

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO LEGEND DRUGS DISPOSAL, AMENDING SECTION 54-1732, IDAHO CODE, TO PROVIDE AUTHORITY FOR THE DELIVERY, BY INDIVIDUALS NOT OTHERWISE LICENSED TO DO SO, OF LEGEND DRUGS FOR DISPOSAL.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-1732, Idaho Code, be, and the same is hereby amended, to read as follows:

54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in section 54-1729, Idaho Code, shall be operated until a certificate of registration has been issued to said facility by the board. Upon the finding of a violation of this section, the board may impose one or more of the penalties enumerated in section 54-1728, Idaho Code.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(2), Idaho Code.

(3) The following acts, or the failure to act, and the causing of any such act or failure are unlawful;

(a) The sale, delivery or administration of any prescription drug or legend drug unless:

1. Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subsection shall be guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000) or by both such fine and imprisonment.

2. There is affixed, in the case of a legend drug dispensed or delivered by a pharmacist, to the immediate container in which such drug is delivered a label bearing the name, address, and phone number of the establishment from which such drug was dispensed; the date on which the prescription for such drug was filled; the number of such prescription as filed in the prescription files of the pharmacist who filled the prescription; the name of the practitioner who prescribed such drug; the name of the patient, and if such drugs were prescribed for an animal, a statement of the species of the animal; and the directions for the use of the drug as contained in the prescription; or in the case of a legend drug delivered or administered by a practitioner in the course of his practice, the immediate container in which such drug is delivered bears a label on which appears the directions for

use of such drug; the name and address of such practitioner; the name of the patient; and if such drug is prescribed for an animal, a statement of the species of the animal. Any person violating this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500). Nothing in this paragraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug except as designated on the prescription or drug order, or by the authorization of the practitioner. Any person guilty of violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(d) The failure to keep records as required by the board. Any person guilty of violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(e) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(f) It is unlawful to:

1. Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.
2. Communicate information to a physician in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.
3. Intentionally make a false statement in any prescription, drug order, order, report or record required by this chapter.
4. For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.
5. Make or utter any false or forged prescription or false drug order or forged written order.

6. Affix any false or forged label to a package or receptacle containing legend drugs. This paragraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

7. To wholesale or retail any prescription or legend drug to any person in this state not entitled by law to deliver such drug to another.

(4) Provided, however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall comply with the provisions of subsection (3)(a)2. of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.

(5) The ultimate user of a legend drug who has lawfully obtained such legend drug may deliver, without being registered, the legend drug to another person for the purpose of disposal of the legend drug, if the person receiving the legend drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.

Every violation of subsections 1, 2, 3, 4, 5 and 6 of subsection (f) shall be a misdemeanor and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars (\$1,000), or punished by both such fine and imprisonment. Any person violating subsection 7 of subsection (f) is guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

STATEMENT OF PURPOSE

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The proposed legislation will allow legend drug users, who have lawfully obtained legend drugs, to deliver those drugs to an individual who is authorized under state or federal law or regulation to dispose of such drugs.

FISCAL IMPACT

None.

CONTACT

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Statement of Purpose/Fiscal Impact

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