

ASSEMBLY BILL NO. 195—ASSEMBLYMEN BUCKLEY, OCEGUERA, LESLIE, PERKINS, GIUNCHIGLIANI, ALLEN, ANDERSON, ANGLE, ARBERRY JR., ATKINSON, CARPENTER, CHRISTENSEN, CLABORN, CONKLIN, DENIS, GANSERT, GERHARDT, GOICOECHEA, GRADY, HARDY, HETTRICK, HOGAN, HOLCOMB, HORNE, KIRKPATRICK, KOIVISTO, MANENDO, MARVEL, MCCLAIN, MCCLEARY, MUNFORD, OHRENSCHALL, PARKS, PARNELL, PIERCE, SEALE, SHERER, SIBLEY, SMITH AND WEBER

MARCH 10, 2005

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JOINT SPONSORS: SENATORS WIENER, TITUS, CARLTON, CARE, SCHNEIDER, AMODEI, COFFIN, HECK, HORSFORD, LEE, NOLAN AND TOWNSEND

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Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning purchasing prescription drugs from Canadian pharmacies and regulation of certain pharmacies located outside Nevada. (BDR 54-875)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

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AN ACT relating to health care; revising certain provisions concerning the distribution of prescription drugs to authorize certain Canadian pharmacies licensed in Nevada to provide prescription drugs through mail order service to residents of Nevada under certain circumstances; making various changes concerning the regulation of certain pharmacies located outside Nevada; requiring the Director of the Office for Consumer Health Assistance to establish and maintain an Internet website to provide certain information to consumers concerning purchasing prescription drugs from certain Canadian pharmacies



licensed in this State; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law prohibits a pharmacy from distributing prescription drugs in  
2 Nevada unless it is licensed by the State Board of Pharmacy. (NRS 639.230)  
3 Existing law requires a person holding a license to operate a pharmacy to  
4 demonstrate to the Board that it is conducted according to law. (NRS 639.230)  
5 Existing law prohibits a person from filling a prescription drug via the Internet if  
6 the drug has not been lawfully imported into the United States, or if the prescription  
7 was not delivered to a person in accordance with all applicable state and federal  
8 laws. (NRS 453.3639) Existing law sets forth the requirements for a pharmacy  
9 located outside Nevada that provides mail order service to a resident of Nevada.  
10 (NRS 639.23284) Existing law establishes the Office for Consumer Health  
11 Assistance to provide assistance to consumers concerning health care plans,  
12 industrial insurance, prescription drugs and pharmaceutical services. (NRS  
13 223.550, 223.560)

14 This bill authorizes Canadian pharmacies that are licensed by the State Board  
15 of Pharmacy to provide prescription drugs by mail order to residents of Nevada if  
16 the pharmacies are recommended by the Board for inclusion on an Internet website  
17 established and maintained by the Office for Consumer Health Assistance. The  
18 website must provide information to consumers concerning the Canadian  
19 pharmacies approved by the Board and the web links for those pharmacies. In  
20 addition, this bill limits the drugs that a pharmacy located outside Nevada that  
21 provides mail order service to residents of Nevada may sell, distribute or furnish.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 639.230 is hereby amended to read as follows:  
2 639.230 1. A person operating a business in this State shall  
3 not use the letters "Rx" or "RX" or the word "drug" or "drugs,"  
4 "prescription" or "pharmacy," or similar words or words of similar  
5 import, without first having secured a license from the Board.  
6 2. Each license must be issued to a specific person and for a  
7 specific location and is not transferable. The original license must be  
8 displayed on the licensed premises as provided in NRS 639.150.  
9 The original license and the fee required for reissuance of a license  
10 must be submitted to the Board before the reissuance of the license.  
11 3. If the owner of a pharmacy is a partnership or corporation,  
12 any change of partners or corporate officers must be reported to the  
13 Board at such a time as is required by a regulation of the Board.  
14 4. ~~Has~~ *Except as otherwise provided in subsection 6, in*  
15 addition to the requirements for renewal set forth in NRS 639.180,  
16 every person holding a license to operate a pharmacy must satisfy  
17 the Board that the pharmacy is conducted according to law.  
18 5. Any violation of any of the provisions of this chapter by a  
19 managing pharmacist or by personnel of the pharmacy under the



1 supervision of the managing pharmacist is cause for the suspension  
2 or revocation of the license of the pharmacy by the Board.

3 *6. The provisions of this section do not prohibit a Canadian*  
4 *pharmacy which is licensed by the Board and which has been*  
5 *recommended by the Board pursuant to subsection 4 of NRS*  
6 *639.2328 for inclusion on the Internet website established and*  
7 *maintained pursuant to subsection 9 of NRS 223.560 from*  
8 *providing prescription drugs through mail order service to*  
9 *residents of Nevada in the manner set forth in NRS 639.2328 to*  
10 *639.23286, inclusive.*

11 **Sec. 2.** NRS 639.2328 is hereby amended to read as follows:

12 639.2328 1. Every pharmacy located outside Nevada that  
13 provides mail order service to or solicits or advertises for orders for  
14 drugs available with a prescription from a resident of Nevada must  
15 be licensed by the Board.

16 2. To be licensed or to renew a license, such a pharmacy must:

17 (a) Be licensed as a pharmacy, or the equivalent, by the state or  
18 country in which its dispensing facilities are located.

19 (b) Comply with all applicable federal laws, regulations and  
20 standards.

21 (c) Submit an application in the form furnished by the Board.

22 (d) Provide the following information to the Board:

23 (1) The name and address of the owner;

24 (2) The location of the pharmacy;

25 (3) The name of the pharmacist who is the managing  
26 pharmacist; and

27 (4) Any other information the Board deems necessary.

28 (e) Pay the fee required by regulation of the Board.

29 (f) Submit evidence satisfactory to the Board that the facility,  
30 records and operation of the pharmacy comply with the laws and  
31 regulations of the state or country in which the pharmacy is located.

32 (g) Submit certification satisfactory to the Board that the  
33 pharmacy complies with all lawful requests and directions from the  
34 regulatory board or licensing authority of the state or country in  
35 which the pharmacy is located relating to the shipment, mailing or  
36 delivery of drugs.

37 (h) Be certified by the Board pursuant to NRS 639.23288 if the  
38 pharmacy operates an Internet pharmacy.

39 3. In addition to the requirements of subsection 2, the Board  
40 may require such a pharmacy to be inspected by the Board.

41 *4. The Board shall notify the Office for Consumer Health*  
42 *Assistance each time the Board licenses a Canadian pharmacy*  
43 *pursuant to this section and recommend that the Office for*  
44 *Consumer Health Assistance include each such pharmacy on the*



*Internet website established and maintained pursuant to subsection 9 of NRS 223.560.*

**Sec. 3.** NRS 639.23284 is hereby amended to read as follows:

639.23284 Every pharmacy located outside Nevada that provides mail order service to a resident of Nevada:

1. Shall report to the Board any change of information that appears on its license and pay the fee required by regulation of the Board.

2. Shall make available for inspection all pertinent records, reports, documents or other material or information required by the Board.

3. As required by the Board, must be inspected by the Board or:

(a) The regulatory board or licensing authority of the state or country in which the pharmacy is located; or

(b) The Drug Enforcement Administration.

4. As required by the Board, shall provide the following information concerning each prescription for a drug that is shipped, mailed or delivered to a resident of Nevada:

(a) The name of the patient;

(b) The name of the prescriber;

(c) The number of the prescription;

(d) The date of the prescription;

(e) The name of the drug; and

(f) The strength and quantity of the dose.

*5. Shall not sell, distribute or furnish to a resident of this State:*

*(a) A controlled substance;*

*(b) A prescription drug that has not been approved by the Federal Food and Drug Administration or the Canadian governmental agency responsible for approving prescription drugs;*

*(c) A generic prescription drug that has not been approved by the Federal Food and Drug Administration;*

*(d) A prescription drug for which the Federal Food and Drug Administration has withdrawn or suspended its approval; or*

*(e) A quantity of prescription drugs at one time that includes more drugs than are prescribed to the patient as a 3-month supply of the drugs.*

**Sec. 4.** NRS 223.510 is hereby amended to read as follows:

223.510 "Consumer" means a natural person who ~~has~~:

1. ~~Has~~ or is in need of coverage under a health care plan ~~for who is~~;

2. ~~Is~~ in need of information or other assistance regarding a prescription drug program ~~for~~; or



1     **3. May need information concerning purchasing prescription**  
2 **drugs from Canadian pharmacies.**

3     **Sec. 5.** NRS 223.550 is hereby amended to read as follows:

4     223.550 1. The Office for Consumer Health Assistance is  
5 hereby established in the Office of the Governor. The Governor  
6 shall appoint the Director. The Director must:

7     (a) Be:

8         (1) A physician, as that term is defined in NRS 0.040;

9         (2) A registered nurse, as that term is defined in NRS 632.019;

10        (3) An advanced practitioner of nursing, as that term is  
11 defined in NRS 453.023; or

12        (4) A physician assistant, as that term is defined in NRS  
13 630.015; and

14     (b) Have expertise and experience in the field of advocacy.

15     2. The cost of carrying out the provisions of NRS 223.500 to  
16 223.580, inclusive, must be paid as follows:

17     (a) That portion of the cost related to providing assistance to  
18 consumers and injured employees concerning workers'  
19 compensation must be paid from the assessments levied pursuant to  
20 NRS 232.680.

21     (b) That portion of the cost related to the operation of the  
22 Bureau for Hospital Patients created pursuant to NRS 223.575 must  
23 be paid from the assessments levied pursuant to that section.

24     (c) That portion of the cost related to providing assistance to  
25 consumers in need of information or other facilitation regarding a  
26 prescription drug program may, to the extent money is available  
27 from this source, be paid from the proceeds of any gifts, grants or  
28 donations that are received by the Director for this purpose.

29     (d) *That portion of the cost related to providing assistance to*  
30 *consumers in need of information concerning purchasing*  
31 *prescription drugs from Canadian pharmacies may, to the extent*  
32 *money is available from this source, be paid from the proceeds of*  
33 *any gifts, grants or donations that are received by the Director for*  
34 *this purpose.*

35     (e) The remaining cost must be provided by direct legislative  
36 appropriation from the State General Fund and be paid out on claims  
37 as other claims against the State are paid.

38     **Sec. 6.** NRS 223.560 is hereby amended to read as follows:

39     223.560 The Director shall:

40     1. Respond to written and telephonic inquiries received from  
41 consumers and injured employees regarding concerns and problems  
42 related to health care and workers' compensation;

43     2. Assist consumers and injured employees in understanding  
44 their rights and responsibilities under health care plans and policies  
45 of industrial insurance;



3. Identify and investigate complaints of consumers and injured employees regarding their health care plans and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

(a) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(b) Providing counseling and assistance to consumers and injured employees concerning health care plans and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans and policies of industrial insurance in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office ~~for~~ *for Consumer Health Assistance*;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action; ~~and~~

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services ~~;~~ *and*

*9. Establish and maintain an Internet website which includes:*

*(a) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; and*

*(b) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328.*

**Sec. 7.** NRS 223.570 is hereby amended to read as follows:

223.570 1. The Director may:

(a) Within the limits of available money, employ:

(1) Such persons in the unclassified service of the State as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580, including, without limitation, a provider of health care, as that term is defined in NRS 449.581.

(2) Such additional personnel as may be required to carry out the provisions of this section and NRS 223.560 and 223.580, who must be in the classified service of the State.



1 ➡ A person employed pursuant to the authority set forth in this  
2 subsection must be qualified by training and experience to perform  
3 the duties for which the Director employs him.

4 (b) To the extent not otherwise prohibited by law, obtain such  
5 information from consumers, injured employees, health care plans,  
6 prescription drug programs and policies of industrial insurance as he  
7 determines to be necessary to carry out the provisions of this section  
8 and NRS 223.560 and 223.580.

9 (c) Adopt such regulations as he determines to be necessary to  
10 carry out the provisions of this section and NRS 223.560 and  
11 223.580.

12 (d) Apply for any available grants, accept any gifts, grants or  
13 donations and use any such gifts, grants or donations to aid the  
14 Office *for Consumer Health Assistance* in carrying out its duties  
15 pursuant to ~~subsection~~ *subsections 8 and 9* of NRS 223.560.

16 2. The Director and his employees shall not have any conflict  
17 of interest relating to the performance of their duties pursuant to this  
18 section and NRS 223.560 and 223.580. For the purposes of this  
19 subsection, a conflict of interest shall be deemed to exist if the  
20 Director or employee, or any person affiliated with the Director or  
21 employee:

22 (a) Has direct involvement in the licensing, certification or  
23 accreditation of a health care facility, insurer or provider of health  
24 care;

25 (b) Has a direct ownership interest or investment interest in a  
26 health care facility, insurer or provider of health care;

27 (c) Is employed by, or participating in, the management of a  
28 health care facility, insurer or provider of health care; or

29 (d) Receives or has the right to receive, directly or indirectly,  
30 remuneration pursuant to any arrangement for compensation with a  
31 health care facility, insurer or provider of health care.

32 **Sec. 8.** NRS 453.3639 is hereby amended to read as follows:

33 453.3639 1. ~~[A]~~ *Except as otherwise provided in subsection*  
34 *3, a* person who is located within or outside this State shall not, via  
35 the Internet, fill or refill a prescription drug if:

36 (a) The person has reasonable cause to believe that the  
37 prescription is being filled or refilled for a person in this State; and

38 (b) The prescription drug has not been lawfully imported into  
39 the United States.

40 2. ~~[A]~~ *Except as otherwise provided in subsection 3, a* person  
41 who is located within or outside this State shall not, via the Internet,  
42 fill or refill a prescription drug if:

43 (a) The person has reasonable cause to believe that the  
44 prescription is being filled or refilled for a person in this State; and



(b) The prescription was not delivered to the person in accordance with all applicable state and federal laws, regulations and standards.

3. *The provisions of this section do not prohibit a Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to subsection 9 of NRS 223.560 from providing prescription drugs through mail order service to residents of Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive.*

4. A person shall not knowingly aid another person in any act or transaction that violates any provision of this section.

~~[4.]~~ 5. Except as otherwise provided in subsection ~~[5.]~~ 6, a person who violates any provision of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~[5.]~~ 6. A person who violates any provision of this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000, if the substance or drug involved:

(a) Is classified in schedule I; or

(b) Proximately causes substantial bodily harm to or the death of the intended recipient of the substance or drug or any other person.

~~[6.]~~ 7. The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection ~~[5.]~~ 6.

~~[7.]~~ 8. A person may be prosecuted, convicted and punished for a violation of this section whether or not the person is prosecuted, convicted or punished for violating any other specific statute based upon the same act or transaction.

**Sec. 9.** This act becomes effective on July 1, 2005.

