
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 2018 **Hearing Date:** June 4, 2024
Author: Rodriguez
Version: January 31, 2024
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Controlled substances: fenfluramine*

HISTORY

Source: UBC Inc.

Prior Legislation: AB 1021 (Wicks), Ch. 274, Stats. 2023
AB 527 (Wood), Ch. 618, Stats. 2021
AB 710 (Wood), Ch. 62, Stats. 2018

Support: ACLU California Action; California Public Defenders Association; Children's Specialty Care Coalition

Opposition: None known

Assembly Floor Vote: 70 - 0

PURPOSE

The purpose of this bill is to remove fenfluramine from the list of Schedule IV controlled substances under the Uniform Controlled Substances Act and remove it from the list of controlled substances that are a crime to possess for sale, sell, or possess without a prescription.

Existing law establishes the California Uniform Controlled Substances Act, which regulates controlled substances. (Health & Saf. Code, § 11000 et seq.)

Existing law classifies controlled substances into five schedules according to their danger and potential for abuse. Provides that Schedule I controlled substances have the greatest restrictions and penalties, including prohibiting the prescribing of a Schedule I controlled substance. (Health & Saf. Code, §§ 11054-11058.)

Existing law classifies fenfluramine as a Schedule IV controlled substance. (Health & Saf. Code, § 11057, subd. (e).)

Existing law makes possession of fenfluramine for personal use, without a valid prescription, punishable as a misdemeanor or an infraction. (Health & Saf. Code, § 11375, subd. (b)(2).)

Existing law makes the possession for sale or sale of fenfluramine a misdemeanor punishable by up to one year in county jail or state prison. (Health & Saf. Code, § 11375, subd. (b)(1).)

This bill removes fenfluramine from the list of Schedule IV controlled substances.

This bill removes fenfluramine from the list of controlled substances that are a crime to possess without a prescription, possess for sale, or sell.

COMMENTS

1. Need For This Bill

According to the author:

It is important that California remove fenfluramine from the list of schedule IV controlled substances to align with the federal Controlled Substances Act and ensure access to this critical medicine to help patients suffering from rare and severe forms of epilepsy.

2. Fenfluramine

Fenfluramine is a drug prescribed to treat seizures in patients with Dravet syndrome and Lennox-Gastaut syndrome, severe forms of epilepsy. Fenfluramine was removed from the federal Controlled Substances Act (CSA) in 2022. (87 Fed. Reg. 78857 (Dec. 23, 2022).) It had previously been a schedule IV controlled substance.

Under federal law, the Attorney General may remove any drug or other substance from the schedules if the Attorney General finds that the drug or other substance does not meet the requirements for inclusion in any schedule. (21 U.S.C § 811(a).) Before removing a controlled substance from one of the schedules, the Attorney General must request a scientific and medical evaluation from the Secretary of the U.S. Department of Health and Human Services (HHS) as well as the Secretary's recommendations regarding whether the drug should remain scheduled or should be removed as a controlled substance (21 U.S.C § 811(b).) As part of the evaluation, the Secretary must consider the drug's actual or relative potential for abuse; the scientific evidence of its pharmacological effects; the state of current scientific knowledge regarding the drug or other substance; its history and current pattern of abuse; the scope, duration, and significance of abuse; the potential risk to public health, if any; the substance's psychic or physiological dependence liability; and whether the substance is an immediate precursor of a substance already controlled. (21 U.S.C § 811(b), (c).) HHS recommended that fenfluramine be removed from the controlled substances schedules. The Drug Enforcement Administration, which has been delegated the Attorney General's scheduling authority, subsequently determined that fenfluramine should be removed from the CSA.

Although fenfluramine was removed from the federal CSA, it remains a schedule IV controlled substance under state law. This bill conforms state law to federal law by removing fenfluramine from the list of Schedule IV controlled substances. This bill additionally removes fenfluramine from the list of controlled substances that are a crime to possess without a prescription, possess for sale, or sell.

3. Argument in Support

The California Public Defenders Association writes:

AB 2018 will ensure that medications with fenfluramine are accessible to patients in need. Fenfluramine is the active ingredient in medications approved for treatment of Dravet syndrome and Lennox-Gastaut syndrome, rare and severe forms of epilepsy. ...[T]he U.S. DEA removed fenfluramine from the federal Controlled Substances Act based on studies showing its safety and efficacy in treating Dravet syndrome and Lennox-Gastaut syndrome. Without legislative action to do the same in California, fenfluramine remains on the state's list of schedule IV controlled substances limiting how it can be prescribed. AB 2018 will deschedule fenfluramine thus increasing access to this critical medication by allowing physicians to write prescriptions for up to a year and prescribe it electronically.

...CPDA is supportive of any effort to reduce the harm imposed by the criminal system regarding drug possession and use. AB 2018 is a common sense and cost saving reform that will remove any confusion around the medicine and ensure that Dravet syndrome and Lennox-Gastaut syndrome patients have convenient and comprehensive access to their treatment.

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