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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 296  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for S.B. 296's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsors:** Sens. Manning and S. Huffman

**Local Impact Statement Procedure Required:** No

Ryan Sherrock, Economist

### Highlights

- The bill generally expands existing naloxone access authority, including by authorizing access for all persons and government entities to purchase, possess, distribute, dispense, personally furnish, sell, or otherwise obtain or provide naloxone and any instrument or device to administer it. If additional state or government entities choose to engage in these activities due to the bill, the entities could realize costs for doing so.
- The bill provides immunity from criminal prosecution and civil damages associated with the use of fentanyl test strips and other narcotic testing products and equipment. This could reduce court costs to the extent that such violations are currently prosecuted.

### Detailed Analysis

#### Naloxone access

The bill generally expands existing naloxone access authority, including by authorizing access for all persons and government entities to purchase, possess, distribute, dispense, personally furnish, sell, or otherwise obtain or provide naloxone and any instrument or device to administer it, if certain conditions are met. These conditions include the following: the naloxone is in its original manufacturer's packaging, its packaging contains the manufacturer's instructions for use, and it is stored in accordance with a manufacturer's or a distributor's instructions. As part of this general expansion, a number of additional provisions are also included. For example, the bill authorizes persons and government entities to obtain and maintain a supply of naloxone

for use in emergency situations and for distribution through an automated mechanism.<sup>1</sup> The bill also exempts all persons and government entities that possess naloxone from the requirement to be licensed as a terminal distributor of dangerous drugs and specifically exempts health care practitioners from the licensure requirement to maintain naloxone for use in personally furnishing supplies. Additionally, the bill provides various immunities, such as a person or government entity that exercises the authority granted by the bill not being subject to administrative action or criminal prosecution and not being liable for civil damages arising from exercising that authority. Furthermore, the bill modifies existing law related to who may authorize a pharmacist or pharmacy intern to dispense naloxone without a prescription pursuant to a protocol by eliminating the authority of boards of health to authorize dispensing pursuant to a protocol and expanding the authority to physician assistants and advanced practice registered nurses (the bill maintains physicians' current authority). Finally, the bill expressly authorizes an individual to administer naloxone if the individual is in a position to assist another who is apparently experiencing an opioid-related overdose.<sup>2</sup>

Current law does provide for naloxone distribution in various circumstances. Thus, the fiscal impact of this bill will depend on the extent to which it results in additional state or government entities choosing to engage in naloxone distribution, purchase, etc. If this occurs, then a state or local government entity could realize costs. If state or local public health programs or plans reimburse for naloxone that is provided to individuals without a prescription, there could be costs if access is expanded. In addition, if any entities currently licensed as a terminal distributor of dangerous drugs are exempt from licensure under the bill, the Pharmacy Board could realize a loss of future revenue. However, the Pharmacy Board currently offers a number of exemptions in these situations, so it anticipates that any impact would be negligible. Lastly, the provisions related to immunity from criminal prosecutions and civil liability will decrease court costs to the extent that cases would have been prosecuted under current law.

## **Fentanyl test strips and other narcotic testing products**

The bill provides that, notwithstanding existing criminal law that prohibits the use and possession of drug paraphernalia, a person is authorized to provide, administer, or use narcotic testing products and equipment, including fentanyl test strips, to determine whether toxic or hazardous substances are present. The bill also offers a person who, in good faith, provides, administers, or uses those testing products or equipment immunity from criminal prosecution or civil damages. To the extent that using or providing these products is currently prosecuted, this provision may reduce court costs.

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<sup>1</sup> This is similar but more expansive than current law which authorizes: (1) terminal distributors of dangerous drugs to maintain a supply in emergency situations and (2) service entities that provide services or interact with individuals who may be at risk (this includes schools, churches, libraries, health departments, courts, prisons, and homeless shelters) to maintain a supply for emergency situations and for personally furnishing under a protocol.

<sup>2</sup> Current law provides immunity to specified individuals and others who administer naloxone in good faith.