

Approved: 3/18/98
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 10:12 a.m. on March 11, 1998 in Room 514S of the Capitol.

All members were present except: Senator Oleen (excused)
Senator Harrington

Committee staff present: Mike Heim, Legislative Research Department
Gordon Self, Revisor
Mary Blair, Committee Secretary

Conferees appearing before the committee: Kyle Smith, Assistant Attorney General, KBI
Katina Kypridakes, Attorney General's Office, Sacramento, California
Kevin Kraushaar, Non Prescription Drug Manufacturers Asso.

Others attending: see attached list

SB 667 - Enacting the chemical control act

Conferee Smith, testifying as a proponent for the "chemical control act" (**SB 667**), briefly reviewed it's "process". He urged Committee to seriously address the bill and suggested that if they had reservations regarding the bill they "go ahead and pass it and then delay implementation of the bill until it can be studied further". He introduced Conferee Kypridakes noting her credentials, including her role as a member of the National Alliance for Model State Drug Laws. (no attachment)

Conferee Kypridakes, testifying as a proponent of **SB 667**, briefly covered her work in law enforcement over the years and her experience with the subject matter of **SB 667**. She detailed the history of drug production and the growing number of clandestine labs springing up throughout the country, particularly in areas where no legislation has been enacted to control the problem. She stated that national study groups who have met to address this problem have found many inconsistencies in the control of chemicals from state to state. She noted the outcome of these studies produced the Model Act and she discussed it's framework. She described clandestine labs and the drugs used in these labs. She also discussed reporting requirements for legal purchase of certain drugs and discussed the exemption of certain manufacturers. (attachment 1) There was discussion regarding the fiscal implementation and outcome of enacting chemical control laws in other states.

Senator Schraad stated that he had heard from several drug companies regarding **SB 667** and stated that during subcommittee hearings Conferee Kraushaar offered up some amending language to the bill. Conferee Kraushaar stated that he was not arguing with the need for **SB 667** but, rather, he objected to the nature of the coverage for non prescription drugs, which he elaborated on. He stated that if this bill was amended to "look like Oklahoma, Texas, Missouri, or California, we would have no objection to the bill". He stated the amendment included a proposal to exempt out drugs that are marketed pursuant to the Food and Drug Administration Act and fit under the Kansas definition of what a drug is. He called for an interim committee to study registration and reporting of who is able to legitimately sell drugs in Kansas. There was lengthy discussion on language changes in the bill. (no attachment) Conferees Smith and Kraushaar conferred together and agreed that the bill should be amended to exempt "over the counter" (OTC) drug sales and limits to sale of OTC drugs. Following further discussion Senator Feleciano moved to adopt an amendment to the bill which modifies the amendment presented by the KBI which exempts small transactions involving controlled chemicals from application of the act, so that it reads 24 gms rather than 100 doses and pass the bill out favorably as amended. Senator Schraad seconded. Carried.

Written testimony was submitted by the Pharmaceutical Research and Manufacturers of America. They requested an amendment to **SB 667**, to exempt prescription drugs from it's requirements. (attachment 2)

The meeting adjourned at 11:02 a.m.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/11/98 AM

NAME	REPRESENTING
Kyle Smith	KBI
KATHA KYPRIDAKES	Natl Alliance State Model Drug Laws + Calif. AG's Office
Mike Beam	Ks JUSTK. ASSN.
Gary Pederson	Boyer Corp.
Judley Schell	ACLU
John Peterson	Ks Governmental Consulting
Victorynn Helzel	Budget
Kathy Porter	OJA
Melissa Ness	Ks. Children's Service League
Bruce Linkes	Children's Alliance
Keei Newton	AG
Helen Stephens	KPOA / KSA
Jesse Clark	KCOAA

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-11-98 AM

NAME	REPRESENTING
Shannon Manzanera	CFS / SRS
Roberta Sue McKenna	Legal / SRS
Rochelle Chronister	SRS
Fross Malwitz	SRS
Janet Schalansky	SKJ
Jonathan Kirsch	WIBW
Ed May	Senate
Amy Bollig	KCSOV
Erika Unphauer	State Montgomery
Bill Sneed	Merck
John Garling	SRS
Nancy Lindberg	AG
KATH R LANDIS	CHRISTIAN SCIENCE COMM ON PUBLICATION FOR KS
AND GREEN	ECCV
Heather Randall	Whitney Johnson, PA
Brad Smoot	J & J
D. Peter	Governor's Office
Barbara Belcher	Merck
Kenna Kraushaar	Nonprescription Drug Manufacturers Assoc.

DANIEL E. LUNGREN
Attorney General

STUD
3-11-98
att #1

State of California
DEPARTMENT OF JUSTICE



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TESTIMONY
KATINA KYPRIDAKES, MANAGER
PRECURSOR COMPLIANCE PROGRAM
CALIFORNIA DEPARTMENT OF JUSTICE
BEFORE THE KANSAS SENATE JUDICIARY COMMITTEE
IN SUPPORT OF SENATE BILL 667
MARCH 11, 1998

Mr. Chairman and Members of the Committee:

Since the early 1980's the United States has found itself in the throes of an alarming trend. Long known as a nation of consumers of illegal substances, at that time, we joined the list of illegal drug producing countries. Initially, this phenomenon centered itself primarily in California with the production of high grade marijuana, or sinsemilla, and gradually with clandestine laboratories illegally producing controlled substances, primarily methamphetamine. By the mid-80's illegal drug manufacturing in California had steadily increased to an alarming rate. By this time two significant developments took place which resulted in a greatly expanded market for methamphetamine and a shift from what had historically been the domain of outlaw motorcycle groups such as the Hell's Angels: the availability of chemicals necessary to carry out the drug manufacturing process; and a simplified manufacturing process which created a cottage industry of small-size user-cookers and the entry of sophisticated Mexican trafficking groups. Unfortunately these developments were, if you'll pardon the pun, but a precursor of what would

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happen nationally. Not coincidentally, a number of other states began to see trends similar to those experienced in California, specifically Texas and Oklahoma.

As the number of illegal laboratories grew in California, the state enacted legislation in 1987 to control the sale or transfer of specific chemicals within the state, or of those obtained from sources outside the state. The intent of the legislation was to enable the California Bureau of Narcotic Enforcement to monitor the amount of specified chemicals legitimately brought into the state and to determine what happens to them once they are in the state.

Shortly after the enactment of these controls in California, Texas placed controls and restrictions on specified chemical sales, followed by similar restrictions in Oklahoma. In each of these cases, and in states which have enacted like legislation since then, the intent was not to interfere with legitimate commerce but, rather, to make it more difficult for those with criminal intent to acquire or legally possess these substances. Determining which chemicals to restrict and how to restrict them was not done in a hasty or capricious manner. The chemicals listed, while necessary to illegally manufacture controlled substances, have limited legitimate uses. From our experience in California, which I believe is shared by Texas and Oklahoma, legitimate industry had no opposition when restrictions or controls were proposed. For their part, the chemical industry and industries using the chemicals supported efforts to keep these substances

from unwarranted use and sought to disassociate themselves and their industry from any illegal activity or illegal use of their products.

However, one of the greatest obstacles to successfully addressing the clandestine-laboratory problem nationally is inconsistent chemical control laws from state to state. For example, if one state enacts control legislation and the border states do not, as was the case in California, individuals will simply cross the state line in order to purchase the chemicals or items needed and then return to their home state to manufacture. This is particularly true if the penalty sections in the home state are weak, as was also true in California.

Identifying that this was a critical issue, in 1991 the National District Attorneys Association, in conjunction with the American Prosecutors Research Institute, received a grant from the National Institute of Justice, Bureau of Justice Assistance, to address, in part, the problem of conformity between state laws on drug issues. The result was a drafting of a model chemical-control act. This model, which was endorsed by the President's Commission on Model State Drug Laws, available to states for adoption in whole or in part, I believe serves as the framework for what we are reviewing today. The model act affords individual states the basic legislative framework to enact a proactive, preventative approach against illegal drug activity.

Unfortunately, what was once California's problem has become the nation's problem and clandestine laboratories can now be found throughout the country - in small towns and large cities, suburban and rural areas, from the most isolated region to any state's most populous urban centers. No state, region or person is exempt. Low prices, high purities and steady supplies have made methamphetamine, in particular, one of the fastest growing drugs of abuse.

The insidiousness of this particular drug cannot be understated. First, the addiction/abuse potential not only rivals, but in many respects exceeds, that of cocaine. Second, the relative ease by which it can be made provides the potential for any user/addict to become a cooker/distributor. Third, the availability of volatile chemicals in the hands of the untrained, drug impaired individual places all of us in danger from accidental explosions, fires and violent acts on the part of the drug abuser, cooker, distributor. Lastly, each of us pays a price for the acts of these individuals, whether it's from living next door to someone who is going to home-cook drugs; to driving next to someone transporting chemicals illegally or unsafely; to dealing with contaminated streams, farm lands or ground water from illegal dumping of waste product; to the clean-up costs borne by the state; to the increased emergency room admissions; to the dramatic increase in domestic violence; to the loss in human life and productivity - we all pay - and this doesn't even consider the possibility of anyone we know or love falling victim to the drug.

From information provided from the Drug Enforcement Administration (DEA), the number of clandestine laboratories they seized in Kansas went from zero in 1994 to 16 in 1995, to 44 in 1996 and a projected 50+ for 1997. When added to those seizures carried out by KBI, which I believe to be 99 last year, you can begin to see the scope of the problem. Last year the California Bureau of Narcotic Enforcement seized 946 clandestine laboratories. Nine hundred thirty five of those laboratories were producing methamphetamine. Of that 935, approximately 78% had production capabilities of less than one pound per cook. In other words "stove top", "mom and pop" cooks; labs much like those found in Kansas, with cookers that could just as easily live next door to you or me. The proliferation of these small labs is the result, pure and simple, of the availability of chemicals.

At the National Methamphetamine Strategy Conference held February, 1996 in Washington, D.C., law enforcement identified that dealing with chemical sources is the first priority in order to address the increasing clandestine laboratory and methamphetamine problem. Since then a number of states have undertaken legislative measures similar to what you are doing as well as setting up federal, state and local statewide strategies.

As more states, particularly neighboring states, enact legislation which restricts or monitors chemical sales, states with few or no restrictions will find themselves the unwitting source of supply of illegal drug manufacturing. This is far from an easy issue - I can assure you

from my experience it is complex and at times cumbersome. But, as we have demonstrated in California, and has been demonstrated in many other states, the state, industry and special interests can work together. Through good legislation and meaningful dialogue, you can ensure illegal activity is not encouraged or supported by putting in place measures which don't hinder legitimate commerce but preclude diversion for illegal purposes.

On behalf of the National Alliance of State Model Drug Laws and the California Attorney General's Office I commend you on your efforts to address this ever-growing national threat and thank you for the opportunity to address this committee.

I will be happy to address any questions or concerns you may have on this matter.

Respectfully,



Katina Kyridakes
Bureau of Narcotic Enforcement
Department of Justice

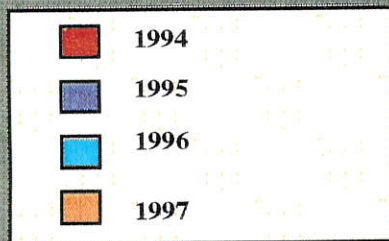
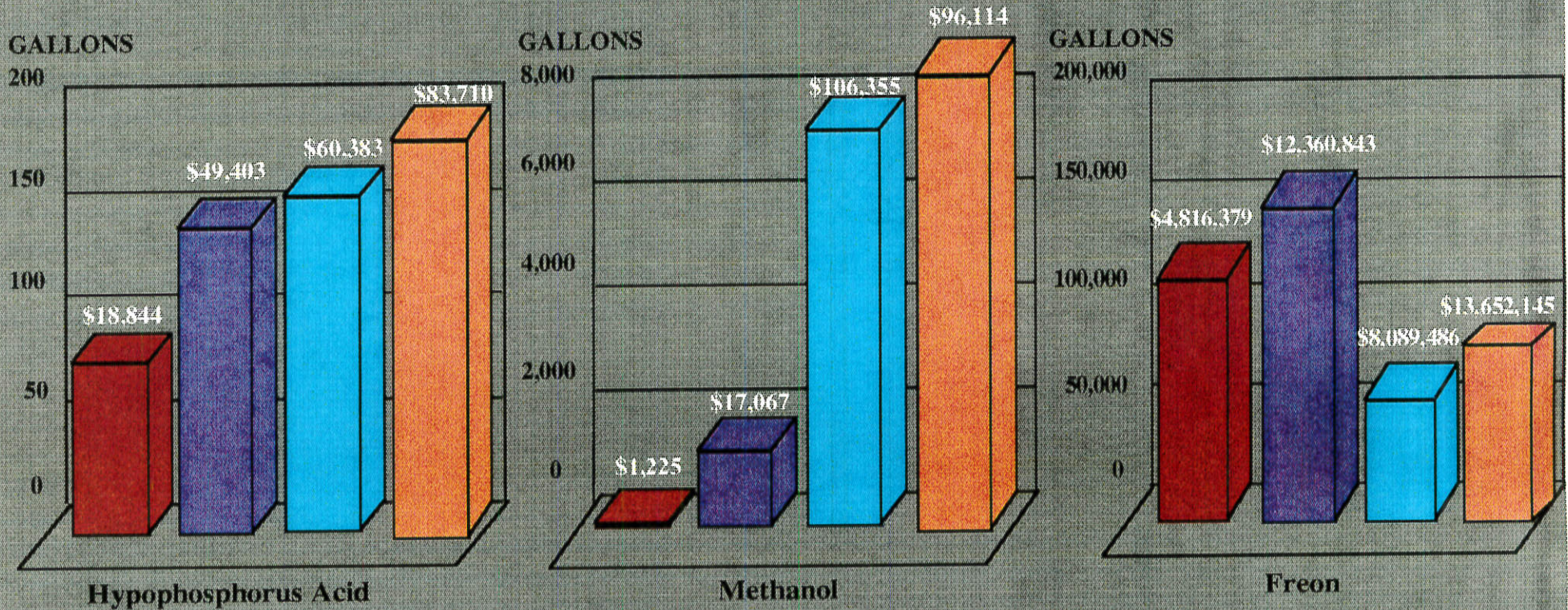
THE MICHOACAN TRAIL 1997

1980'S AND '90'S SMUGGLING GRADUALLY
TURNED MORE AND MORE TO
METHAMPHETAMINE AND THE CHEMICALS
NEEDED TO PRODUCE IT.



BNE

CALIFORNIA DEPARTMENT OF JUSTICE BUREAU OF NARCOTIC ENFORCEMENT Chemical Cash Sales



1-8

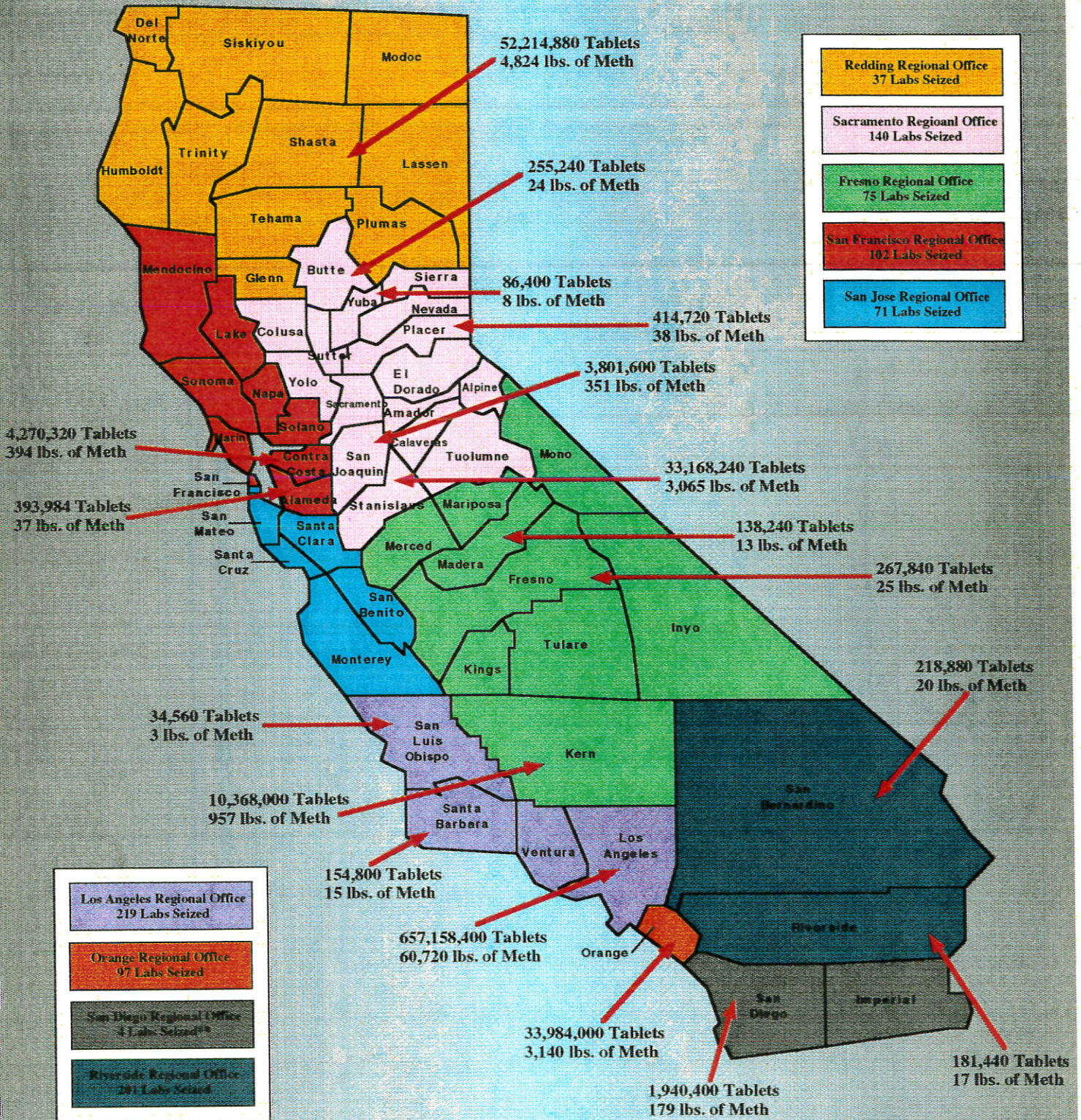
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BUREAU OF NARCOTIC ENFORCEMENT

Ephedrine/Pseudoephedrine Tablets

Imported to the State of California*

1997



799,051,944 Total Tablets =
73,830 lbs. of Meth

*Based on information received,
as specified in H&S Code 11100.1.

**San Diego stats covered under
DEA.

Statement

W. J. J. 3/11/98 att #2
PhRMA

COMMENTS OF THE
PHARMACEUTICAL RESEARCH AND MANUFACTURERS OF AMERICA
SEEKING AMENDMENT OF KANSAS SENATE BILL 667:
THE KANSAS CHEMICAL CONTROL ACT

March 11, 1998

The Pharmaceutical Research and Manufacturers of America (PhRMA) respectfully requests that Kansas Senate Bill 667 be amended to exempt prescription drugs from its requirements. If so amended, PhRMA will not oppose this legislation.

Senate Bill 667 is intended to prevent the use of certain "regulated chemicals" for the illicit production of methamphetamine. It would require manufacturers, distributors, and retailers to report to the Department of Health their transactions with respect to these chemicals. While we understand the severity of the problem the legislation is intended to address, we believe special registration and reporting is unnecessary in the case of prescription drugs. The following information should be taken into account:

- The legislation may encompass prescription drugs unintentionally. While the primary focus of Senate Bill 667 is the regulation of chemicals used in the manufacture of over-the-counter (OTC) cough and cold remedies, these same chemicals may also be used in prescription drug products.
- Moreover, the Department of Health is given open-ended authority to add chemicals to the list. We are therefore concerned that prescription drugs may come under the law's purview at a later date.
- Prescription drugs are already subject to strict federal and state control. The federal Food and Drug Administration regulates the manufacture, distribution and marketing of prescription drugs. In addition, the dispensing of these drugs is regulated by state pharmacy practice and drug law. In the retail setting, a pharmacist may dispense prescription drugs only pursuant to a physician's order for an individual patient. The physician prescribes only the amount needed to meet a patient's immediate medical needs. It is inconceivable that quantities of regulated chemicals sufficient to be diverted to illicit production would be dispensed as prescription drugs.
- The federal Controlled Substances Act already regulates the manufacture and distribution of precursors of controlled substances. Manufacturers and distributors who handle precursor chemicals used in the production of drugs regulated by the federal Drug Enforcement Administration (DEA) must also register with the DEA.

Pharmaceutical Research and Manufacturers of America

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Therefore, there is no need for additional requirements on manufacturers or distributors.

- The legislation would require drug manufacturers to go through a lengthy rulemaking process to seek an exemption for each drug product containing a regulated chemical. This burdensome requirement is clearly unnecessary in the case of prescription drugs.
- It is our understanding that the eighteen states that have enacted legislation similar to Kansas Senate Bill 667 have either exempted legally marketed prescription drugs from their requirements or have limited their requirements to entities that are not otherwise registered with the state and with the DEA.
- The Secretary of the Department of Health has raised several questions about the appropriateness of the legislation. He has questioned whether the Department should undertake this law enforcement function.

For these reasons, we believe this legislation should not go forward as currently drafted. At a minimum, we ask that it be amended to exempt any drug that is approved by the federal Food and Drug Administration (FDA) for marketing as a prescription drug.



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The Pharmaceutical Research and Manufacturers of America (PhRMA) represents America's research-based pharmaceutical and biotechnology companies, which are devoted to inventing medicines that allow patients to lead longer, healthier, and more productive lives. Investing more than \$20 billion this year in discovering and developing new medicines, PhRMA member companies are leading the way in the search for cures.