

CS for SB 977

1 THE STATE SENATE  
2 Wednesday, March 2, 2005

3 Committee Substitute for  
4 Senate Bill No. 977

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 977 - By: ADELSON and  
6 LAWLER of the Senate and HAMILTON of the House.

7 [ professions and occupations - Prescription Drug  
8 Reimportation Act - codification - effective date -  
9 emergency ]

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 353.13B of Title 59, unless  
13 there is created a duplication in numbering, reads as follows:

14 A. This act shall be known and may be cited as the  
15 "Prescription Drug Reimportation Act".

16 B. As used in the Prescription Drug Reimportation Act:

17 1. "Board" means the Board of Pharmacy;

18 2. "Certified Canadian supplier" means a supplier of  
19 prescription drugs located in Canada and certified by the Board of  
20 Pharmacy as meeting the standards necessary for the importation of  
21 prescription drugs into this state;

22 3. "Delivery" means the actual, constructive or attempted  
23 transfer of a drug or drug device from one person to another,  
24 whether or not for a consideration;

1       4. "Dispense" or "dispensing" means the preparation and  
2 delivery of a drug to a patient or a patient's agent pursuant to a  
3 prescription drug order in a suitable container with appropriate  
4 labeling for subsequent administration to or use by a patient;

5       5. "Distributing" means the delivery of a drug other than by  
6 administration or dispensing;

7       6. "Drug" or "prescription drug" means any drug for human  
8 consumption required by federal law or regulation to be dispensed  
9 only by a prescription, including finished dosage forms and active  
10 ingredients subject to the provisions of Section 503(b) of the  
11 Federal Food, Drug and Cosmetic Act as amended through January 1,  
12 1991, other than:

- 13           a. a controlled dangerous substance as defined in Section
- 14                   2-101 of Title 63 of the Oklahoma Statutes,
- 15           b. a biological product as defined in Section 351 of the
- 16                   Public Health Service Act (42 U.S.C. 262),
- 17           c. an infused drug, including peritoneal dialysis
- 18                   solutions,
- 19           d. an intravenously injected drug, or
- 20           e. a drug that is inhaled during surgery;

21       7. "Permitted country" means Switzerland or a member country of  
22 the European Union as constituted as of January 1, 2003;

1           8. "Certified permitted country supplier" means a supplier of  
2 prescription drugs located in Switzerland or in a member country of  
3 the European Union as constituted as of January 1, 2003, and  
4 certified by the Board of Pharmacy as meeting the standards  
5 necessary for the importation of prescription drugs into this state;

6           9. "Pharmacist" means an individual licensed by the Board of  
7 Pharmacy to engage in the practice of pharmacy;

8           10. "Pharmacy" means any place licensed by the Board of  
9 Pharmacy where drugs are dispensed and pharmaceutical care is  
10 provided to residents of this state;

11          11. "Prescription drug order" means a written or oral order of  
12 a prescriber for a drug for a specific patient; and

13          12. "Wholesale drug distributor" means an entity engaged in the  
14 wholesale distribution of prescription drugs.

15          SECTION 2.        NEW LAW        A new section of law to be codified  
16 in the Oklahoma Statutes as Section 353.13C of Title 59, unless  
17 there is created a duplication in numbering, reads as follows:

18          A. Any licensed pharmacist in this state is authorized, with a  
19 valid prescription, to procure prescription drugs from a certified  
20 Canadian supplier or a certified permitted country supplier and to  
21 import those drugs into this state for dispensing to patients  
22 residing in this state.

1           B. Any licensed wholesale drug distributor in this state is  
2 hereby authorized to procure prescription drugs from a certified  
3 Canadian or permitted country supplier and to import those drugs  
4 into this state for dispensing to licensed pharmacists.

5           C. The Board of Pharmacy shall certify Canadian and permitted  
6 country suppliers of prescription drugs to distribute prescription  
7 drugs within this state who meet the following criteria:

8           1. Allow inspection of their facilities and review of their  
9 safety protocols by the Board;

10          2. Maintain licensure from Canada or a permitted country to  
11 operate as a pharmacy and comply with applicable provincial laws and  
12 regulations;

13          3. Maintain membership with the Canadian International Pharmacy  
14 Association if the supplier is Canadian;

15          4. Require that the pharmacy's employees have necessary  
16 licenses from Canada or a permitted country;

17          5. Provide only prescription medications that are approved by  
18 the Government of Canada's Therapeutic Products Directorate for sale  
19 in Canada if the supplier is Canadian;

20          6. Exclude drugs for which there is no equivalent approved by  
21 the Food and Drug Administration for sale in the United States and  
22 drugs that cannot be safely shipped via mail order;

1           7. Use the unopened manufacturer's packaging whenever possible;  
2 and

3           8. Provide periodic reports to the Board regarding any  
4 complaints from Oklahoma customers.

5           D. No person may import prescription drugs from Canada or a  
6 permitted country for resale in this state without first being  
7 certified by the Board of Pharmacy or having authority from the Food  
8 and Drug Administration pursuant to subchapter VIII of the Federal  
9 Food, Drug, and Cosmetic Act, 21 U.S.C. 381 et seq. A violation of  
10 this provision is a felony punishable by up to two (2) years  
11 imprisonment, a fine of up to Two Thousand Dollars (\$2,000.00), or  
12 both.

13          E. Only licensed wholesalers, pharmacies or pharmacists or  
14 persons authorized pursuant to the Federal Food, Drug and Cosmetic  
15 Act, 21 U.S.C. 381 et seq., are authorized to import or facilitate  
16 the importation of prescription drugs from Canada or a permitted  
17 country into the United States; provided, however, nothing herein  
18 shall be deemed to prevent a citizen of this state from procuring  
19 prescription drugs from a pharmacy in Canada or a permitted country  
20 for personal use. A violation of this provision shall be a felony  
21 punishable by up to two (2) years imprisonment, a fine of up to Two  
22 Thousand Dollars (\$2,000.00), or both.

1 F. No out-of-state wholesale drug distributor may conduct  
2 business in this state without first obtaining a license from the  
3 Board and paying the license fee set by the Board. Application for  
4 an out-of-state wholesale drug distributor license under this  
5 section shall be made on a form provided by the Board. An out-of-  
6 state wholesale drug distributor may obtain the license required by  
7 this act on the basis of reciprocity if the out-of-state wholesale  
8 drug distributor possesses a valid license granted by another state,  
9 a Canadian province or a permitted country pursuant to standards  
10 comparable to those in this state, and the other state, Canadian  
11 province or permitted country extends reciprocal treatment under its  
12 laws to wholesale drug distributors of this state.

13 G. Any pharmacist in this state dispensing drugs procured from  
14 a certified Canadian or permitted country supplier shall notify the  
15 consumer or patient of such fact prior to dispensing the drug.

16 H. The Board of Pharmacy may promulgate rules to implement the  
17 issuance of the certification required by subsection D of this  
18 section, and the enforcement provisions of this act. The rules may  
19 include the following:

- 20 1. Definition of terms;
- 21 2. Use of prescribed forms;
- 22 3. Reporting requirements;
- 23 4. Enforcement procedures; and

1           5. Fee requirements.

2           I. Citizens of this state shall be authorized to procure  
3 prescription drugs from Canadian or permitted country pharmacies for  
4 personal use.

5           SECTION 3. This act shall become effective July 1, 2005.

6           SECTION 4. It being immediately necessary for the preservation  
7 of the public peace, health and safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-05 - DO  
11 PASS, As Amended and Coauthored.