

21-5708. Unlawfully obtaining or selling a prescription-only drug. (a) Unlawfully obtaining 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) distribution of 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) possession of 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) possession of 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.

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

- (A) Class A nonperson misdemeanor, except as provided in subsection (c)(1)(B); and
- (B) nondrug severity level 9, nonperson felony if that person has a prior conviction of under this section, K.S.A. 2010 Supp. 21-36a08, prior to its transfer, or K.S.A. 21-4214, prior to its repeal.

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

(d) As used in this section:

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

(2) "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. 2014 Supp. 21-5705 or 21-5706, and amendments thereto.

History: L. 2009, ch. 32, § 8; L. 2010, ch. 74, § 4; L. 2012, ch. 150, § 12; July 1.