

SESSION OF 2005

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2337

As Recommended by House Committee on
Health and Human Services

Brief*

The bill would enact a new law creating the crime of illegal importation of prescription drugs. The new crime would be defined to include:

- soliciting Kansas residents to purchase a prescription drug from a foreign entity that is not a licensed pharmacy in the United States in order to dispense those drugs to a consumer or to a health care professional. The prohibition would specifically extend to the foreign entity or its agents, affiliates, or contractors placing or accepting advertisements for the sale of prescription drugs or aiding and abetting in the delivery of prescription drugs to a resident of Kansas;
- dispensing drugs to Kansas residents for their own use by an entity that is not a licensed pharmacy in the United States;
- prescribing drugs for Kansas residents by an entity that is not a licensed pharmacy or health care provider in the United States; and
- selling, delivering or arranging for, or assisting in the delivery to a consumer or to a health care professional, health care facility or health care supplier licensed in Kansas, prescription drugs that are unapproved, mislabeled, or misbranded, illegally imported from other countries or otherwise not approved for use under federal law.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The Act would not apply to licensed pharmacists, pharmacies or pharmacist technicians; and licenced health care professionals with prescriptive authority who prescribe drugs to Kansas residents within the course and scope of the person's license. The exemption for health care providers would apply only in the case of a legitimate patient-prescriber relationship. An element of that relationship would include a physical examination adequate to establish a diagnosis and identify underlying conditions and possible drug contraindications.

The bill would define "prescription drug" for purposes of the Act to be a drug that is otherwise lawfully available for sale within the United States for consumer use when prescribed by a licensed health care professional with prescriptive authority acting within the scope of the professional's license.

Background

Proponents of the bill who presented testimony at the House Committee hearing included a representative of drug manufacturers, the Kansas Board of Pharmacy, and the Kansas Pharmacists Association. Opponents who presented testimony at the House Committee hearing included representatives of the Governor's Office, AARP Kansas, and a physician.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill states that the bill would not have a fiscal impact on the Board of Pharmacy. The fiscal note also states that any effect on prison admissions could not be determined.