

FIRST REGULAR SESSION

HOUSE BILL NO. 59

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JOHNSON (47) (Sponsor) AND KRAUS (Co-sponsor).

Pre-filed December 3, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0281L.011

AN ACT

To repeal sections 338.220 and 338.280, RSMo, and to enact in lieu thereof two new sections relating to pharmacy licenses and permits.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 338.220 and 338.280, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 338.220 and 338.280, to read as follows:

338.220. 1. It shall be unlawful for any person, copartnership, association, corporation
2 or any other business entity to open, establish, operate, or maintain any pharmacy as defined by
3 statute without first obtaining a permit or license to do so from the Missouri board of pharmacy.

4 The following classes of pharmacy permits or licenses are hereby established:

- 5 (1) Class A: Community/ambulatory;
- 6 (2) Class B: Hospital outpatient pharmacy;
- 7 (3) Class C: Long-term care;
- 8 (4) Class D: Nonsterile compounding;
- 9 (5) Class E: Radio pharmaceutical;
- 10 (6) Class F: Renal dialysis;
- 11 (7) Class G: Medical gas;
- 12 (8) Class H: Sterile product compounding;
- 13 (9) Class I: Consultant services;
- 14 (10) Class J: Shared service;
- 15 (11) Class K: Internet.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 2. Application for such permit or license shall be made upon a form furnished to the
17 applicant; shall contain a statement that it is made under oath or affirmation and that its
18 representations are true and correct to the best knowledge and belief of the person signing same,
19 subject to the penalties of making a false affidavit or declaration; and shall be accompanied by
20 a permit or license fee. The permit or license issued shall be renewable upon payment of a
21 renewal fee. Separate applications shall be made and separate permits or licenses required for
22 each pharmacy opened, established, operated, or maintained by the same owner.

23 3. All permits, licenses or renewal fees collected pursuant to the provisions of sections
24 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of
25 pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the
26 provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general
27 assembly.

28 **4. (1) Any pharmacy located in a province of Canada which maintains a valid,**
29 **unexpired license, permit, or registration to operate the pharmacy in compliance with the**
30 **laws of that province shall be issued a license or permit from the Missouri board of**
31 **pharmacy upon submission to the board of an application and license or permit fee. The**
32 **application shall be made upon a form furnished to the pharmacy; shall include a**
33 **declaration of ownership and location by the pharmacy's owner; and shall contain a signed**
34 **statement that the declaration and all other representations in the application are made**
35 **under oath or affirmation and that the declaration and other representations are true and**
36 **correct to the best knowledge and belief of the owner, subject to the penalties of making**
37 **a false affidavit or declaration. The declaration of ownership and location, in the**
38 **application, shall be deemed presumptive evidence of ownership of the pharmacy**
39 **mentioned in the application.**

40 (2) A license or permit issued under this subsection shall be renewable upon
41 payment of a renewal fee; shall not be transferable; shall be the property of the state and
42 loaned to the licensee; and shall be kept posted in a conspicuous place on the licensed
43 premises. If a change in ownership or location of the pharmacy occurs the license shall
44 become null and void. It shall be the duty of the owner to immediately notify the board of
45 any proposed change of location or ownership.

46 (3) Any pharmacy that obtains a license or permit under this subsection shall
47 comply with the board of pharmacy rules and regulations of this state when dispensing
48 legend drugs or devices to residents of this state.

49 (4) Nothing in this subsection shall prevent the board of pharmacy from exercising
50 its authority regarding a pharmacy licensed under this subsection when the board has
51 evidence of misconduct committed by such pharmacy concerning its practices in the state.

338.280. **1.** The Missouri board of pharmacy may make such rules and regulations, not
2 inconsistent with law, as may be necessary to carry out the purposes and enforce the provisions
3 of sections 338.210 to 338.300.

4 **2. (1) On or before January 15, 2006, the Missouri board of pharmacy shall**
5 **promulgate rules establishing standards and procedures to protect the health and safety**
6 **of the public and governing the operation of and issuing of licenses or permits to Canadian**
7 **pharmacies under section 338.220.**

8 **(2) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
9 **that is created under the authority delegated in this subsection shall become effective only**
10 **if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
11 **applicable, section 536.028, RSMo. This subsection and chapter 536, RSMo, are**
12 **nonseverable and if any of the powers vested with the general assembly pursuant to**
13 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
14 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
15 **rule proposed or adopted after August 28, 2005, shall be invalid and void.**