

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 51

As Recommended by Senate Committee on
Public Health and Welfare

Brief*

SB 51 would amend the definition of a controlled substance analog as defined in KSA 2016 Supp. 21-5701 and 65-4101, expand the authority of the State Board of Pharmacy (Board) to allow greater flexibility in the emergency scheduling of controlled substance analogs and new drugs, and amend the duration of temporary scheduling by the Board.

The bill would clarify the definition of a “controlled substance analog” as defined in KSA 2016 Supp. 21-5701 and 65-4101 to mean a substance that is intended for human consumption and at least one of the following:

- The chemical structure of the substance is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in KSA 2016 Supp. 65-4105 or 65-4107, and amendments thereto;
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in KSA 2016 Supp. 65-4105 or 65-4107, and amendments thereto; or

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- With respect to a particular individual, such individual represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in KSA 2016 Supp. 65-4105 or 65-4107, and amendments thereto.

The bill would expand the Board's authority to allow the initiation of scheduling of controlled substance analogs on an emergency basis upon the Board's finding of an imminent hazard to the public safety. The bill would also allow the Board to schedule, on an emergency basis, new drugs, as defined by KSA 2016 Supp. 65-656, and amendments thereto.

The bill would change the expiration of the temporary emergency scheduling of a substance from one year to July 1 of the following calendar year after the adoption of the scheduling rule.

In addition, the bill would make various technical amendments.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of the Kansas Bureau of Investigation (KBI). In the Senate Committee hearing, representatives of the Board, the KBI, and the Kansas County and District Attorneys Association testified in favor of the bill. The proponents stated the proposed changes were critical to the public safety of Kansas citizens and the scope of the Board's authority would not be expanded more

than necessary. In addition, regarding the proposed change to the definition of a controlled substance analog, proponents noted current law has been interpreted to require the first criterion and either the second or third criterion must be present to meet the definition. Proponents stated the addition of the phrase “at least one of the following” would clarify the definition. The Kansas Association of Chiefs of Police, Kansas Sheriffs’ Association, Kansas Peace Officers Association, and the Kansas Independent Pharmacy Service Corporation provided written-only proponent testimony.

No opponent or neutral testimony was provided.

According to the fiscal note prepared by the Division of the Budget, enactment of the bill would have no fiscal effect for the Board.