

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 1164

Printer's No.: 1544

Sponsor: Senator Pileggi

Prepared by: Gregg Warner

Synopsis: This bill amends The Controlled Substance, Drug, Device and Cosmetic Act, 1972 Act 64, to add a section providing for drug overdose response immunity.

Summary: Under new section 13.7(a) a person shall be immune from prosecution for any of the enumerated offenses and from a violation of probation and parole if the person can establish the following:

- (1) Law enforcement officers only became aware of the person's commission of an enumerated offense because the person transported a person experiencing a drug overdose event to a law enforcement agency, a campus security office or a health care facility; or
- (2) All of the following apply:
 - (i) Law enforcement officers only became aware of the person's commission of an enumerated offense because the person reported, in good faith, a drug overdose event to a law enforcement officer, the 911 system, a campus security officer or emergency services personnel, based on a reasonable belief that another person was in need of immediate medical attention to prevent death or serious bodily injury due to a drug overdose.
 - (ii) The person reasonably believed he was the first person to contact a law enforcement officer, the 911 system, a campus security officer or emergency services personnel to report that the person needed immediate medical attention to prevent death or serious bodily injury due to a drug overdose.
 - (iii) The person provided his own name and location and cooperated with the law enforcement officer, 911 system, campus security officer or emergency services personnel.
 - (iv) The person remained with the person needing immediate medical attention until a law enforcement officer, campus security officer or emergency services personnel arrived.

Enumerated offenses

The limited immunity bars prosecution for probation and parole violations and for violations of section 13(a)(5), (16), (19), (31), (32), (33) and (37) of The Controlled Substance, Drug, Device and Cosmetic Act.

Application of immunity

The immunity described in section 13.7 applies to the person who suffered the drug overdose event if all the conditions of subsection (a)(1) or (2) are satisfied.

Section 13.7 does not bar prosecution or penalties for the enumerated offenses if a law enforcement officer obtains information prior to or independent of the action of seeking or obtaining emergency assistance.

The section may not interfere with or prevent the investigation, arrest or prosecution of a person for the delivery or distribution of a controlled substance, drug-induced homicide or any other crime not enumerated.

Section 13.7 may not bar the admissibility of any evidence in connection with the investigation and prosecution for any other prosecution not barred by section 13.7.

The section may not bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the immunity. The patient's condition shall be deemed a drug overdose if a prudent layperson, possessing an average knowledge of medicine and health, would reasonably believe that the condition is in fact a drug overdose and requires immediate medical attention.

Definition of drug overdose event

A "drug overdose event" is defined as an acute medical condition including but not limited to severe physical illness, coma, mania, hysteria or death, which is the result of consumption or use of one or more controlled substances causing an adverse reaction.

Effective date

This act takes effect in 60 days.

Background: According to the sponsor, "This measure is intended to encourage those who are with someone experiencing a potential drug overdose to contact the appropriate authorities to help prevent serious injury or death. There are documented cases where such actions were not taken due to fear of arrest.

It will also establish certain circumstances under which the immunity shall not apply, including for the offenses of delivery or distribution of a controlled substance or drug-induced homicide.

Similar laws have been enacted in twelve states including New Jersey where Governor Chris Christie approved legislation in early May of 2013."

Last session the General Assembly passed similar legislation, 2011 Act 66, to provide immunity from underage drinking to a person who places a 911 call, or a call to campus safety, police or emergency services, in good faith, based on a reasonable belief and reported that another person was in need of immediate medical attention to prevent death or serious injury.

Provisions of The Controlled Substance, Drug, Device and Cosmetic Act

The immunity in Senate Bill 1164 bars prosecution for probation and parole violations and for violations of section 13(a)(5), (16), (19), (31), (32), (33) and (37) of The Controlled Substance, Drug, Device and Cosmetic Act. Those offenses are listed below.

Section 13. Prohibited Acts; Penalties.--(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

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(5) The adulteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a controlled substance, other drug, device or cosmetic, if such act is done while such substance or article is held for sale and results in such substance or article being adulterated or misbranded.

* * *

(16) Knowingly or intentionally possessing a controlled or counterfeit substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, unless the substance was obtained directly from, or pursuant to, a valid prescription order or order of a practitioner, or except as otherwise authorized by this act.

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(19) The intentional purchase or knowing receipt in commerce by any person of any controlled substance, other drug or device from any person not authorized by law to sell, distribute, dispense or otherwise deal in such controlled substance, other drug or device.

* * *

(31) Notwithstanding other subsections of this section, (i) the possession of a small amount of marihuana only for personal use; (ii) the possession of a small amount of marihuana with the intent to distribute it but not to sell it; or (iii) the distribution of a small amount of marihuana but not for sale.

For purposes of this subsection, thirty (30) grams of marihuana or eight (8) grams of hashish shall be considered a small amount of marihuana.

(32) The use of, or possession with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act.

(33) The delivery of, possession with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it would be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this act.

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(37) The possession by any person, other than a registrant, of more than thirty doses labeled as a dispensed prescription or more than three trade packages of any anabolic steroids listed in section 4(3)(vii).

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