



DAN KNODL

STATE REPRESENTATIVE • 24TH ASSEMBLY DISTRICT

Assembly Bill 225

Public Testimony
Assembly Committee on Criminal Justice and Public Safety
August 18, 2021

Thank you Chairman Spiros and members of this committee for holding this hearing on Assembly Bill 225. This bill strengthens state law with regard to vaccine tampering by making it a Class I felony to treat a vaccine or drug in a way that negatively affects its safety or efficacy. Assembly Amendment 1 clarifies the bill's language to ensure we are only targeting malicious actors and provides an exception for the disposal of expired or recalled product.

Senator Stroebel and I introduced this bill in response to a case last year in Ozaukee County, in which a pharmacist attempted to spoil over 500 doses of the Moderna COVID-19 vaccine. In the aftermath of this case, it became clear that state law was insufficient to prosecute the offender, and the individual was prosecuted under federal law.

The seriousness of this offense merits clarification in state law to provide for proper prosecution in the future. We should not need to rely upon federal law to prosecute these cases.

The need for this bill brings to mind legislation passed in 2016 to prohibit texting while driving. We already had laws in place against "distracted" driving, but it made sense to strengthen state law to leave no room for doubt for texting.

Any attempt to ruin the efficacy of vaccines or drugs through malicious recklessness places the health of the public at risk. While we must respect the concerns of those who remain hesitant to receive a COVID-19 vaccine, we cannot tolerate attempts to sabotage the equally valid desires of others who place their hopes in it.

We would oppose any attempts by an individual to force this vaccine upon another. We similarly oppose any attempts to deny the vaccine to others who are seeking it.

Thank you for your time and attention to this matter, and I would be happy to take any questions.



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on AB 225

August 18, 2021

Good morning Chairman Spiros and members of the Assembly Committee on Criminal Justice and Public Safety. Thank you for holding a public hearing on AB 225. For context, the companion to AB 225 (SB 242) passed the Senate via voice vote in June, as amended by Senate Amendment 1, which is identical to Assembly Amendment 1. The need for this bill emerged last year when a pharmacist in Ozaukee County intentionally sought to render 550 doses of the Moderna COVID-19 vaccine ineffective.¹ That specific vaccine must be refrigerated and this pharmacist removed the doses from cold storage and left them out to spoil.

Initially, the case was handled by the Ozaukee County District Attorney, but subsequently involved federal authorities because state law lacks clarity when it comes to establishing penalties for those who tamper with vaccines and other medical products. Current law prohibits tampering with household products.² The term “tampering” is understood to require the actor to add or subtract something from the product. Additionally, the same section of current law is unclear on whether or not prescription drugs are included under the term “household products.”

AB 225, as amended by Assembly Amendment 1, rectifies this issue by specifying that anyone who intentionally destroys, handles, stores or treats a vaccine, drug or other medical therapeutic in a way that may render it ineffective, unsafe or harmful is guilty of a Class I felony. Class I felonies are punishable by fines of up to \$10,000 and up to 3 ½ years of prison time.

This approach covers a broad range of actions that could be taken to damage a vaccine beyond merely adding to or subtracting something from it. Additionally, the bill (as amended) requires the action be “intentional,” not merely negligent, in order to qualify as a felony. This brings the required mental state for the crime in closer alignment with federal law (18 USC § 1365), which contains a standard of “recklessness” for tampering with consumer products.³

While AB 225 applies broadly to anyone who may come into contact with a medical product, specific to pharmacists, a felony conviction would be considered unprofessional conduct. The Pharmacy Examining Board would then be able to hold the licensed pharmacist accountable through the existing license suspension and revocation process.

Thank you for your time today and I’m happy to answer any questions that you may have.

¹ <https://www.npr.org/sections/coronavirus-live-updates/2021/01/19/958539906/pharmacist-accused-of-tampering-with-covid-19-vaccine-doses-charged-with-misdeme>

² Wis. Stat. 941.327

³ 18 U.S. Code § 1365 - Tampering with consumer products | U.S. Code | US Law | LII / Legal Information Institute (cornell.edu)