

*CORRECTED  
SESSION OF 2006*

**SUPPLEMENTAL NOTE ON  
HOUSE SUBSTITUTE FOR SENATE BILL NO. 51**

As Amended by House Committee of the Whole

**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 a person convicted of trafficking counterfeit drugs, driving under the influence of alcohol or drugs, or domestic battery, and who is an unlawful immigrant, to be reported to the United States Immigration and Naturalization Service (INS).

**Background**

Conferees on the 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.

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\*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 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.

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.