

SENATE BILL 1363

By Haile

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40 and Title 53, relative to criminal law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Section 39-14-150(b)(1), is amended by adding the following as a new subdivision:

(B)(iii) To commit a violation of §53-11-402 or section 3 of this act by using a prescription for a controlled substance represented as having been issued by a physician, nurse practitioner, or other health care provider.

SECTION 2. Tennessee Code Annotated Section 39-14-150(e), is amended by adding the following as a new subdivision:

(5) any name, number, information, medical prescribing pad, electronic message, or form used by a physician, nurse practitioner, or other health care provider for prescribing a controlled substance.

SECTION 3. Tennessee Code Annotated Title 53, Chapter 11, part 4, is amended by inserting a new section as follows:

53-11-4___

(a)

(1) It is unlawful for any person knowingly or intentionally to acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation fraud, forgery, deception, or subterfuge or in violation of 39-14-150. A violation of this section shall be deemed the offense of Prescription Drug Fraud.

(2) Prescription Drug Fraud is a continuing offense because the offense may involve an unlawful taking and use of personal identifying information that remains in the lawful possession of a victim wherever the victim currently resides or is found. As provided in this section, such unlawful taking and use may be elements of an offense of prescription drug fraud and continues to occur wherever the victim resides or is found.

(3) For purposes of a violation this section the term "victim" shall include, but not be limited to, the person whose personal identifying information, as defined in § 39-14-150(e), was acquired, obtained, possessed, bought, or used in violation of this section or sold, transferred, given, traded, loaned, delivered, or possessed in violation of this section. The term "victim" shall also include, but not be limited to, a physician, nurse practitioner, or other health care provider whose personal identifying information was unlawfully used.

(4) Pursuant to § 39-11-103 and 39-14-150 (j)(2), if a victim of prescription drug fraud resides or is found in this state, an essential element of the offense is committed in this state, and a defendant is subject to prosecution in this state, regardless of whether the defendant was ever actually in this state.

(5) Venue for the offense of prescription drug fraud shall be in any county where an essential element of the offense was committed, including, but not limited to, in any county where the victim resides or is found, regardless of whether the defendant was ever actually in such county.

(6) The offense of prescription drug fraud shall be punished in the same manner as a violation of § 53-11-402.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect July 1, 2013, the public welfare requiring it, and shall apply to offenses that occur on or after the effective date of this act.