

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5524

63rd Legislature
2013 Regular Session

Passed by the Senate March 4, 2013
YEAS 49 NAYS 0

President of the Senate

Passed by the House April 3, 2013
YEAS 97 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5524** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5524

Passed Legislature - 2013 Regular Session

State of Washington

63rd Legislature

2013 Regular Session

By Senate Health Care (originally sponsored by Senators Cleveland, Schlicher, Benton, Baumgartner, Keiser, Shin, and Kline)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to authorizing Washington pharmacies to fill
2 prescriptions written by physician assistants in other states; and
3 reenacting and amending RCW 69.41.030 and 69.50.101.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 69.41.030 and 2011 1st sp.s. c 15 s 79 and 2011 c 336
6 s 837 are each reenacted and amended to read as follows:

7 (1) It shall be unlawful for any person to sell, deliver, or
8 possess any legend drug except upon the order or prescription of a
9 physician under chapter 18.71 RCW, an osteopathic physician and surgeon
10 under chapter 18.57 RCW, an optometrist licensed under chapter 18.53
11 RCW who is certified by the optometry board under RCW 18.53.010, a
12 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
13 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
14 commissioned medical or dental officer in the United States armed
15 forces or public health service in the discharge of his or her official
16 duties, a duly licensed physician or dentist employed by the veterans
17 administration in the discharge of his or her official duties, a
18 registered nurse or advanced registered nurse practitioner under
19 chapter 18.79 RCW when authorized by the nursing care quality assurance

1 commission, an osteopathic physician assistant under chapter 18.57A RCW
2 when authorized by the board of osteopathic medicine and surgery, a
3 physician assistant under chapter 18.71A RCW when authorized by the
4 medical quality assurance commission, or any of the following
5 professionals in any province of Canada that shares a common border
6 with the state of Washington or in any state of the United States: A
7 physician licensed to practice medicine and surgery or a physician
8 licensed to practice osteopathic medicine and surgery, a dentist
9 licensed to practice dentistry, a podiatric physician and surgeon
10 licensed to practice podiatric medicine and surgery, a licensed
11 advanced registered nurse practitioner, a licensed physician assistant,
12 a licensed osteopathic physician assistant, or a veterinarian licensed
13 to practice veterinary medicine: PROVIDED, HOWEVER, That the above
14 provisions shall not apply to sale, delivery, or possession by drug
15 wholesalers or drug manufacturers, or their agents or employees, or to
16 any practitioner acting within the scope of his or her license, or to
17 a common or contract carrier or warehouse operator, or any employee
18 thereof, whose possession of any legend drug is in the usual course of
19 business or employment: PROVIDED FURTHER, That nothing in this chapter
20 or chapter 18.64 RCW shall prevent a family planning clinic that is
21 under contract with the health care authority from selling, delivering,
22 possessing, and dispensing commercially prepackaged oral contraceptives
23 prescribed by authorized, licensed health care practitioners.

24 (2)(a) A violation of this section involving the sale, delivery, or
25 possession with intent to sell or deliver is a class B felony
26 punishable according to chapter 9A.20 RCW.

27 (b) A violation of this section involving possession is a
28 misdemeanor.

29 **Sec. 2.** RCW 69.50.101 and 2013 c 3 s 2 (Initiative Measure No.
30 502) and 2012 c 8 s 1 are each reenacted and amended to read as
31 follows:

32 Unless the context clearly requires otherwise, definitions of terms
33 shall be as indicated where used in this chapter:

34 (a) "Administer" means to apply a controlled substance, whether by
35 injection, inhalation, ingestion, or any other means, directly to the
36 body of a patient or research subject by:

1 (1) a practitioner authorized to prescribe (or, by the
2 practitioner's authorized agent); or

3 (2) the patient or research subject at the direction and in the
4 presence of the practitioner.

5 (b) "Agent" means an authorized person who acts on behalf of or at
6 the direction of a manufacturer, distributor, or dispenser. It does
7 not include a common or contract carrier, public warehouseperson, or
8 employee of the carrier or warehouseperson.

9 (c) "Board" means the state board of pharmacy.

10 (d) "Controlled substance" means a drug, substance, or immediate
11 precursor included in Schedules I through V as set forth in federal or
12 state laws, or federal or board rules.

13 (e)(1) "Controlled substance analog" means a substance the chemical
14 structure of which is substantially similar to the chemical structure
15 of a controlled substance in Schedule I or II and:

16 (i) that has a stimulant, depressant, or hallucinogenic effect on
17 the central nervous system substantially similar to the stimulant,
18 depressant, or hallucinogenic effect on the central nervous system of
19 a controlled substance included in Schedule I or II; or

20 (ii) with respect to a particular individual, that the individual
21 represents or intends to have a stimulant, depressant, or
22 hallucinogenic effect on the central nervous system substantially
23 similar to the stimulant, depressant, or hallucinogenic effect on the
24 central nervous system of a controlled substance included in Schedule
25 I or II.

26 (2) The term does not include:

27 (i) a controlled substance;

28 (ii) a substance for which there is an approved new drug
29 application;

30 (iii) a substance with respect to which an exemption is in effect
31 for investigational use by a particular person under Section 505 of the
32 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent
33 conduct with respect to the substance is pursuant to the exemption; or

34 (iv) any substance to the extent not intended for human consumption
35 before an exemption takes effect with respect to the substance.

36 (f) "Deliver" or "delivery," means the actual or constructive
37 transfer from one person to another of a substance, whether or not
38 there is an agency relationship.

1 (g) "Department" means the department of health.

2 (h) "Dispense" means the interpretation of a prescription or order
3 for a controlled substance and, pursuant to that prescription or order,
4 the proper selection, measuring, compounding, labeling, or packaging
5 necessary to prepare that prescription or order for delivery.

6 (i) "Dispenser" means a practitioner who dispenses.

7 (j) "Distribute" means to deliver other than by administering or
8 dispensing a controlled substance.

9 (k) "Distributor" means a person who distributes.

10 (l) "Drug" means (1) a controlled substance recognized as a drug in
11 the official United States pharmacopoeia/national formulary or the
12 official homeopathic pharmacopoeia of the United States, or any
13 supplement to them; (2) controlled substances intended for use in the
14 diagnosis, cure, mitigation, treatment, or prevention of disease in
15 individuals or animals; (3) controlled substances (other than food)
16 intended to affect the structure or any function of the body of
17 individuals or animals; and (4) controlled substances intended for use
18 as a component of any article specified in (1), (2), or (3) of this
19 subsection. The term does not include devices or their components,
20 parts, or accessories.

21 (m) "Drug enforcement administration" means the drug enforcement
22 administration in the United States Department of Justice, or its
23 successor agency.

24 (n) "Immediate precursor" means a substance:

25 (1) that the state board of pharmacy has found to be and by rule
26 designates as being the principal compound commonly used, or produced
27 primarily for use, in the manufacture of a controlled substance;

28 (2) that is an immediate chemical intermediary used or likely to be
29 used in the manufacture of a controlled substance; and

30 (3) the control of which is necessary to prevent, curtail, or limit
31 the manufacture of the controlled substance.

32 (o) "Isomer" means an optical isomer, but in ((~~RCW 69.50.101~~))
33 subsection (x)(5) of this section, RCW 69.50.204(a) (12) and (34), and
34 69.50.206(b)(4), the term includes any geometrical isomer; in RCW
35 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
36 positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and
37 69.50.208(a) the term includes any positional or geometric isomer.

1 (p) "Lot" means a definite quantity of marijuana, useable
2 marijuana, or marijuana-infused product identified by a lot number,
3 every portion or package of which is uniform within recognized
4 tolerances for the factors that appear in the labeling.

5 (q) "Lot number" shall identify the licensee by business or trade
6 name and Washington state unified business identifier number, and the
7 date of harvest or processing for each lot of marijuana, useable
8 marijuana, or marijuana-infused product.

9 (r) "Manufacture" means the production, preparation, propagation,
10 compounding, conversion, or processing of a controlled substance,
11 either directly or indirectly or by extraction from substances of
12 natural origin, or independently by means of chemical synthesis, or by
13 a combination of extraction and chemical synthesis, and includes any
14 packaging or repackaging of the substance or labeling or relabeling of
15 its container. The term does not include the preparation, compounding,
16 packaging, repackaging, labeling, or relabeling of a controlled
17 substance:

18 (1) by a practitioner as an incident to the practitioner's
19 administering or dispensing of a controlled substance in the course of
20 the practitioner's professional practice; or

21 (2) by a practitioner, or by the practitioner's authorized agent
22 under the practitioner's supervision, for the purpose of, or as an
23 incident to, research, teaching, or chemical analysis and not for sale.

24 (s) "Marijuana" or "marihuana" means all parts of the plant
25 Cannabis, whether growing or not, with a THC concentration greater than
26 0.3 percent on a dry weight basis; the seeds thereof; the resin
27 extracted from any part of the plant; and every compound, manufacture,
28 salt, derivative, mixture, or preparation of the plant, its seeds or
29 resin. The term does not include the mature stalks of the plant, fiber
30 produced from the stalks, oil or cake made from the seeds of the plant,
31 any other compound, manufacture, salt, derivative, mixture, or
32 preparation of the mature stalks (except the resin extracted
33 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
34 which is incapable of germination.

35 (t) "Marijuana processor" means a person licensed by the state
36 liquor control board to process marijuana into useable marijuana and
37 marijuana-infused products, package and label useable marijuana and

1 marijuana-infused products for sale in retail outlets, and sell useable
2 marijuana and marijuana-infused products at wholesale to marijuana
3 retailers.

4 (u) "Marijuana producer" means a person licensed by the state
5 liquor control board to produce and sell marijuana at wholesale to
6 marijuana processors and other marijuana producers.

7 (v) "Marijuana-infused products" means products that contain
8 marijuana or marijuana extracts and are intended for human use. The
9 term "marijuana-infused products" does not include useable marijuana.

10 (w) "Marijuana retailer" means a person licensed by the state
11 liquor control board to sell useable marijuana and marijuana-infused
12 products in a retail outlet.

13 (x) "Narcotic drug" means any of the following, whether produced
14 directly or indirectly by extraction from substances of vegetable
15 origin, or independently by means of chemical synthesis, or by a
16 combination of extraction and chemical synthesis:

17 (1) Opium, opium derivative, and any derivative of opium or opium
18 derivative, including their salts, isomers, and salts of isomers,
19 whenever the existence of the salts, isomers, and salts of isomers is
20 possible within the specific chemical designation. The term does not
21 include the isoquinoline alkaloids of opium.

22 (2) Synthetic opiate and any derivative of synthetic opiate,
23 including their isomers, esters, ethers, salts, and salts of isomers,
24 esters, and ethers, whenever the existence of the isomers, esters,
25 ethers, and salts is possible within the specific chemical designation.

26 (3) Poppy straw and concentrate of poppy straw.

27 (4) Coca leaves, except coca leaves and extracts of coca leaves
28 from which cocaine, ecgonine, and derivatives or ecgonine or their
29 salts have been removed.

30 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

31 (6) Cocaine base.

32 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
33 thereof.

34 (8) Any compound, mixture, or preparation containing any quantity
35 of any substance referred to in subparagraphs (1) through (7).

36 (y) "Opiate" means any substance having an addiction-forming or
37 addiction-sustaining liability similar to morphine or being capable of
38 conversion into a drug having addiction-forming or addiction-sustaining

1 liability. The term includes opium, substances derived from opium
2 (opium derivatives), and synthetic opiates. The term does not include,
3 unless specifically designated as controlled under RCW 69.50.201, the
4 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
5 (dextromethorphan). The term includes the racemic and levorotatory
6 forms of dextromethorphan.

7 (z) "Opium poppy" means the plant of the species *Papaver somniferum*
8 L., except its seeds.

9 (aa) "Person" means individual, corporation, business trust,
10 estate, trust, partnership, association, joint venture, government,
11 governmental subdivision or agency, or any other legal or commercial
12 entity.

13 (bb) "Poppy straw" means all parts, except the seeds, of the opium
14 poppy, after mowing.

15 (cc) "Practitioner" means:

16 (1) A physician under chapter 18.71 RCW; a physician assistant
17 under chapter 18.71A RCW; an osteopathic physician and surgeon under
18 chapter 18.57 RCW; an osteopathic physician assistant under chapter
19 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
20 limitations in RCW 18.57A.040; an optometrist licensed under chapter
21 18.53 RCW who is certified by the optometry board under RCW 18.53.010
22 subject to any limitations in RCW 18.53.010; a dentist under chapter
23 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
24 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
25 registered nurse practitioner, or licensed practical nurse under
26 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
27 who is licensed under RCW 18.36A.030 subject to any limitations in RCW
28 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
29 investigator under this chapter, licensed, registered or otherwise
30 permitted insofar as is consistent with those licensing laws to
31 distribute, dispense, conduct research with respect to or administer a
32 controlled substance in the course of their professional practice or
33 research in this state.

34 (2) A pharmacy, hospital or other institution licensed, registered,
35 or otherwise permitted to distribute, dispense, conduct research with
36 respect to or to administer a controlled substance in the course of
37 professional practice or research in this state.

1 (3) A physician licensed to practice medicine and surgery, a
2 physician licensed to practice osteopathic medicine and surgery, a
3 dentist licensed to practice dentistry, a podiatric physician and
4 surgeon licensed to practice podiatric medicine and surgery, a licensed
5 physician assistant or a licensed osteopathic physician assistant
6 specifically approved to prescribe controlled substances by his or her
7 state's medical quality assurance commission or equivalent and his or
8 her supervising physician, an advanced registered nurse practitioner
9 licensed to prescribe controlled substances, or a veterinarian licensed
10 to practice veterinary medicine in any state of the United States.

11 (dd) "Prescription" means an order for controlled substances issued
12 by a practitioner duly authorized by law or rule in the state of
13 Washington to prescribe controlled substances within the scope of his
14 or her professional practice for a legitimate medical purpose.

15 (ee) "Production" includes the manufacturing, planting,
16 cultivating, growing, or harvesting of a controlled substance.

17 (ff) "Retail outlet" means a location licensed by the state liquor
18 control board for the retail sale of useable marijuana and marijuana-
19 infused products.

20 (gg) "Secretary" means the secretary of health or the secretary's
21 designee.

22 (hh) "State," unless the context otherwise requires, means a state
23 of the United States, the District of Columbia, the Commonwealth of
24 Puerto Rico, or a territory or insular possession subject to the
25 jurisdiction of the United States.

26 (ii) "THC concentration" means percent of delta-9
27 tetrahydrocannabinol content per dry weight of any part of the plant
28 *Cannabis*, or per volume or weight of marijuana product.

29 (jj) "Ultimate user" means an individual who lawfully possesses a
30 controlled substance for the individual's own use or for the use of a
31 member of the individual's household or for administering to an animal
32 owned by the individual or by a member of the individual's household.

33 (kk) "Useable marijuana" means dried marijuana flowers. The term
34 "useable marijuana" does not include marijuana-infused products.

35 (ll) "Electronic communication of prescription information" means
36 the communication of prescription information by computer, or the
37 transmission of an exact visual image of a prescription by facsimile,
38 or other electronic means for original prescription information or

1 prescription refill information for a Schedule III-V controlled
2 substance between an authorized practitioner and a pharmacy or the
3 transfer of prescription information for a controlled substance from
4 one pharmacy to another pharmacy.

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