

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE SUBSTITUTE FOR SENATE BILL NO. 51**

As Agreed to May 2, 2006

**Brief\***

House Sub. for SB 51 would make intentionally trafficking counterfeit drugs a crime. Trafficking counterfeit drugs with a value less than \$500 would be a class A nonperson misdemeanor. Trafficking counterfeit drugs valued between \$500 and \$25,000 would be a severity level 9, nonperson felony. Trafficking counterfeit drugs with a value over \$25,000 would be a severity level 7, nonperson felony. A pharmacy inadvertently in possession of counterfeit drugs would be able to return those drugs to the supplier.

The bill also would require the State Board of Pharmacy to conduct a study on licensing wholesale prescription drugs distributors and the use of pedigree for prescription drug, and the penalty for violating pedigree requirements. This report would be required to be submitted to the Legislature by January 15, 2007.

**Conference Committee Action**

The Senate acceded to the House amendments to the bill and the Conference Committee further amended the language of House Sub. for SB 51 to include the requirement that the State Board of Pharmacy conduct a study of licensing wholesale prescription drug distributors and the use of pedigree for prescription drugs, and the penalty for violating pedigree requirements. The Conference Committee also agreed to strike language from the bill requiring the reporting of persons with unlawful immigration status to the United States Immigration and Naturalization Service.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

## **Background**

The underlying issue of counterfeit drugs was originally present in HB 2985. Conferees on that bill included Representative Scott Schwab, and representatives of the pharmacists association and the industry. It was explained that once pharmaceuticals are developed in the United States, manufacturers in other countries may ignore the patents and manufacture counterfeit drugs without Food and Drug Administration approval. These drugs may have inferior ingredients and are not manufactured under the same quality controls. While conferees indicated counterfeit pharmaceuticals are more common in coastal states, it was explained that currently, someone trafficking counterfeit drugs within Kansas would only be practicing pharmacy without a license. Conferees explained this was a way to strengthen existing laws and protect the public.

The bill was amended on the House floor to require unlawful immigrants convicted of certain crimes to be reported to the INS. The appropriate authorities would be required to report to INS an unlawful immigrant convicted of trafficking counterfeit drugs, driving under the influence of drugs or alcohol, or domestic battery. This language was stricken by the Conference Committee.

The fiscal note on HB 2985 stated the bill would create additional workload for the courts. The bill also would increase prison admissions; however, increases cannot be estimated because no data for this new crime exists. Costs on the corrections system would depend on the number of persons and available bed space.

The House Appropriations Committee included the language of HB 2985 in order to provide the language for the substitute bill.

The original SB 51 would have amended the tobacco master settlement agreement and amended KSA 2004 Supp. 50-6a03.