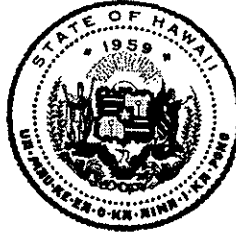


NEIL ABERCROMBIE
GOVERNOR



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DEPARTMENT OF PUBLIC SAFETY

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TESTIMONY ON SENATE BILL 2228 SD2
A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE

by

Jodie F. Maesaka-Hirata, Director
Department of Public Safety

House Committee on Health
Representative Ryan I. Yamane, Chair
Representative Dee Morikawa, Vice Chair

Tuesday, March 13, 2012, 09:00 AM
State Capitol, Room 329

Chair Yamane, Vice Chair Morikawa, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of Senate Bill 2228 SD2 that proposes to establish a tracking system for the sale of products containing pseudoephedrine as a base.

The Legislature passed Act 184 in 2008 that mandated that all retail distributors selling products, mixtures, or preparations containing pseudoephedrine must electronically report all retail sales data to the Narcotics Enforcement Division (NED) on a monthly basis. Pseudoephedrine control and tracking has been very successful in Hawaii in reducing the amount of clandestine laboratories manufacturing methamphetamine, commonly referred to as "ICE." NED formed a partnership with the Western States Information Network (WSIN/RISS) whose mission is to support law enforcement efforts

nationwide to combat illegal drug trafficking, identity theft, human trafficking, violent crime, terrorist activity, and to promote officer safety in Alaska, California, Hawaii, Oregon, Washington, as well as Canada and Guam to host the pseudoephedrine tracking database.

The electronic tracking log is an impressive first step for the State to attempt to track retail pseudoephedrine sales and decrease the production of methamphetamine (ICE). This tracking system has a few shortcomings, unlike Hawaii's electronic prescription monitoring program a system that reports all controlled substance prescription data monthly, the pseudoephedrine tracking program does not report information relating to persons purchasing just under the 3 grams per day or a 9 gram a month limits. Presently, most of the sales of pseudoephedrine containing products are sold at pharmacies and that many of the non-pharmacy retail distributors no longer carry pseudoephedrine containing products and are now selling over the counter "pseudoephedrine PE" products that cannot be utilized to manufacture methamphetamine.

The system being proposed by Senate Bill 2228 SD2 will greatly improve a retailer's ability to safely sell pseudoephedrine constraining products to its customers by having the ability to check a computerized database prior to making the sale.

PSD would like to recommend a few amendments to Senate Bill 2228 SD2. On Page 1, line 9 delete the word "base" so the line should read: "period of pseudoephedrine, without regard to the number of". This amendment is necessary due to the fact that the over the counter form of pseudoephedrine

sold by retailers is not the base form.

On page 2, lines 10 through 15 the term "record" should be changed to "written or electronic log" to be consistent with the rest of the Part and should read as follows:

"(3) The pharmacy or retailer shall [~~record, in an electronic log on software provided by the narcotics enforcement division of the department and approved by the administrator.~~] maintain a written or electronic log of required information for each sale of nonprescription product containing pseudoephedrine, including:"

The Department would like to point out that the success of the program proposed in Senate Bill 2228 SD2 will rest primarily on a third party entity, the National Association of Drug Diversion Investigators (NADDI), who will provide transaction reports and allow access to the National Precursor Log Exchange to NED and retailers. If NADDI does not allow access or chooses not to allow the State to participate, then Senate Bill 2228 SD2 will not succeed.

Thank you for the opportunity to testify on this matter.



LEGISLATIVE INFORMATION SERVICES OF HAWAII

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March 13, 2012

To: House Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Dee Morikawa, Vice Chair

By: Richard C. Botti
On Behalf of LISH

Re: SB 2228, SD2 Relating to Pseudoephedrine

Chairs & Committee Members:

We support SB 2228, SD2

Creating an electronic tracking system for the sale of products containing pseudoephedrine makes sense, since it provides a balance between those citizens who have made the right choice by not attempting to utilize the product for illegal purposes, and those that make the wrong choice that leads to the destruction of their lives and the lives of those family members close to them.

A total of 20 states now participate in the e-log/e-tracking/real time blocking. 18 of those states are NPLeX. Virginia's Governor just last week signed their bill into law, making Virginia the 18th state. Oklahoma and Arkansas also do e-tracking but they use their own taxpayer supported systems.

E-tracking is a "real-time" system that allows the retailer to refuse an illegal sale, based on purchases made anywhere in Hawaii, or any of the other twenty state participating in the program.

The system being proposed by Senate Bill 2228SD2 will not require State funding, and will greatly improve a retailer's ability to safely sell pseudoephedrine products to its customers by having the ability to check a computerized database prior to making the sale, with the information being provided to the State Narcotics Division.

We believe the SD2 version has addressed the concerns of the Office of the Attorney General, and the Department of Public Safety. The most important issue of the measure is that it does not punish those consumers who need pseudoephedrine products without the added cost of a Dr. visit, and co-pay for both the visit, and a co-pay for a prescription. The facts are, they are the only product that really works.



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

DATE: Tuesday, March 13, 2012

TIME: 9:00 a.m.

PLACE: Conference Room 329

To: COMMITTEE ON HEALTH
Rep. Ryan I. Yamane, Chair
Rep. Dee Morikawa, Vice Chair

FROM: Hawaii Food Industry Association - Lauren Zirbel, Executive Director

RE: SB 2228 RELATING TO PSEUDOEPHEDRINE

Chairs & Committee Members:

HFIA supports this measure because it provides an up to date, real – time tracking system that will help ensure that pseudoephedrine products are not illegally sold.:

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.

E-logs enable law enforcement to track real-time activity and search histories, thus identifying “smurfing” operations and labs that might otherwise go undetected. 19 states have enacted laws that require electronic tracking of PSE sales: Kentucky, Illinois, Louisiana, Iowa, Missouri, Florida, Alabama, S. Carolina, Kansas, Washington, N. Dakota, Nebraska, Indiana, Tennessee, N. Carolina, Michigan, Texas, Oklahoma, and Arkansas. 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!

Federal law currently limits all PSE-containing OTCs to behind the counter, with sales per customer of no more than 3.6 grams per day and 9 grams per 30 days, and requires purchasers to show ID and sign a logbook.

Electronic tracking allows retailers to block illegal sales and enhances law enforcement's suppression and investigative efforts. **Establishing a multistate electronic tracking system for medicines that contain PSE will prevent smurfing across different retailers, even across state lines, and provide a highly efficient law enforcement tool. At the same time, it will create no new barriers for the millions of cold and allergy sufferers looking for relief.**

Thank you for the opportunity to provide this testimony.