

---

## Appropriations Committee

---

### SB 5768

**Brief Description:** Protecting access to abortion medications by authorizing the department of corrections to acquire, sell, deliver, distribute, and dispense abortion medications.

**Sponsors:** Senators Keiser, Dhingra, Cleveland, Frame, Hunt, Kuderer, Lovelett, Nobles, Pedersen, Randall, Robinson, Stanford, Trudeau, Valdez, Wellman and Wilson, C..

#### Brief Summary of Bill

- Authorizes the Department of Corrections (DOC) to engage in any activity constituting the practice of pharmacy or wholesale distribution of abortion medications for the benefit of any person.
- Requires the DOC to establish and operate a program to deliver, dispense, and distribute abortion medications individually or wholesale at cost plus a fee of \$5 per dose to offset the cost of secure storage and delivery of the medication.
- Exempts the DOC from obtaining a wholesaler license for purposes of delivering, dispensing, and distributing abortion medications.

**Hearing Date:** 4/18/23

**Staff:** Kim Weidenaar (786-7120) and Yvonne Walker (786-7841).

#### Background:

##### Washington State Department of Corrections.

The Department of Corrections (DOC) provides medically necessary health and mental health care to incarcerated individuals at all DOC facilities in the state of Washington. Pharmacy services are provided from a DOC centralized pharmacy located in Centralia and prescription drugs are shipped to state prisons across the state. The DOC centralized pharmacy also

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

dispenses prescriptions on an emergent basis to patients who have released without medication and provides contract pharmacy services to the Department of Social and Health Services Special Commitment Center.

#### Wholesaler's License.

A wholesaler is an individual or entity which buys drugs or medical devices for resale and distribution to corporations, individuals, or other entities other than consumers. A wholesaler may only sell legend prescription drugs and nonprescription drugs in Washington if they are licensed as a wholesaler. The wholesaler must pay a license fee to obtain a wholesaler's license for selling legend drugs and nonprescription drugs at a specific location for a specified time period.

#### Mifepristone.

Mifepristone sold as Mifeprex and its generic, Mifepristone tablets, are approved, in a regimen with misoprostol, to end an intrauterine pregnancy through 10 weeks gestation. The United States Food and Drug Administration (FDA) first approved Mifeprex in 2000 and approved the generic version in 2019.

A Risk Evaluation and Mitigation Strategy (REMS) is a drug safety program that the FDA can require for certain medications with serious safety concerns to support safe use of the medication. Mifeprex and Mifepristone tablets are available under a single, shared REMS, which sets forth the requirements that must be followed for medical termination of pregnancy through 10 weeks gestation. The FDA approval of Mifepristone and its previous and current REMS have been the subject of a number of recent challenges and conflicting rulings in April 2023.

#### **Summary of Bill:**

The Department of Corrections (DOC) is authorized to acquire, receive, possess, sell, resell, deliver, dispense, distribute, and engage in any activity constituting the practice of pharmacy or wholesale distribution with respect to abortion medications. The DOC may exercise this authority for the benefit of any person, whether or not the person is in the custody or under supervision of the DOC. The DOC must establish and operate a program to deliver, dispense, and distribute abortion medications. In circumstances where DOC is selling, delivering, or distributing abortion medications to a health care provider or entity, the DOC may only sell, distribute, or deliver abortion medications to health care providers or entities that will only use the medications for providing abortion care or medical management of early pregnancy loss.

Any abortion medications sold, resold, delivered, dispensed, or distributed, whether individually or wholesale, must be conducted at cost, not to exceed list price, plus a fee of \$5 per dose to offset the cost of secure storage and delivery of medication. All revenue generated from the fee must be deposited into the State General Fund.

The DOC must comply with any applicable law, including any licensing requirements, except

the DOC is exempt from obtaining a wholesaler's license for the purposes of delivering, dispensing, and distributing abortion medications. Abortion medications are defined as substances used in the course of medical treatment intended to induce the termination of a pregnancy, including but not limited to Mifepristone.

This act applies retroactively and prospectively and must be liberally construed to give effect to the policies and purposes of the act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.