

HB 412 -- IMMUNITY FROM LIABILITY FOR PHARMACIES

SPONSOR: Emery

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Small Business by a vote of 6 to 2 with 1 present.

This bill specifies that pharmacies will be immune from liability and license denial, revocation, or suspension for refusing to perform, assist, recommend, refer to, or participate in any act or service in connection with any drug or device that causes a pregnancy to end prematurely resulting in an abortion.

FISCAL NOTE: No impact on state funds in FY 2008, FY 2009, and FY 2010.

PROPOSERS: Supporters say that the bill offers protection for pharmacies against lawsuits and from being penalized by state government for refusing to dispense drugs that cause abortions. The bill focuses on abortifacient drugs and not contraceptives. It does not make the drugs illegal, so the customer can go to another pharmacy willing to fill the prescription. There can be serious side effects associated with abortifacient drugs. The bill allows a pharmacy the right to make a business decision to choose what to stock and sell just like a hardware store.

Testifying for the bill were Representatives Emery and Sater; Missouri Right to Life; Missouri Family Network; Missouri Baptist Convention, Christian Life Commission; and Missouri Pharmacy Association.

OPPOSERS: Those who oppose the bill say that a business entity does not have a conscience and, therefore, should not be given the right to refuse to fill a class of prescriptions for women. The bill violates the public accommodations part of the Missouri Human Rights Act and the Supremacy Clause of the federal Constitution. Most of the pharmacies that refuse to stock and sell the drugs don't understand how the chemicals work. The legislation is poorly drafted and risks litigation under the consumer protection laws of the Federal Trade Commission Act. The bill is poor public policy and imposes one more stumbling block to prevent an unwanted pregnancy.

Testifying against the bill were NARAL Pro-Choice Missouri; Planned Parenthood of Kansas and Mid-Missouri; American Civil Liberties Union of Eastern Missouri; Missouri Women's Network; and Becky Turnen, Missouri Religious Coalition for Reproductive Choice.