schedules, regulation of manufacturers, offense and penalties, and enforcement. The standards and schedules portion of the act actually lists the various substances which are "controlled." There are five schedules of drugs, each with a set of standards to be used in classifying candidates for inclusion. Schedule I drugs are those generally considered to be the most dangerous and likely to be abused and of the least accepted legitimate value. Among the schedule I drugs are opiates, hallucinogens and marihuana. Schedule V drugs, on the other hand, are those considered to be of relatively low potential for abuse and relatively high accepted legitimate medical use. Among the schedule V drugs are narcotics containing dilutions of codeine or opium. Generally, the penalties for violating UCSA descend in order with respect to which schedule is involved in the violations. Other factors, such as the quantity involved, type of transaction, location of transaction, and prior history also affect the severity of punishment. Many of these factors are controlled by the sentencing reform act.

Generally, controlled substances cannot be possessed, manufactured, distributed, or sold except as provided in UCSA. The act directs the State Board of Pharmacy to regulate the manufacture and distribution of controlled substances. Only

persons who have registered under the act may legally make, distribute or dispense controlled substances, and then only to the extent the act specifically allows.

The State Board of Pharmacy is given enforcement authority under UCSA. This authority includes using administrative warrants to inspect the records and premises of persons registered under the act. Warrants may be issued by a judge upon a showing by the board of probable cause of a valid public interest in enforcing the act. Illegally possessed drugs, along with any property used in illegal drug activity, may be seized by the board or by law enforcement agencies.

UCSA and the Sentencing Reform Act provide varying penalties for proscribed activities involving scheduled drugs.

SUMMARY:

Portions of the recommendations of the Uniform Law Commission for amendment to UCSA are adopted.

Several definitional updates are made, in part to conform to terminology used in federal legislation. All of the schedules of controlled substances are amended to include the latest substances listed under federal law.

"Research" is added to medical, scientific or industrial uses as an acceptable form of dissemination of controlled substances to be considered when a manufacturer or distributor applies for registration. Convictions under drug laws of foreign nations are to be considered by the board when a person applies for registration as a manufacturer or distributor.

A new provision is added allowing for the seizure of controlled substances owned or possessed by a registrant whose registration has expired or who has stopped operations. Seizure under this provision is to be for the benefit of the registrant, or the registrant's successor in interest. Notice to the registrant is required, and the seized property must be held for at least 180 days before it may be disposed of. Costs of seizure, holding and disposition may be deducted, but otherwise proceeds from disposition will go to the registrant.

Pharmacists are granted immunity from civil and criminal liability under UCSA when they fill a prescription reasonably believing that it is legitimate.

A program is established to track and prevent the diversion of drugs from legal to illegal channels of distribution or use.

Possessing a false or fraudulent prescription with an intent to obtain a controlled substance is made an offense. An individual practitioner may not dispense a substance included in Schedules II, III or IV for that individual practitioner's use.

Practitioners licensed or registered in the state of Washington under the respective professional licensing acts must register under this chapter.

Appropriation: none

Revenue: none

Fiscal Note: none requested