

---

**SUBSTITUTE SENATE BILL 5524**

---

**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.

--- END ---