

SENATE BILL REPORT

ESB 5022

As Passed Senate, March 7, 2023

Title: An act relating to exempting fentanyl testing equipment from the definition of drug paraphernalia.

Brief Description: Exempting fentanyl testing equipment from the definition of drug paraphernalia.

Sponsors: Senators Muzzall, Cleveland, Dhingra, Gildon, Hunt, Keiser, Kuderer, Mullet, Nobles, Van De Wege, Wilson, J. and Wilson, L..

Brief History:

Committee Activity: Law & Justice: 2/06/23, 2/09/23 [DP].

Floor Activity: Passed Senate: 3/7/23, 48-0.

<p style="text-align: center;">Brief Summary of Engrossed Bill</p> <ul style="list-style-type: none">• Excludes testing equipment from the definition of drug paraphernalia.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Ryan Giannini (786-7285)

Background: Drug Paraphernalia. Drug paraphernalia includes testing equipment used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances.

It is unlawful under certain circumstances to use, possess, manufacture, deliver, give, sell,

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or advertise the sale of drug paraphernalia. Violators can be subject to civil or criminal liability.

Fentanyl. Fentanyl is a synthetic opioid. It is a Schedule II prescription drug, and it is typically used to treat patients with severe pain or to manage pain after surgery.

Illicitly manufactured fentanyl is available in different forms, including liquid and powder. Powdered fentanyl may be mixed with other drugs and made into pills that are made to resemble other prescription opioids.

Fentanyl test strips are a form of drug testing technology that can detect the presence of fentanyl in different kinds of drugs and drug forms.

Summary of Engrossed Bill: Testing equipment is excluded from the definition of drug paraphernalia. Public health and community-based HIV prevention programs, and pharmacies, are allowed to sell or give testing equipment.

Appropriation: None.

Fiscal Note: Not requested.

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

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

Staff Summary of Public Testimony: PRO: This bill is not the answer to all drug problems. It is a small step toward addressing the epidemic of overdose deaths. Fentanyl is entirely different from other drugs—it is extremely potent. If this bill can save one life, it is what the Legislature should focus on. There are municipalities who are currently distributing test strips illegally. This will remove these test strips from the list of prohibited drug paraphernalia and make them available. This was done with NARCAN in 2020, which saved many lives. This bill gives people using drugs other than fentanyl the ability to test these drugs for fentanyl, so they do not unknowingly consume it.

OTHER: Over a thousand people died of overdose deaths in King County last year and 70 percent of them had fentanyl in their system. People continue to die from fentanyl without knowing they are taking it. It is important to detect fentanyl in the drug supply. In addition, we must watch out for the next most harmful drug. To do so, this bill should be amended to not only authorize testing equipment for fentanyl, but also, authorize any drug testing equipment. This will allow those on the front line to detect new and upcoming dangerous drugs in our communities. This will include amending the title of the bill. Similar legislation has passed in other states throughout the country.

Persons Testifying: PRO: Senator Ron Muzzall, Prime Sponsor.

OTHER: Brad Finegood, King County.

Persons Signed In To Testify But Not Testifying: No one.