

**SENATE BILL No. 39**

By Committee on Judiciary

1-17

1 AN ACT concerning crimes, criminal procedure and punishment; relating  
2 to unlawful possession of prescription drugs; amending K.S.A. 2012  
3 Supp. 21-5708 and repealing the existing section.

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

6 Section 1. K.S.A. 2012 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.*

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

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

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

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

32 (c) (1) Unlawfully obtaining *or possessing* a prescription-only drug is  
33 a:

34 (A) Class A nonperson misdemeanor, except as provided in  
35 subsection (c)(1)(B); and

36 (B) nondrug severity level 9, nonperson felony if that person has a

1 prior conviction of under this section, K.S.A. 2010 Supp. 21-36a08, prior  
2 to its transfer, or K.S.A. 21-4214, prior to its repeal.

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

5 (d) As used in this section:

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

11 ~~(1)(2)~~ "Pharmacist," "practitioner," "mid-level practitioner" and  
12 "prescription-only drug" shall have the *same* meanings ~~ascribed thereto by~~  
13 *as defined in K.S.A. 65-1626, and amendments thereto.*

14 ~~(2)(3)~~ "Prescription order" means an order transmitted in writing,  
15 orally, telephonically or by other means of communication for a  
16 prescription-only drug to be filled by a pharmacist. "Prescription order"  
17 does not mean a drug dispensed pursuant to such an order.

18 (e) The provisions of this section shall not be applicable to  
19 prosecutions involving prescription-only drugs which could be brought  
20 under K.S.A. 2012 Supp. 21-5705 or 21-5706, and amendments thereto.

21 Sec. 2. K.S.A. 2012 Supp. 21-5708 is hereby repealed.

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

24