

SENATE BILL NO. 112—SENATOR HANSEN

FEBRUARY 9, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Exempts certain products for the treatment of domestic animals from regulation under state law. (BDR 54-821)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pharmacy; exempting certain products for the treatment of domestic animals from regulation under state law; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law regulates viruses, serums, toxins and analogous products
2 for use in the treatment of domestic animals. (21 U.S.C. § 154) That federal law
3 preempts any state law that regulates viruses, serums, toxins and analogous
4 products for use in the treatment of domestic animals. (57 Fed. Reg. 38,758, 38,759
5 (August 27, 1992); *Lynnbrook Farms v. Smithkline Beecham Corp.*, 79 F.3d 620,
6 624-30 (7th Cir. 1996)) In accordance with federal law, this bill excludes viruses,
7 serums, toxins and analogous products for use in the treatment of domestic animals
8 from regulation under Nevada law governing drugs and medicines.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. NRS 639.005 is hereby amended to read as follows:
2 639.005 “Chemical” means all chemicals intended, designed
3 and labeled for use in the cure, treatment, mitigation or prevention
4 of disease in humans or other animals. *The term does not include
5 any virus, serum, toxin or analogous product for use in the
6 treatment of domestic animals.*

7 Sec. 2. NRS 639.007 is hereby amended to read as follows:
8 639.007 1. “Drug” and “medicine” mean:



~~[1.]~~ (a) Articles recognized in the official United States Pharmacopoeia, the official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

~~[2.]~~ (b) Articles and devices intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals;

~~[3.]~~ (c) Articles, other than food, aspirin and effervescent saline analgesics, intended to affect the structure or any function of the body of humans or other animals;

~~[4.]~~ (d) Articles intended for use as a component of any article specified in ~~[subsection 1, 2 or 3.]~~ *paragraph (a), (b) or (c);* and

~~[5.]~~ (e) Any controlled substance.

2. “Drug” and “medicine” do not include any virus, serum, toxin or analogous product for use in the treatment of domestic animals.

Sec. 3. NRS 453.081 is hereby amended to read as follows:

453.081 1. “Drug” means substances:

(a) Recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Other than food, intended to affect the structure or any function of the bodies of humans or animals; and

(d) Intended for use as a component of any article specified in paragraph (a), (b) or (c).

2. “Drug” does not include ~~[devices]~~ :

(a) Devices or their components, parts or accessories.

(b) Any virus, serum, toxin or analogous product for use in the treatment of domestic animals.

Sec. 4. NRS 454.005 is hereby amended to read as follows:

454.005 “Chemical” includes all chemicals intended, designed and labeled for use in the cure, treatment, mitigation or prevention of disease in humans or other animals. ***The term does not include any virus, serum, toxin or analogous product for use in the treatment of domestic animals.***

Sec. 5. NRS 585.080 is hereby amended to read as follows:

585.080 1. “Drug” means:

(a) Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement to any of them;



1 (b) Articles intended for use in the diagnosis, cure, mitigation,
2 treatment or prevention of disease in humans or other animals;

3 (c) Articles, other than food, intended to affect the structure or
4 any function of the bodies of humans or other animals; and

5 (d) Articles intended for use as a component of any article
6 specified in paragraph (a), (b) or (c).

7 2. “Drug” does not include **{devices}** :

8 (a) *Devices* or their components, parts or accessories.

9 (b) *Any virus, serum, toxin or analogous product for use in the*
10 *treatment of domestic animals.*

11 **Sec. 6.** This act becomes effective upon passage and approval.

