

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE HOUSE BILL 1168

Chapter 275, Laws of 2005

59th Legislature
2005 Regular Session

PRESCRIPTION DRUGS--CANADIAN PHARMACIES

EFFECTIVE DATE: 7/24/05

Passed by the House April 18, 2005
Yeas 60 Nays 35

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2005
Yeas 33 Nays 14

BRAD OWEN

President of the Senate

Approved May 4, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1168** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 4, 2005 - 3:30 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1168

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Appleton, O'Brien, Cody, Campbell, Moeller, P. Sullivan, Chase, Flannigan, McCoy, Sells, Simpson, Darneille, Hasegawa, McIntire, Murray, McDermott, Morrell, Green, Schual-Berke, Kagi, Kessler, Dickerson, Kenney, Hankins, Conway, Lantz, Ormsby, Wallace and Upthegrove)

READ FIRST TIME 02/11/05.

1 AN ACT Relating to reimportation of prescription drugs; amending
2 RCW 18.64.350 and 18.64.360; adding a new section to chapter 18.64 RCW;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that as consumers'
6 prescription drug costs continue to rise, people across the state of
7 Washington are exercising the option to purchase prescription drugs
8 from Canada for their personal use. The state has a strong interest in
9 the safety of drugs purchased through this mechanism. To address this
10 interest, the legislature intends to authorize the state board of
11 pharmacy to regulate nonresident Canadian pharmacies.

12 **Sec. 2.** RCW 18.64.350 and 1991 c 87 s 1 are each amended to read
13 as follows:

14 (1) The legislature finds and declares that the practice of
15 pharmacy is a dynamic, patient-oriented health service that applies a
16 scientific body of knowledge to improve and promote patient health by
17 means of appropriate drug use and drug-related therapy.

1 (2) The legislature recognizes that with the proliferation of
2 alternate methods of health delivery, there has arisen among third-
3 party payors and insurance companies the desire to control the cost and
4 utilization of pharmacy services through a variety of mechanisms,
5 including the use of mail-order pharmacies located outside the state of
6 Washington.

7 (3) As a result, the legislature finds and declares that to
8 continue to protect the Washington consumer-patient, all out-of-state
9 pharmacies, including those located in Canada, that provide services to
10 Washington residents shall be licensed by the department of health,
11 disclose specific information about their services, and provide
12 pharmacy services at a high level of protection and competence.

13 **Sec. 3.** RCW 18.64.360 and 1996 c 109 s 1 are each amended to read
14 as follows:

15 (1) For the purposes of this chapter any pharmacy located outside
16 this state that ships, mails, or delivers, in any manner, except when
17 delivered in person to an individual, controlled substances, legend
18 drugs, or devices into this state is a nonresident pharmacy, and shall
19 be licensed by the department of health, and shall disclose to the
20 department the following:

21 (a) The location, names, and titles of all owners including
22 corporate officers and all pharmacists employed by the pharmacy who are
23 dispensing controlled substances, legend drugs, or devices to residents
24 of this state. A report containing this information shall be made on
25 an annual basis and within ninety days after a change of location,
26 corporate officer, or pharmacist;

27 (b) Proof of compliance with all lawful directions and requests for
28 information from the regulatory or licensing agency of the state or
29 Canadian province in which it is licensed as well as with all requests
30 for information made by the department of health under this section.
31 The nonresident pharmacy shall maintain, at all times, a valid
32 unexpired license, permit, or registration to operate the pharmacy in
33 compliance with the laws of the state or Canadian province in which it
34 is located. As a prerequisite to be licensed by the department of
35 health, the nonresident pharmacy shall submit a copy of the most recent
36 inspection report issued by the regulatory licensing agency of the
37 state or Canadian province in which it is located;

1 (c) Proof that it maintains its records of controlled substances,
2 legend drugs, or devices dispensed to patients in this state so that
3 the records are readily retrievable from the records of other drugs
4 dispensed.

5 (2) Any pharmacy subject to this section shall, during its regular
6 hours of operation, provide a toll-free telephone service to facilitate
7 communication between patients in this state and a pharmacist at the
8 pharmacy who has access to the patient's records. This toll-free
9 number shall be disclosed on the label affixed to each container of
10 drugs dispensed to patients in this state.

11 (3) A pharmacy subject to this section shall comply with board
12 rules regarding the maintenance and use of patient medication record
13 systems.

14 (4) A pharmacy subject to this section shall comply with board of
15 pharmacy rules regarding the provision of drug information to the
16 patient. Drug information may be contained in written form setting
17 forth directions for use and any additional information necessary to
18 assure the proper utilization of the medication prescribed. A label
19 bearing the expiration date of the prescription must be affixed to each
20 box, bottle, jar, tube, or other container of a prescription that is
21 dispensed in this state by a pharmacy subject to this section.

22 (5) A pharmacy subject to this section shall not dispense
23 medication in a quantity greater than authorized by the prescriber.

24 (6) The license fee specified by the secretary, in accordance with
25 the provisions of RCW 43.70.250, shall not exceed the fee charged to a
26 pharmacy located in this state.

27 (7) The license requirements of this section apply to nonresident
28 pharmacies that ship, mail, or deliver controlled substances, legend
29 drugs, and devices into this state only under a prescription. The
30 board of pharmacy may grant an exemption from licensing under this
31 section upon application by an out-of-state pharmacy that restricts its
32 dispensing activity in Washington to isolated transactions.

33 (8) Each nonresident pharmacy that ships, mails, or delivers legend
34 drugs or devices into this state shall designate a resident agent in
35 Washington for service of process. The designation of such an agent
36 does not indicate that the nonresident pharmacy is a resident of
37 Washington for tax purposes.

1 (9) The board shall attempt to develop a reciprocal licensing
2 agreement for licensure of nonresident pharmacies with Health Canada or
3 an applicable Canadian province. If the board is unable to develop
4 such an agreement, the board shall develop a process to license
5 participating Canadian nonresident pharmacies through on-site
6 inspection and certification.

7 **NEW SECTION.** **Sec. 4.** A new section is added to chapter 18.64 RCW
8 to read as follows:

9 (1) By September 1, 2005, the board of pharmacy shall, in
10 consultation with the department and the health care authority, submit
11 a waiver request to the federal food and drug administration that
12 authorizes the importation of prescription drugs from Canada.

13 (2) Upon approval of the federal waiver allowing for the
14 importation of prescription drugs from Canada, the board, in
15 consultation with the department and the health care authority, shall
16 license Canadian pharmacies that provide services to Washington
17 residents under RCW 18.64.350 and RCW 18.64.360.

Passed by the House April 18, 2005.
Passed by the Senate April 12, 2005.
Approved by the Governor May 4, 2005.
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