

1 HB232
2 192408-4
3 By Representative England
4 RFD: Judiciary
5 First Read: 16-JAN-18

1 Schedule II controlled substance may be transmitted by the
2 practitioner or the agent of the practitioner to a pharmacy
3 via facsimile equipment, provided the original written, signed
4 prescription is presented to the pharmacist for review prior
5 to the actual dispensing of the controlled substance.

6 "(b) A prescription written for a Schedule II
7 narcotic substance to be compounded for the direct
8 administration to a patient by parenteral, intravenous,
9 intramuscular, subcutaneous, or intraspinal infusion may be
10 transmitted by the practitioner or the agent of the
11 practitioner to the home infusion pharmacy by facsimile. The
12 facsimile shall serve as the original written prescription.

13 "(c) A prescription written for Schedule II
14 substances for a resident of a long-term care facility may be
15 transmitted by the practitioner or the agent of the
16 practitioner to the dispensing pharmacy by facsimile. The
17 facsimile shall serve as the original written prescription.

18 "(d) Each registered pharmacy shall maintain the
19 inventories and records of controlled substances as follows:

20 "(1) Inventories and records of all controlled
21 substances listed in Schedules I and II shall be maintained
22 separately from all other records of the pharmacy, and
23 prescriptions for the substances shall be maintained in a
24 separate prescription file.

25 "(2) Inventories and records of controlled
26 substances listed in Schedules III, IV, and V shall be
27 maintained either separately from all other records of the

1 pharmacy or in the form that the information required is
2 readily retrievable from ordinary business records of the
3 pharmacy, and prescriptions for the substances shall be
4 maintained either in separate prescription file for controlled
5 substances listed in Schedules III, IV, and V only or in the
6 form that they are readily retrievable from the other
7 prescription records of the pharmacy.

8 "(e) Except when dispensed directly by a
9 practitioner, other than a pharmacy, to an ultimate user, a
10 controlled substance included in Schedule III or IV which is a
11 prescription drug as determined under State Board of Health
12 statute, shall not be dispensed without a written or oral
13 prescription of a practitioner. The prescription shall not be
14 filled or refilled more than six months after the date thereof
15 or be refilled more than five times, unless renewed by the
16 practitioner.

17 "(f) A controlled substance included in ~~Schedule~~
18 Schedules II, III, IV, and V shall ~~not~~ only be distributed or
19 dispensed ~~other than~~ for a legitimate medical purpose by a
20 practitioner acting in the usual course of his or her
21 professional practice.

22 "(g) In an emergency situation, a pharmacist may
23 dispense a Schedule II controlled substance for a resident of
24 a long-term care facility, a patient receiving hospice
25 services, or a patient receiving home health care services
26 pursuant to an emergency oral prescription transmitted by the
27 practitioner to the dispensing pharmacy. The quantity

1 dispensed pursuant to an emergency oral prescription shall be
2 limited to the amount adequate to treat the patient during the
3 emergency period not to exceed 72 hours. The practitioner,
4 within seven days of the emergency oral prescription, shall
5 provide the dispensing pharmacy with a written prescription
6 for the quantity prescribed.

7 "§20-2-71.

8 "(a) It is unlawful for any person:

9 "(1) Who is subject to Article 3 of this chapter to
10 knowingly or intentionally distribute or dispense a controlled
11 substance in violation of Section 20-2-58;

12 "(2) Who is a registrant to manufacture a controlled
13 substance not authorized by his or her registration or to
14 distribute or dispense a controlled substance not authorized
15 by his or her registration to another registrant or other
16 authorized person;

17 "(3) To refuse or fail to make, keep, or furnish any
18 record, notification, order form, statement, invoice, or
19 information required under this chapter; provided, however,
20 that upon the first conviction of a violator under this
21 provision ~~said~~ the violator shall be guilty of a Class A
22 misdemeanor. Subsequent convictions shall subject the violator
23 to the felony penalty provision set forth in subsection (b) of
24 this section.

25 "(4) To refuse an entry into any premises for any
26 inspection authorized by this chapter; or

1 "(5) Knowingly to keep or maintain any store, shop,
2 warehouse, dwelling, building, vehicle, boat, aircraft, or
3 other structure or place which is resorted to by persons using
4 controlled substances in violation of this chapter for the
5 purpose of using these substances or which is used for keeping
6 or selling them in violation of this chapter.

7 "(b) Any person who violates this section is guilty
8 of a Class B felony.

9 "(c) (1) A violation of subdivision (1) of subsection
10 (a) may only be proven by expert testimony from a similarly
11 situated health care practitioner who is licensed by the
12 appropriate regulatory board or agency; who practiced in the
13 same speciality during the year preceding the date the
14 violation occurred; who is trained and experienced in the same
15 discipline or school of practice; if a certification is
16 applicable to the practitioner, who is certified by the same
17 American board in the same speciality as the practitioner
18 charged with the violation; and if a medical or dental
19 speciality is applicable to the practitioner, who is trained
20 and experienced in the same medical or dental specialty as the
21 practitioner charged with the violation.

22 "(2) In addition to any other fine or penalty
23 provided by law, the defendant shall pay an additional fine of
24 fifty thousand dollars (\$50,000) for a violation of
25 subdivision (1) of subsection (a). All monies collected
26 pursuant to this subdivision shall be deposited into a
27 dedicated fund of the State Treasury which shall be known as

1 the Office of Prosecution Services Expert Witness Fund.
2 Pursuant to budget and allotment as provided in Sections
3 41-4-80 through 41-4-96 and Sections 41-19-11 through
4 41-19-12, the Comptroller shall disburse funds pursuant to
5 this subdivision. The Executive Committee of the Alabama
6 District Attorneys Association and the Executive Director of
7 the Office of Prosecution Services shall authorize
8 distributions from this fund to be made to district attorneys
9 for prosecution expenses related to expert witness fees and
10 other trial expenses. On a monthly basis, the clerk of the
11 court shall transfer the additional fines collected pursuant
12 to this subdivision to the State Treasury for deposit in the
13 Office of Prosecution Services Expert Witness Fund,
14 established by this section."

15 Section 2. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

23 Section 3. This act shall become effective
24 immediately following its passage and approval by the
25 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 16-JAN-18

Read for the second time and placed
on the calendar with 1 substitute
and..... 08-MAR-18

Read for the third time and passed
as amended..... 13-MAR-18

Yeas 97, Nays 2, Abstains 0

Jeff Woodard
Clerk