

SENATE BILL REPORT

SB 5768

As of April 6, 2023

Title: An act relating to protecting access to abortion medications by authorizing the department of corrections to acquire, sell, deliver, distribute, and dispense abortion medications.

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 History:

Committee Activity: Ways & Means: 4/10/23.

Brief Summary of Bill

- Authorizes the Department of Corrections (DOC) to engage in an activity constituting the practice of pharmacy or wholesale distribution of abortion medications.
- Requires DOC to establish and operate a program to deliver, dispense, and distribute abortion medications individually or wholesale at cost not to exceed list price.
- Requires DOC to charge a fee of \$5 per dose to offset the cost of secure storage and delivery of medication.
- Exempts DOC from obtaining a wholesaler license.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sarian Scott (786-7729)

Background: Washington State Department of Corrections. The Department of

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.

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 facilities across the state.

DOC has a formulary manual that lists drugs and supplies that will be provided when prescribed by a DOC health care practitioner. Per the formulary manual, which is developed by DOC's pharmacy and therapeutics committee, all medication used in DOC facilities is generally procured through DOC contracts and dispensed by a DOC pharmacy.

Wholesaler's License. A wholesaler is a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or other entities other than consumers. A wholesaler may sell legend—prescription—drugs and nonprescription drugs as long as they are licensed as a wholesaler. The wholesaler must pay a license fee, determined by the Department of Health, to obtain a wholesaler's license for selling legend drugs and nonprescription drugs at a specific location for a specified time period.

Mifepristone. Mifeprex, and its generic, Mifepristone are approved, in a regimen with misoprostol, to end an intrauterine pregnancy through ten weeks gestation. The Food and Drug Administration first approved Mifeprex in 2000, and approved the generic version, Mifepristone, in 2019.

Summary of Bill: DOC is authorized to engage in any activity constituting the practice of pharmacy or wholesale distribution with respect to abortion medications. DOC may exercise this authority for the benefit of any person, whether or not the person is in the custody or under supervision of DOC.

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 health care entity, DOC may only sell, distribute, or deliver abortion medications to health care providers or health care 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. Revenue generated from the fee must be deposited into the state general fund.

DOC must comply with any applicable law, including any licensing requirements, except DOC is exempt from obtaining a wholesaler's license. Nothing in this act diminishes any existing authority of DOC.

Abortion medications means substances used in the course of medical treatment intended to induce the termination of a pregnancy, including but not limited to Mifepristone.

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

Appropriation: None.

Fiscal Note: Requested on April 4, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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