

Substitute for HOUSE BILL No. 2232

By Committee on Corrections and Juvenile Justice

2-14

1 AN ACT concerning crimes, criminal procedure and punishment;
2 amending K.S.A. 2011 Supp. 21-5708 and repealing the existing
3 section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 21-5708 is hereby amended to read as
7 follows: 21-5708. (a) Unlawfully obtaining *or possessing* a prescription-
8 only drug is:

9 (1) Making, altering or signing ~~of~~ a prescription order by a person
10 other than a practitioner or a mid-level practitioner;

11 (2) ~~distribution of~~ *distributing* a prescription order, knowing it to have
12 been made, altered or signed by a person other than a practitioner or a mid-
13 level practitioner;

14 (3) ~~possession of~~ *possessing* a prescription order with intent to
15 distribute it and knowing it to have been made, altered or signed by a
16 person other than a practitioner or a mid-level practitioner;

17 (4) ~~possession of~~ *possessing* a prescription-only drug knowing it to
18 have been obtained pursuant to a prescription order made, altered or
19 signed by a person other than a practitioner or a mid-level practitioner; ~~or~~

20 (5) providing false information, with the intent to deceive, to a
21 practitioner or mid-level practitioner for the purpose of obtaining a
22 prescription-only drug; *or*

23 (6) *knowingly possessing a prescription-only drug by a person other*
24 *than the holder of a valid prescription order, as defined in subsection (d)*

25 *(1) {with the intent to deliver such prescription-only drug to a person*
26 *other than the holder of a valid prescription order}.*

27 (b) Unlawfully selling a prescription-only drug is unlawfully
28 obtaining *or possessing* a prescription-only drug, as defined in subsection
29 (a), and:

30 (1) Selling the prescription-only drug ~~so obtained~~;

31 (2) offering for sale the prescription-only drug ~~so obtained~~; or

32 (3) possessing with intent to sell the prescription-only drug ~~so~~
33 ~~obtained~~.

34 (c) (1) Unlawfully obtaining *or possessing* a prescription-only drug is
35 a class A nonperson misdemeanor, except ~~that~~ *as provided in subsection*
36 *(c)(2).*

1 (2) Unlawfully obtaining *or possessing* a prescription-only drug is a
2 severity level 9, nonperson felony if that person has a prior conviction of
3 paragraph (1) or K.S.A. 21-4214, prior to its repeal.

4 (3) Unlawfully selling a prescription-only drug is a severity level 6,
5 nonperson felony.

6 (d) As used in this section:

7 (1) "*Holder of valid prescription order*" means: (A) A person to
8 whom a valid prescription order is issued for the purpose of obtaining a
9 prescription-only drug; and (B) such holder's implicitly or explicitly
10 authorized agent for the purpose of facilitating delivery of such
11 prescription-only drug to such holder.

12 (2) "Pharmacist," "practitioner," "mid-level practitioner" and
13 "prescription-only drug" shall have the *same* meanings ascribed thereto by
14 as defined in K.S.A. 65-1626, and amendments thereto.

15 ~~(2)~~ (3) "Prescription order" means an order transmitted in writing,
16 orally, telephonically or by other means of communication for a
17 prescription-only drug to be filled by a pharmacist. "Prescription order"
18 does not mean a drug dispensed pursuant to such an order.

19 (e) The provisions of this section shall not be applicable to
20 prosecutions involving prescription-only drugs which could be brought
21 under K.S.A. 2011 Supp. 21-5705 or 21-5706, and amendments thereto.

22 Sec. 2. K.S.A. 2011 Supp. 21-5708 is hereby repealed.

23 Sec. 3. This act shall take effect and be in force from and after its
24 publication in the statute book.

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