

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1661 Session of 2023

INTRODUCED BY METZGAR, GIRAL, PICKETT, KUZMA, MARCELL, HANBIDGE, PASHINSKI, ZIMMERMAN, R. MACKENZIE AND HEFFLEY, SEPTEMBER 7, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 3, 2023

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," further providing for
11 definitions and for prohibited acts and penalties; AND <--
12 PROVIDING FOR SECURE STORAGE OF XYLAZINE.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 2(b) of the act of April 14, 1972
16 (P.L.233, No.64), known as The Controlled Substance, Drug,
17 Device and Cosmetic Act, is amended by adding definitions to
18 read:

19 Section 2. Definitions.--* * *

20 (b) As used in this act:

21 * * *

22 "Licit use of xylazine" means any of the following:

1 (1) Dispensing or prescribing for, or administrating to, a
2 nonhuman species of a drug containing xylazine that:

3 (i) has been approved by the Secretary of Health and Human
4 Services under 21 U.S.C. § 360b (relating to new animal drugs);

5 or

6 (ii) is authorized under 21 U.S.C. § 360b(a)(4)).

7 (2) The manufacturing, distribution or use of xylazine as an
8 active pharmaceutical ingredient for manufacturing an animal
9 drug approved under 21 U.S.C. 360b or an animal drug that has
10 been issued an investigation use exemption under 21 U.S.C. §
11 360b(j).

12 (3) The manufacturing, distribution or use of a xylazine
13 bulk chemical for pharmaceutical compounding by a licensed
14 pharmacist or veterinarians.

15 (4) Any other use approved or authorized under 21 U.S.C. Ch.
16 9 (relating to Federal Food, Drug, and Cosmetic Act).

17 * * *

18 "Xylazine" means any of the following substances, including
19 the salts, isomers and salts of isomers of the substances when
20 the existence of the salts, isomers and salts of isomers is
21 possible within the specific chemical designation:

22 (1) Xylazine.

23 (2) Xylazine-M (2,6-Mich dimethylaniline).

24 (3) Xylazine-M (N-thiourea-2,6-dimethylaniline).

25 (4) Xylazine-M (Sulfone-HO-) isomer 2.

26 (5) Xylazine-M (HO-2,6-dimethylaline isomer 1).

27 (6) Xylazine-M (HO-2,6-dimethylaline isomer 2).

28 (7) Xylazine M (oxo-).

29 (8) Xylazine-M (HO-) isomer 1.

30 (9) Xylazine-M (HO-) isomer 1 glucuronide.

- 1 (10) Xylazine-M (HO-) isomer 2.
2 (11) Xylazine-M (HO-) isomer 2 glucuronide.
3 (12) Xylazine-M (HO-oxo-) isomer 1.
4 (13) Xylazine-M (HO-oxo-) isomer 1 glucuronide.
5 (14) Xylazine-M (HO-oxo-) isomer 2.
6 (15) Xylazine-M (HO-oxo-) isomer 2 glucuronide.
7 (16) Xylazine-M (sulfone).
8 (17) Xylazine-M (sulfone-HO-) isomer 1.
9 (18) Any compound, mixture or preparation which contains any
10 quantity of the substances specified under this definition.

11 Section 2. Section 13(a)(12), (14), (16), (30), (32), (33),
12 and (f)(2) of the act are amended to read:

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

16 * * *

17 (12) The acquisition or obtaining of possession of a
18 controlled substance or xylazine, except for the licit use of
19 xylazine, by misrepresentation, fraud, forgery, deception or
20 subterfuge.

21 * * *

22 (14) The administration, dispensing, delivery, gift or
23 prescription of any controlled substance or xylazine, except for
24 the licit use of xylazine, by any practitioner or professional
25 assistant under the practitioner's direction and supervision
26 unless done (i) in good faith in the course of his professional
27 practice; (ii) within the scope of the patient relationship;
28 (iii) in accordance with treatment principles accepted by a
29 responsible segment of the medical profession.

30 * * *

1 (16) Knowingly or intentionally possessing a controlled or
2 counterfeit substance or xylazine, except for the licit use of
3 xylazine, by a person not registered under this act, or a
4 practitioner not registered or licensed by the appropriate State
5 board, unless the substance was obtained directly from, or
6 pursuant to, a valid prescription order or order of a
7 practitioner, or except as otherwise authorized by this act.

8 * * *

9 (30) Except as authorized by this act, the manufacture,
10 delivery, or possession with intent to manufacture or deliver, a
11 controlled substance or xylazine, except for the licit use of
12 xylazine, by a person not registered under this act, or a
13 practitioner not registered or licensed by the appropriate State
14 board, or knowingly creating, delivering or possessing with
15 intent to deliver, a counterfeit controlled substance.

16 * * *

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

25 (33) The delivery of, possession with intent to deliver, or
26 manufacture with intent to deliver, drug paraphernalia, knowing,
27 or under circumstances where one reasonably should know, that it
28 would be used to plant, propagate, cultivate, grow, harvest,
29 manufacture, compound, convert, produce, process, prepare, test,
30 analyze, pack, repack, store, contain, conceal, inject, ingest,

1 inhale or otherwise introduce into the human body a controlled
2 substance or xylazine, except for the licit use of xylazine, in
3 violation of this act.

4 * * *

5 (f) Any person who violates clause (12), (14) or (30) of
6 subsection (a) with respect to:

7 * * *

8 (2) Any other controlled substance or counterfeit substance
9 classified in Schedule I, II, or III, or xylazine, except for
10 the licit use of xylazine, is guilty of a felony and upon
11 conviction thereof shall be sentenced to imprisonment not
12 exceeding five years, or to pay a fine not exceeding fifteen
13 thousand dollars (\$15,000), or both.

14 * * *

15 SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--

16 SECTION 13.9. SECURE STORAGE OF XYLAZINE.--A PRACTITIONER
17 WHO IS A VETERINARIAN SHALL COMPLY WITH THE PROVISIONS OF
18 SECTION 4(5) OF THE ACT OF SEPTEMBER 27, 1961 (P.L.1700,
19 NO.699), KNOWN AS THE "PHARMACY ACT," FOR THE STORAGE AND
20 PROTECTION OF XYLAZINE.

21 Section 3 4. This act shall take effect in 60 days. <--