



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on SB 242

April 29, 2021

Good morning Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety. Thank you for holding a public hearing on SB 242. The need for this bill emerged last year when a pharmacist in a county that I represent 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 isn't as clear as it could be 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, while the phrase "household products" includes drugs, according to state law it does not necessarily include "prescription drugs" which, while mentioned in the same subchapter, are not specifically annotated in the section prohibiting tampering.

SB 242 fixes these two problems by specifying that anyone who recklessly handles, stores or treats a vaccine 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 requires the action be "reckless," not merely negligent, in order to qualify as a felony. This parallels 18 USC 1365 which contains a standard of "reckless" for tampering with consumer products.³

While SB 242 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.

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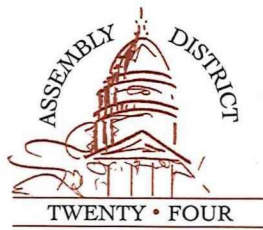
¹ <https://www.npr.org/sections/coronavirus-live-updates/2021/01/19/958539906/pharmacist-accused-of-tampering-with-covid-19-vaccine-doses-charged-with-misdeme>

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)

The COVID-19 pandemic shows signs of receding, and this is certainly due in part to the widespread availability of the vaccine. Any effort to destroy or render ineffective one of our best weapons in this fight should be met with stiff penalties. I firmly believe that no one should be forced to receive the COVID vaccine, and I also believe that no one should be denied the opportunity to receive it because doses were destroyed or rendered ineffective by a bad actor.

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



DAN KNODL

STATE REPRESENTATIVE • 24TH ASSEMBLY DISTRICT

Senate Bill 242

Public Testimony
Senate Committee on Judiciary and Public Safety

April 29, 2021

Thank you Chairman Wanggaard and members of this committee for holding this hearing on Senate Bill 242.

We introduced this bill in response to a case last year in Ozaukee County, in which a pharmacist attempted to spoil over 500 COVID-19 vaccine doses. 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.

Any attempt to ruin the efficacy of vaccines or drugs through malicious recklessness places the health of others at risk. 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 against “distracted driving” at the time, but it made sense to strengthen state law to leave no room for doubt for texting.

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.