

**HOUSE BILL No. 2232**

By Committee on Corrections and Juvenile Justice

2-8

1 AN ACT concerning crimes, criminal procedure and punishment; relating  
2 to the possession and distrubtion of prescription-only drugs; amending  
3 K.S.A. 2010 Supp. 21-36a08 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2010 Supp. 21-36a08 is hereby amended to read  
7 as follows: 21-36a08. (a) Unlawfully obtaining *or possessing* a  
8 prescription-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~~ *distributing* ~~of~~ a prescription order, knowing it to  
12 have been made, altered or signed by a person other than a practitioner or  
13 a mid-level practitioner;

14 (3) ~~possession~~ *possessing* ~~of~~ 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~~ *possessing* ~~of~~ 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 not obtained by*  
24 *such person pursuant to a valid prescription.*

25 (b) Unlawfully selling a prescription-only drug is:

26 (1) *unlawfully obtaining or possessing a prescription-only drug as*  
27 *defined in subsection (a), and selling, offering, or possessing with intent*  
28 *to sell such drug; or*

29 (2) *selling a prescription-only drug obtained pursuant to a valid*  
30 *prescription to any person without a valid prescription.*

31 ~~(2) unlawfully obtaining a prescription-only drug, as defined in~~  
32 ~~subsection (a), and:~~ (1) ~~Selling the prescription-only drug so obtained;~~  
33 ~~(2) offering for sale the prescription-only drug so obtained; or~~

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

36 (c) (1) Unlawfully obtaining *or possessing* a prescription-only drug

- 1 is a class A nonperson misdemeanor, except that;
- 2 (2) Unlawfully obtaining *or possessing* a prescription-only drug is a
- 3 severity level 9, nonperson felony if that person has a prior conviction of
- 4 ~~paragraph subsection (1)(a)~~ or K.S.A. 21-4214, prior to its repeal.
- 5 (3) Unlawfully selling a prescription-only drug *as defined in*
- 6 *subsection (b)* is a severity level 6, nonperson felony.
- 7 (d) As used in this section:
- 8 (1) "Pharmacist," "practitioner," "mid-level practitioner" and
- 9 "prescription-only drug" shall have the meanings *as defined in ascribed*
- 10 ~~thereto~~ by K.S.A. 65-1626, and amendments thereto.
- 11 (2) "Prescription order" means an order transmitted in writing,
- 12 orally, telephonically or by other means of communication for a
- 13 prescription-only drug to be filled by a pharmacist. "Prescription order"
- 14 does not mean a drug dispensed pursuant to such an order.
- 15 (e) The provisions of this section shall not be applicable to
- 16 prosecutions involving prescription-only drugs which could be brought
- 17 under K.S.A. 2010 Supp. 21-36a05 or 21-36a06, and amendments
- 18 thereto.
- 19 Sec. 2. K.S.A. 2010 Supp. 21-36a08 is hereby repealed.
- 20 Sec. 3. This act shall take effect and be in force from and after its
- 21 publication in the statute book.
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