

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

CLAYTON A. FRANK
DIRECTOR

DAVID F. FESTERLING
Deputy Director
Administration

TOMMY JOHNSON
Deputy Director
Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 2530 HD1
A BILL FOR AN ACT RELATING TO
CONTROLLED SUBSTANCES

by
Clayton A. Frank, Director
Department of Public Safety

House Committee on Public Safety and Military Affairs
Representative Cindy Evans, Chair

Thursday, February 14, 2008, 9:15 a.m.
State Capitol, Room 309

Representative Evans and Members of the Committee:

The Department of Public Safety supports the intent of House Bill 2530 HD1, which would require the Department's Narcotics Enforcement Division develop and maintain an electronic purchase logbook for sales of pseudoephedrine and pseudoephedrine combination products. The intent of House Bill 2530 HD1 is to close the reporting loophole in Act 171 SLH 2006, that mandated that all retailers have customers produce proper identification and sign a log to ensure that the customer did not purchase more than 3.6 grams per day and not more than 9 grams in a 30-day period and required all retailers to maintain a logbook of all non prescription sales of pseudoephedrine containing products. Presently a person wanting to beat the system could visit multiple retail store chains and obtain 3.6 grams of pseudoephedrine per visit and the retailers would not be able to verify or track that individuals previous purchases.

By requiring that all retailers selling pseudoephedrine products must electronically transmit the customer's identification data to the Narcotics Enforcement Division will significantly assist the Division in deterring individuals from illegally obtaining the regulated chemical pseudoephedrine that is one of the primary chemicals necessary to manufacture methamphetamine. Since the enactment of Act 171 SLH 2006, the State has seen a dramatic drop in the number of clandestine drug labs in the State from 17 in 2005, 5 in 2006 and just 2 in 2007, however with the decrease in the quality of methamphetamine and the increase in its street price it is just a matter of time when the criminals will revert back to manufacturing their own high quality methamphetamine using pseudoephedrine obtain from retail distributors. The 2004 statistics of US businesses in Hawaii indicates that there are 1883 retail stores that are able to sell pseudoephedrine products in the State most of which are not pharmacies and unable to verify prior pseudoephedrine sales with their other retail counter parts.

The department would like to recommend that the following amendments to House Bill 2530 HD1:

On page 2, amend line 13 through 14 to read as follows:

“(c) Purchase information shall be recorded in real-time and shall include:”

Due to the substantial cost both to the retailer and the Narcotics Enforcement Division to implement a real time electronic logbook, the Department is recommending that retailers report all retail pseudoephedrine transactions twice a month electronically in a similar manner to that of the Department's electronic prescription monitoring program. House Bill 2530 HD1 also appropriately adds a penalty for retailers that do not comply with the reporting requirements of this bill.

House Bill 2530 HD1 also amends section 329-75(a) to reflect amendments made in federal law relating to products containing pseudoephedrine in liquid, liquid capsule, or gel capsule form.

The Department is requesting an amendment be made to House Bill 2530 HD1 to clarify that it is unlawful for an individual to purchase, possess, receive, or otherwise acquire more than nine grams of any product, mixture, or preparation containing pseudoephedrine within a thirty-day period, except when it is dispensed pursuant to a valid prescription and that this penalty be consistent with that of other chemicals listed under Section 329-65(f), Hawaii Revised Statutes.

The Department is requesting that House Bill 2530 HD1 be amended starting on page 6 line 10 and ending on page 8 line 2 to read as follows:

“(b) No person shall purchase, possess, receive, or otherwise acquire more than nine grams of any product, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts, isomers, or salts of optical isomers within a thirty-day period, except that this limit shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription.

~~[(b) The sales restriction in this section, as it applies to products, mixtures, or preparations containing any detectable quantity of pseudoephedrine, its salts, optical isomers, or salts of optical isomers, shall not apply to any products, mixtures, or preparations that are in liquid, liquid capsule, or gel capsule form if pseudoephedrine is not the only active ingredient.]~~

(c) Any person who violates subsection (b) is guilty of a class C felony.

~~(e)~~(d) The department, by rule, may exempt other products from this section, if the administrator finds that the products are not used in the illegal manufacture of methamphetamine or other controlled substances. A manufacturer of a drug product may apply for removal of the product from this section if the product is determined by the administrator to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

~~(d)~~(e) Notwithstanding any other provision of this chapter to the contrary, every wholesaler shall report to the administrator all sales made to any retailer, of any product, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts, optical isomers, or salts of optical isomers, as the only active ingredient or in combination with other active ingredients. The department shall provide a common reporting form that contains at least the following information about the product, mixture, or preparation:

- (1) Generic or other name;
- (2) Quantity sold;
- (3) Date of sale;
- (4) Name and address of the wholesaler; and
- (5) Name and address of the retailer.”

The passage of House Bill 2530 HD1 would be an effective way to track and prevent the abuse of pseudoephedrine and pseudoephedrine containing products, which are used to illegally manufacture methamphetamine.

Thank you for the opportunity to testify on this matter.

GORDON, THOMAS HONEYWELL
GOVERNMENTAL AFFAIRS

February 13, 2008

TO: Representative Cindy Evans
Chair, Senate PSM Committee
Hawaii State Capitol, Room 425
Via Email: repevans@Capitol.hawaii.gov

FROM: Noah Reandean

RE: S.B. 2530 – Relating to Controlled Substances

Dear Chair Evans and members of the PSM Committee

I am sure you are aware of the problems that illegal methamphetamines are causing in our local communities. Virtually no state is immune to the ill effects of meth. In reaction to this national crisis, more than 40 states have passed laws that restrict the sale of over the counter drugs containing pseudoephedrine. In fact, Hawaii has already taken this first step and established a written log that retailers are required to fill out when someone purchases pseudoephedrine. These logs have proven somewhat effective. However, they do not allow law enforcement to identify criminals who move from store to store purchasing pseudoephedrine to stay “below the radar screen.” This is unfortunately becoming a common practice to obtain the necessary amounts of pseudoephedrine that are needed to make meth.

Arkansas, Kentucky, Oklahoma and West Virginia have already taken the next legislative step in addressing meth by passing legislation to require that pseudoephedrine logs be kept in an electronic format. These electronic logs can be shared with law enforcement to eliminate the ability for criminals to purchase more than the legal limit of pseudoephedrine. With access to electronic logs, law enforcement officers are able to save time and money in identifying and busting meth labs. In addition, many of the pharmacies that have implemented electronic logs in these states are finding them to be far quicker, simpler, and more accurate than the manual logs they were previously maintaining.

H.B. 2530 is a very short bill and simply enhances Hawaii’s current state law by requiring pseudoephedrine logs to be kept in an electronic format. While this change is small, it will make a significant difference in the ability for law enforcement to crack down on meth production. In fact, in addition to Hawaii, 9 other states have already introduced legislation this year to require electronic logs. As witnessed by the unanimous passage of Arkansas S.B. 296 last year (attached), this legislation should not be controversial.

Therefore, I hope that you will seize this opportunity to assist in eliminating the growing meth epidemic and pass H.B. 2530 as soon as possible.

Thank you for your time and consideration. Should you have any questions, please do not hesitate to contact me.