AN ACT concerning crimes, criminal procedure and punishment; amending K.S.A. 2011 Supp. 21-5708 and repealing the existing section.

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

Section 1. K.S.A. 2011 Supp. 21-5708 is hereby amended to read as follows: 21-5708. (a) Unlawfully obtaining or possessing a prescription-only drug is:

(1) Making, altering or signing of a prescription order by a person other than a practitioner or a mid-level practitioner;
(2) distributing a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
(3) possessing a prescription order with intent to distribute it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
(4) possessing a prescription-only drug knowing it to have been obtained pursuant to a prescription order made, altered or signed by a person other than a practitioner or a mid-level practitioner; or
(5) providing false information, with the intent to deceive, to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug; or
(6) knowingly possessing a prescription-only drug by a person other than the holder of a valid prescription order, as defined in subsection (d)(1).

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

(1) Selling the prescription-only drug so obtained;
(2) offering for sale the prescription-only drug so obtained; or
(3) possessing with intent to sell the prescription-only drug so obtained.

(c) (1) Unlawfully obtaining or possessing a prescription-only drug is a class A nonperson misdemeanor, except that, as provided in subsection (c)(2).
(2) Unlawfully obtaining or possessing a prescription-only drug is a
severity level 9, nonperson felony if that person has a prior conviction of paragraph (1) or K.S.A. 21-4214, prior to its repeal.

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

(d) As used in this section:

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

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

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

(e) The provisions of this section shall not be applicable to prosecutions involving prescription-only drugs which could be brought under K.S.A. 2011 Supp. 21-5705 or 21-5706, and amendments thereto.

Sec. 2. K.S.A. 2011 Supp. 21-5708 is hereby repealed.

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