

SENATE BILL NO. 8

INTRODUCED BY R. WEBB

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PRESCRIBING OF CERTAIN PRESCRIPTION DRUGS BY ELECTRONIC MEANS; AMENDING SECTIONS 50-31-307, 50-31-308, AND 50-32-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-31-307, MCA, is amended to read:

"50-31-307. Dispensing of prescription drugs. (1) A drug intended for use by humans that is included in one of the categories in subsection (2) may be dispensed only if a practitioner licensed by law to administer or prescribe the drug:

(a) ~~upon provides~~ a written prescription ~~of a practitioner licensed by law to administer the drug;~~

(b) transmits the prescription directly to the pharmacy by electronic means;

~~(b)(c) upon an provides an~~ oral prescription ~~of the practitioner~~ that is reduced promptly to writing and filed by the pharmacist; or

~~(c) by (d) authorizes the refilling of a written, electronic, or oral prescription if the refilling is authorized by the practitioner,~~ either in the original prescription or by an oral order that is reduced promptly to writing and filed by the pharmacist.

(2) A drug must be dispensed as provided in subsection (1) if the drug:

(a) is a habit-forming drug to which 50-31-306(1)(d) applies;

(b) because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer or prescribe the drug; or

(c) is limited by an approved application under section 505 of the federal act (21 U.S.C. 355) or 50-31-311 to use under the professional supervision of a practitioner licensed by law to administer or prescribe the drug.

(3) If the drug is a factory prepackaged contraceptive, other than mifepristone, it may be dispensed as

1 provided in subsection (1) or by a registered nurse employed by a family planning clinic under contract with the
 2 department of public health and human services pursuant to a physician's written protocol specifying the
 3 circumstances under which dispensing is appropriate and pursuant to the board of pharmacy's rules concerning
 4 labeling, storage, and recordkeeping of drugs.

5 (4) The act of dispensing a drug contrary to the provisions of this section is considered an act that results
 6 in a drug being misbranded while held for sale."

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8 **Section 2.** Section 50-31-308, MCA, is amended to read:

9 **"50-31-308. Prescription drugs exempt from certain provisions of chapter. (1)** Any drug dispensed
 10 by filling or refilling a written, electronic, or oral prescription of a practitioner licensed by law to administer ~~such~~
 11 ~~drug shall be~~ or prescribe the drug is exempt from the requirements of 50-31-306, except subsections (1)(a),
 12 (1)(j), (1)(k), (1)(m), (1)(n), and the packaging requirements of subsections (1)(g) and (1)(h), if the drug bears a
 13 label containing:

14 (a) the name and address of the dispenser;;

15 (b) the serial number and date of the prescription or ~~of its filling~~; the date it was filled;

16 (c) the name of the prescriber; and

17 (d) if stated in the prescription, the name of the patient and the directions for use and cautionary
 18 statements, if any, contained in ~~such~~ the prescription.

19 (2) This exemption ~~shall~~ does not apply to any drug dispensed in the course of the conduct of a business
 20 of dispensing drugs pursuant to diagnosis by mail or to a drug dispensed in violation of 50-31-307."

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22 **Section 3.** Section 50-32-208, MCA, is amended to read:

23 **"50-32-208. Prescription and medical requirements for scheduled drugs -- penalty. (1) (a)** No
 24 dangerous drug in Schedule II may be dispensed without the written or electronic prescription of a practitioner.

25 (2)(b) In emergency situations, as defined by rule of the board, Schedule II drugs may be dispensed
 26 upon a practitioner's oral prescription reduced promptly to writing and filed by the pharmacy. Prescriptions ~~shall~~
 27 must be retained in conformity with the requirements of 50-32-309. ~~No~~ A prescription for a Schedule II drug may
 28 not be refilled.

29 (3)(2) A dangerous drug included in Schedule III or IV, which is a prescription drug as determined under
 30 the federal or Montana food, drug, and cosmetic acts, ~~shall~~ may not be dispensed without a written, electronic,

1 or oral prescription of a practitioner. The prescription ~~shall~~ may not be filled or refilled more than 6 months after
2 the date ~~thereof~~ of the prescription or be refilled more than five times unless renewed by the practitioner.

3 ~~(4)~~(3) A dangerous drug included in Schedule V ~~shall~~ may not be distributed or dispensed other than
4 for a medical purpose.

5 ~~(5)~~(4) Any A person who violates the provisions of this section is guilty of a misdemeanor and upon
6 conviction may be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to
7 exceed 1 year, or both fined and imprisoned."

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9 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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