
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2589 **Hearing Date:** June 12, 2018
Author: Bigelow
Version: April 10, 2018
Urgency: No **Fiscal:** No
Consultant: SJ

Subject: *Controlled Substances: Human Chorionic Gonadotropin*

HISTORY

Source: California Veterinary Medical Association

Prior Legislation: None

Support: Unknown

Opposition: None known

Assembly Floor Vote: 75 - 0

PURPOSE

This purpose of this bill is to exempt human chorionic gonadotropin (hCG) from the regulations associated with Schedule III controlled substances when possessed by, sold to, purchased by, transferred to, or administered by a licensed veterinarian, or a licensed veterinarian's designated agent, exclusively for veterinary use.

Existing law classifies controlled substances in five schedules according to their danger and potential for abuse. 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 hCG as a Schedule III controlled substance. (Health & Saf. Code, § 11056, subd. (f)(32).)

Existing law makes the possession of a Schedule III controlled substance a misdemeanor, unless upon the prescription physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, and punishable by imprisonment in a county jail for a period of not more than one year, except that such person may instead be punished pursuant to Penal Code section 1170 (h) if that person has one or more prior convictions for specified offenses. (Health & Saf. Code § 11377, subd. (a).)

This bill exempts hCG from the regulations associated with Schedule III controlled substances when possessed by, sold to, purchased by, transferred to, or administered by a licensed veterinarian, or a licensed veterinarian's designated agent, exclusively for veterinary use.

COMMENTS

1. Need for This Bill

According to the author:

California is one of five states that still broadly classifies hCG as a scheduled product for all uses. More than 45 states across the U.S. have either not scheduled hCG or have created an exemption for the use of hCG in cattle or other non-human species. The most recent states to align with federal law and enact this policy include: Nevada, North Carolina, West Virginia, Colorado and Idaho. See attached language from the states that recently passed similar legislation.

Health and Safety Code Section 11056 (f) (32) establishes California's list of Schedule III Controlled Substances. Currently, this statute provides a general classification for human Chorionic Gonadotropin (hCG), placing it among anabolic steroids and without differentiating its use between animals and humans. However, hCG is not an anabolic steroid nor is it classified at the federal level as a controlled substance by the Drug Enforcement Agency.

Human Chorionic Gonadotropin (hCG) is a protein hormone that is used in cattle for treating ovarian cysts that cause perpetual estrus, or "heat." This drug is administered as an injection into the muscle and is commonly used for livestock as an essential step for fertility treatment. It is also used to encourage spawning behavior in fish.

Unfortunately, California's current Schedule III requirements of secure storage and recordkeeping for hCG place an unnecessary burden on veterinarians trying to care for large animal populations. This is a particular challenge for food animal veterinarians who treat cattle via large-scale mobile practices. This is especially problematic given the size of California's dairy and cattle industry, respectively ranked numbers first and fourth in the country.

AB 2589 will exempt, for veterinary purposes only, the use of human Chorionic Gonadotropin (hCG) from the state's storage and handling requirements imposed by the controlled substances list. This exemption will help California veterinarians treat animals more efficiently and effectively if it is expressly stored, sold, purchased, transferred, or administered for veterinary purposes. Under this measure, hCG would still remain a prescription product for veterinary use. The bill also clearly maintains hCG as a controlled substance for human use.

2. Controlled Substance Schedules

Through the Controlled Substances Act of 1970, the federal government regulates the manufacture, distribution and dispensing of controlled substances. The Act groups drugs into five schedules with decreasing potential for physical or psychological harm, based on three considerations: (a) their potential for abuse; (b) their accepted medical use; and, (c) their accepted safety under medical supervision. Federal law includes relatively detailed explanations of the factors and standards for placement of drugs in the various schedules. California law does not explain how the schedules are organized.

- Schedule I controlled substances, such as heroin, ecstasy, and LSD, have a high potential for abuse and no generally accepted medical use.
- Schedule II controlled substances have a currently accepted medical use in treatment, or a currently accepted medical use with severe restrictions, and have a high potential for abuse and psychological or physical dependence. Schedule II drugs can be narcotics or non-narcotic. Examples of Schedule II controlled substances include morphine, methadone, Ritalin, Demerol, Dilaudid, Percocet, Percodan, and Oxycontin.
- Schedule III and IV controlled substances have a currently accepted medical use in treatment, less potential for abuse but are known to be mixed in specific ways to achieve a narcotic-like effect. Examples include drugs include Vicodin, Xanax, Ambien and other anti-anxiety drugs.
- Schedule V controlled substances have a low potential for abuse relative to substances listed in Schedule IV and consist primarily of preparations containing limited quantities of certain narcotics.

3. Scheduling of Controlled Substances

California classifies controlled substances in five schedules according to their danger and potential for abuse. Schedule I controlled substances have the greatest restrictions and penalties, including prohibiting the prescribing of a Schedule I controlled substance. California does not have formal controlled substance classification procedure. Instead, California relies on the federal controlled substance schedule to determine the appropriateness of scheduling a particular substance.

21 United States Codes Section 811 gives the United States Attorney General the authority to add a controlled substance to the schedule or transfer a controlled substance between the schedules according to specific criteria. Before initiating proceedings to control a drug or other substance, remove a drug or other substance from the schedules, and after gathering the necessary data, the Attorney General requests from the Secretary of Health and Human Services a scientific and medical evaluation, and his or her recommendations, as to whether such drug or other substance should be so controlled or removed. The recommendations are required to include a recommendation with respect to the appropriate schedule. If the Attorney General determines if these facts and all other relevant data constitute substantial evidence of potential for abuse such as to warrant control or removal, he or she shall initiate proceedings for control or removal as the case may be.

The Attorney General is required to consider the following with respect to each drug or substance proposed to be controlled or removed from the schedules:

- Its actual or relative potential for abuse;
- Scientific evidence of its pharmacological effect, if known;
- 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;
- What, if any, risk there is to the public health;
- Its psychic or physiological dependence liability; and,
- Whether the substance is an immediate precursor of a substance already controlled under this subchapter.