

By Committee on Corrections and Juvenile Justice

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

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

Section 1. K.S.A. 2011 Supp. 21-5708 is hereby amended to read as follows: 21-5708.

(a) Unlawfully obtaining or possessing a prescription-only drug is:

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

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

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

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

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

(6) possessing a prescription-only drug by a person other than the holder of a prescription-only drug, as defined in subsection (d)(1).

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

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

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- (2) offering for sale the prescription-only drug ~~so obtained~~; or
- (3) possessing with intent to sell the prescription-only drug ~~so obtained~~.

(c) (1) Unlawfully obtaining or possessing a prescription-only drug is a class A nonperson misdemeanor, except that;

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

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

(d) As used in this section:

(1) "Holder of valid prescription order" means a person to whom a valid prescription order was issued for the purpose of obtaining a prescription-only drug, or such holder's authorized designee for the purpose of legally obtaining or facilitating transportation of such prescription-only drug on behalf of such holder.

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

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

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

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

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