

SENATE BILL No. 703

AN ACT reconciling amendments to certain statutes; amending K.S.A. 21-3110, 36-504, as amended by section 5 of 2008 Senate Bill No. 557, 59-3069 and 65-1657, as amended by section 2 of 2008 House Bill No. 2207, and K.S.A. 2007 Supp. 8-2110, as amended by section 1 of 2008 Senate Bill No. 366, 44-322a, 55-193, as amended by section 1 of 2008 House Bill No. 2735, and 75-4209, as amended by section 9 of 2008 House Substitute for Senate Bill No. 387, and repealing the existing sections; also repealing K.S.A. 21-3110b, 36-504, as amended by section 13 of 2008 Senate Bill No. 584, 59-3069, as amended by section 9 of 2008 House Bill No. 2644, 65-1657, as amended by section 17 of 2008 Senate Bill No. 491, and 65-4603 and K.S.A. 2007 Supp. 8-2110, as amended by section 3 of 2008 House Bill No. 2968, 44-322a, as amended by section 14 of chapter 145 of the 2004 Session Laws of Kansas, 55-193, as amended by section 166 of 2008 Senate Bill No. 534, 72-6624a, 72-6625a and 75-4209, as amended by section 1 of 2008 Senate Bill No. 472.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2007 Supp. 8-2110, as amended by section 1 of 2008 Senate Bill No. 366, is hereby amended to read as follows: 8-2110.

(a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing notice, the division of vehicles will be notified to suspend the person's driving privileges. The district or municipal court may charge an additional fee of \$5 for mailing such notice. Upon the person's failure to comply within such 30 days of mailing notice, the district or municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of ~~\$50~~ \$59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit ~~50%~~ 42.37% of such moneys to the division of vehicles operating fund, ~~37.5%~~ 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, ~~and 12.5%~~ 10.59% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, *and 15.26% to the judicial branch nonjudicial salary adjustment fund created by section 1 of 2008 House Bill No. 2968, and amendments thereto.*

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for

such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(e) The reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 2. K.S.A. 21-3110 is hereby amended to read as follows: 21-3110. The following definitions shall apply when the words and phrases defined are used in this code, except when a particular context clearly requires a different meaning.

- (1) “Act” includes a failure or omission to take action.
- (2) “Another” means a person or persons as defined in this code other than the person whose act is claimed to be criminal.
- (3) “Conduct” means an act or a series of acts, and the accompanying mental state.
- (4) “Conviction” includes a judgment of guilt entered upon a plea of guilty.
- (5) “Deception” means knowingly and willfully making a false statement or representation, express or implied, pertaining to a present or past existing fact.
- (6) To “deprive permanently” means to:
 - (a) Take from the owner the possession, use or benefit of property, without an intent to restore the same; or
 - (b) Retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
 - (c) Sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.
- (7) “Dwelling” means a building or portion thereof, a tent, a vehicle or other enclosed space which is used or intended for use as a human habitation, home or residence.
- (8) “Firearm” means any weapon designed or having the capacity to propel a projectile by force of an explosion or combustion.
- ~~(8)~~ (9) “Forcible felony” includes any treason, murder, voluntary manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated battery, aggravated sodomy and any other felony which involves the use or threat of physical force or violence against any person.
- ~~(9)~~ (10) “Intent to defraud” means an intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.
- ~~(10)~~ (11) “Law enforcement officer” means:
 - (a) Any person who by virtue of such person’s office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes;
 - (b) any officer of the Kansas department of corrections or, for the purposes of K.S.A. 21-3409, 21-3411 and 21-3415, and amendments thereto, any employee of the Kansas department of corrections; or
 - (c) any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.
- ~~(11)~~ (12) “Obtain” means to bring about a transfer of interest in or possession of property, whether to the offender or to another.
- ~~(12)~~ (13) “Obtains or exerts control” over property includes but is not limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property.
- ~~(13)~~ (14) “Owner” means a person who has any interest in property.

~~(14)~~ (15) “Person” means an individual, public or private corporation, government, partnership, or unincorporated association.

~~(15)~~ (16) “Personal property” means goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed.

~~(16)~~ (17) “Property” means anything of value, tangible or intangible, real or personal.

~~(17)~~ (18) “Prosecution” means all legal proceedings by which a person’s liability for a crime is determined.

~~(18)~~ (19) “Public employee” is a person employed by or acting for the state or by or for a county, municipality or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a “public officer.”

~~(19)~~ (20) “Public officer” includes the following, whether elected or appointed:

(a) An executive or administrative officer of the state, or a county, municipality or other subdivision or governmental instrumentality of or within the state.

(b) A member of the legislature or of a governing board of a county, municipality, or other subdivision of or within the state.

(c) A judicial officer, which shall include a judge of the district court, juror, master or any other person appointed by a judge or court to hear or determine a cause or controversy.

(d) A hearing officer or presiding officer, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer.

(e) A law enforcement officer.

(f) Any other person exercising the functions of a public officer under color of right.

~~(20)~~ (21) “Real property” or “real estate” means every estate, interest, and right in lands, tenements and hereditaments.

~~(21)~~ (22) “Solicit” or “solicitation” means to command, authorize, urge, incite, request, or advise another to commit a crime.

~~(22)~~ (23) “State” or “this state” means the state of Kansas and all land and water in respect to which the state of Kansas has either exclusive or concurrent jurisdiction, and the air space above such land and water. “Other state” means any state or territory of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

~~(23)~~ (24) “Stolen property” means property over which control has been obtained by theft.

~~(24)~~ (25) “Threat” means a communicated intent to inflict physical or other harm on any person or on property.

~~(25)~~ (26) “Written instrument” means any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

Sec. 3. On and after October 1, 2008, K.S.A. 36-504, as amended by section 5 of Senate Bill No. 557, is hereby amended to read as follows: 36-504. (a) It shall be unlawful for any person to engage in the business of conducting a food vending machine company unless such person shall have in effect a valid license therefor issued by the secretary of ~~health and environment~~ *agriculture*. Applications for such licenses shall be on forms prescribed by the secretary, and each such application shall specify the brand name and serial number of each food vending machine to be operated and serviced by the applicant during the period of licensure and shall be accompanied by an application fee in an amount fixed by rules and regulations adopted by the secretary of ~~health and environment~~ *agriculture* not to exceed \$100 and by the appropriate license fee required by subsection (b). Prior to the issuance of any such license, the secretary shall inspect or cause to be inspected the applicant and each food vending machine for which the applicant is to be licensed, to determine that they are in compliance with the applicable food service standards promulgated

pursuant to this act. If the applicant and such machines are found to be in compliance with such standards, the secretary shall issue the license. If the application for license is denied, the secretary shall give written notice thereof to the applicant, stating also that the applicant is entitled to a hearing thereof if a written request therefor is filed with the secretary within ~~twenty (20)~~ 20 days of the date such notice is sent. Such hearing shall be held in accordance with the provisions of the Kansas administrative procedure act.

(b) The license fee for a food vending machine company shall be an amount equal to the product of the total number of food vending machines to be operated and serviced by the food vending machine company during the calendar year, multiplied by \$3, except that no food vending machine shall be included in such total number which is operated and serviced by a state institution or a public school.

(c) Every license issued hereunder shall be displayed conspicuously on the premises of the food vending machine company for which it is issued, and no such license shall be transferable to any other person nor shall such license be valid for the operation and service of any food vending machines other than those specified in the application for a license under subsection (a) or those additional food vending machines for which operation and servicing are authorized pursuant to subsection (f). Whenever any such license is lost, destroyed or mutilated, a duplicate license shall be issued to any otherwise qualified licensee upon application therefor and the payment of a fee in the amount of \$5.

(d) Each licensed food vending machine company shall keep a current record of the location of each food vending machine which such company is licensed to operate and service, and such record shall be available at any reasonable time to the secretary. Each licensed food vending machine company shall cause the name of such company, the service telephone number and such additional information as the secretary may require, to be displayed conspicuously on each food vending machine that such company is licensed to operate and service.

(e) Each licensed food vending machine company shall notify the secretary within 10 days of the brand name and serial number of all food vending machines that become inoperative and are thereafter disposed of by such company or that are obtained by such company for use in addition to those which the food vending machine company is currently licensed to operate and service. Except for food vending machines obtained through isolated or occasional purchases thereof from a licensed food vending machine company, food vending machine companies shall be licensed to operate and service only food vending machines which are obtained from food vending machine dealers licensed pursuant to subsection (g).

(f) Whenever food vending machines are obtained by a licensed food vending machine company which are to be operated and serviced in addition to those currently authorized under the license, such company may apply to the secretary to include such additional machines under the license of such company. Such application shall be in the form prescribed by the secretary and each such application shall specify the brand name and serial number of each such additional machine and shall be accompanied by a fee of \$2 for each such additional machine. Prior to the issuance of such authorization, the secretary shall inspect or cause to be inspected each additional food vending machine to determine that it is in compliance with the applicable food service standards promulgated pursuant to this act. Only such additional machines which are in compliance with such standards shall be included under the license of such company.

(g) It shall be unlawful for any person to engage in business as a food vending machine dealer and to sell food vending machines to food vending machine companies licensed in this state unless such person shall have a valid license therefor issued by the secretary of health and environment. Applications for such licenses shall be on forms prescribed by the secretary and each such application shall be accompanied by the fee prescribed in this subsection. A person without this state may make application to the secretary for a license as a food vending machine dealer and be granted such a license by the secretary and thereafter shall be subject to all of the applicable provisions of this act and entitled to act as a licensed food vending machine dealer in this state, subject however, to such person filing proof with the application to the secretary of health and environ-

ment that such person has appointed the secretary of state of Kansas as agent for receipt of service of process relating to any matter or issue arising under this act. The fee for a food vending machine dealer's license for all or any part of any calendar year shall be \$25.

(h) A licensed food vending machine dealer shall report to the secretary of ~~health and environment~~ *agriculture* on or before the last day of each calendar month all sales of food vending machines made during the preceding month to Kansas vending machine companies, on forms prescribed by such secretary, showing the name and address of the purchaser, brand name and serial number of the machine and its sale price.

Sec. 4. K.S.A. 2007 Supp. 44-322a is hereby amended to read as follows: 44-322a. (a) Whenever a claim for unpaid wages under K.S.A. 44-313 through 44-326, and amendments thereto, is filed with the secretary of labor, the secretary or the secretary's authorized representative shall investigate the claim as provided in K.S.A. 44-322, and amendments thereto, to determine if a dispute exists between the parties to the claim. If the secretary or the secretary's authorized representative determines that a dispute does exist and that the parties are unable to resolve their differences, the secretary or ~~the secretary's authorized representative~~ *a presiding officer from the office of administrative hearings* shall establish a time and place for a hearing on the matter. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Upon the completion of the hearing, the presiding officer shall determine whether the claim for unpaid wages is a valid claim under K.S.A. 44-313 through 44-326 and amendments thereto. If the presiding officer determines the claim for unpaid wages is valid, the amount of unpaid wages owed together with any damages which may be assessed under K.S.A. 44-315, and amendments thereto, if applicable, also shall be determined by the presiding officer. If the presiding officer determines the claim for unpaid wages is valid, the presiding officer shall order that the unpaid wages and any applicable damages be paid by the party responsible for their payment. Any initial order under this section shall be reviewed by the secretary ~~or the secretary's authorized representative~~ in accordance with K.S.A. 77-527 and amendments thereto. The decision of the secretary ~~or the secretary's authorized representative~~ shall be final and the amount of any unpaid wages and applicable damages determined by the secretary ~~or the secretary's authorized representative~~ to be valid shall be due and payable unless judicial review is sought within the time allowed by law.

(c) Any agency action under this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 5. K.S.A. 2007 Supp. 55-193, as amended by section 1 of 2008 House Bill No. 2735, is hereby amended to read as follows: 55-193. On July 15, 1996, and on the 15th day of each calendar quarter thereafter before July 1, 2016, the director of accounts and reports shall transfer \$100,000 from the state general fund, \$100,000 from the state water plan fund established by K.S.A. 82a-951 and amendments thereto and \$100,000 from the conservation fee fund established by K.S.A. 55-143 and amendments thereto to the abandoned oil and gas well fund established by K.S.A. 55-192 and amendments thereto, except that: (a) No transfers shall be made pursuant to this section from the state general fund to the abandoned oil and gas well fund during state fiscal year ~~2008~~ 2009; and (b) the aggregate of the transfers made pursuant to this section from the state water plan fund to the abandoned oil and gas well fund during state fiscal year ~~2008~~ 2009 shall not exceed \$400,000.

Sec. 6. K.S.A. 59-3069 is hereby amended to read as follows: 59-3069. (a) When the court appoints an individual or a corporation as a guardian, the court shall require that the individual or a representative on behalf of the corporation file with the court an oath or affirmation as required by K.S.A. 59-1702, and amendments thereto.

(b) When the court appoints an individual or a corporation as a conservator, except as provided for in subsections (c), (d) or (e), or in K.S.A. 59-3055, and amendments thereto, the court shall require that the individual or a representative on behalf of the corporation file with the court a bond in the amount of 125% of the combined value of the tangible and

intangible personal property in the conservatee's estate and the total of any annual income from any source which the conservator may be expected to receive on behalf of the conservatee, minus any reasonably expected expenses, conditioned upon the faithful discharge of all the duties of the conservator's trust according to law, and with sufficient sureties as the court may determine necessary or appropriate.

(c) When the court appoints an individual or a corporation as a conservator pursuant to a request for a voluntary conservatorship as provided for in K.S.A. 59-3056, and amendments thereto, and the person for whom the voluntary conservatorship is established has requested that the individual or corporation appointed not be required to file a bond, the court may waive the filing of a bond; provided that the court may later require the filing of a bond if circumstances so require.

(d) If, at the time of the appointment of a conservator, there is no property in the possession of the conservatee requiring a conservatorship, but the court finds that there is likely to be such at some point in time, the court may waive the filing of a bond and order that the conservator shall immediately file a report with the court upon either the conservator coming into possession of any property of the conservatee, or if the conservatee becomes entitled to receive any property which the conservator believes should be placed within the conservatorship. Upon the filing of such a report, the court, following any hearing the court may determine appropriate, may require the conservator to file a bond as provided for herein.

(e) If the conservator appointed is the individual or corporation suggested by a testator or settlor as provided for in K.S.A. 59-3054, and amendments thereto, and the testator or settlor has provided by will or trust that no bond should be required of such conservator, the court may waive the filing of a bond; provided that the court may later require the filing of a bond if circumstances so require.

(f) If the conservator is a bank having trust authority or a trust company organized and having its principal place of business within the state of Kansas, the court may waive the filing of a bond.

(g) If the conservator appointed is under contract with the Kansas guardianship program, the department of social and rehabilitation services shall act as surety on the bond. The court shall order that a certified copy of the order appointing a conservator who is under contract with the Kansas guardianship program be sent to the director of the Kansas guardianship program.

(h) If the individual appointed as ~~the~~ guardian or as ~~the~~ conservator, or both, resides outside of Kansas, the court shall require that person, and in the case of a corporation being appointed as ~~the~~ guardian or ~~the~~ conservator, or both, the court shall require a representative of the corporation, to appoint, in writing, a resident agent pursuant to K.S.A. 59-1706, and amendments thereto.

(i) Upon the filing of the required oath or bond, and appointment and consent of a resident agent, the court shall issue letters of guardianship to the guardian or letters of conservatorship to the conservator, or both. The court may order that a certified copy of these letters be sent to such persons or agencies as the court specifies.

(j) *Every individual appointed as guardian or conservator on or after January 1, 2009, shall file with the court evidence of completion of a basic instructional program concerning the duties and responsibilities of a guardian or conservator prior to the issuance of letters of guardianship or conservatorship. The court shall have the authority to require any guardian or conservator appointed prior to January 1, 2009, to complete the basic instructional program and provide evidence thereof to the court. The materials comprising the basic instructional program shall be prepared by the judicial council.*

Sec. 7. K.S.A. 65-1657, as amended by section 2 of 2008 House Bill No. 2207, is hereby amended to read as follows: 65-1657. (a) No nonresident pharmacy shall ship, mail or deliver, in any manner, prescription drugs to a patient in this state unless registered under this section as a nonresident pharmacy. Applications for a nonresident pharmacy registration under this section shall be made on a form furnished by the board. A nonresident pharmacy registration shall be granted for a period of one year upon compliance by the nonresident pharmacy with the provisions

of this section and rules and regulations adopted pursuant to this section and upon payment of the registration fee established under K.S.A. 65-1645, and amendments thereto, for a pharmacy registration. A nonresident pharmacy registration shall be renewed annually on forms provided by the board, upon compliance by the nonresident pharmacy with the provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the renewal fee established under K.S.A. 65-1645, and amendments thereto, for the renewal of a pharmacy registration.

(b) As conditions for the granting of a registration and for the renewal of a registration for a nonresident pharmacy, the nonresident pharmacy shall comply with the following:

(1) Provide information to the board to indicate the person or persons applying for the registration, the location of the pharmacy from which the prescription drugs will be dispensed, the names and titles of all principal owners and corporate officers, if any, and the names of all pharmacists dispensing prescription drugs to residents of Kansas;

(2) be registered and in good standing in the state in which such pharmacy is located;

(3) maintain, in readily retrievable form, records of prescription drugs dispensed to Kansas patients;

(4) supply upon request, all information needed by the board to carry out the board's responsibilities under this section and rules and regulations adopted pursuant to this section;

(5) maintain pharmacy hours that permit the timely dispensing of drugs to Kansas patients and provide reasonable access for the patients to consult with a licensed pharmacist about such patients' medications;

(6) provide toll-free telephone communication consultation between a Kansas patient and a pharmacist at the pharmacy who has access to the patient's records, and ensure that the telephone number(s) will be placed upon the label affixed to each prescription drug container dispensed in Kansas; and

(7) provide to the board such other information as the board may reasonably request to administer the provisions of this section.

(c) *When any nonresident pharmacy fails to supply requested information to the board or fails to respond to proper inquiry of the board, after receiving notice by certified mail, the board may assess a civil fine in accordance with the provisions in K.S.A. 65-1658, and amendments thereto.*

(d) Each nonresident pharmacy shall comply with the following unless compliance would be in conflict with specific laws or rules and regulations of the state in which the pharmacy is located:

(1) All statutory and regulatory requirements of Kansas for controlled substances, including those that are different from federal law;

(2) labeling of all prescriptions dispensed, to include but not be limited to identification of the product and quantity dispensed;

(3) all the statutory and regulatory requirements of Kansas for dispensing prescriptions in accordance with the quantities indicated by the prescriber; and

(4) the Kansas law regarding the maintenance and use of the patient medication profile record system.

~~(d)~~ (e) In addition to subsection ~~(d)~~ (d) requirements, each nonresident pharmacy shall comply with all the statutory and regulatory requirements of Kansas regarding drug product selection laws whether or not such compliance would be in conflict with specific laws or rules and regulations of the state in which the pharmacy is located, except that compliance which constitutes only a minor conflict with specific laws or rules and regulations of the state in which the pharmacy is located would not be required under this subsection.

~~(e)~~ (f) Each nonresident pharmacy shall develop and provide the board with a policy and procedure manual that sets forth:

(1) Normal delivery protocols and times;

(2) the procedure to be followed if the patient's medication is not available at the nonresident pharmacy, or if delivery will be delayed beyond the normal delivery time;

(3) the procedure to be followed upon receipt of a prescription for an acute illness, which policy shall include a procedure for delivery of the medication to the patient from the nonresident pharmacy at the earliest

possible time, or an alternative that assures the patient the opportunity to obtain the medication at the earliest possible time; and

(4) the procedure to be followed when the nonresident pharmacy is advised that the patient's medication has not been received within the normal delivery time and that the patient is out of medication and requires interim dosage until mailed prescription drugs become available.

~~(f)~~ (g) Except in emergencies that constitute an immediate threat to the public health and require prompt action by the board, the board may file a complaint against any nonresident pharmacy that violates any provision of this section. This complaint shall be filed with the regulatory or licensing agency of the state in which the nonresident pharmacy is located. If the regulatory or licensing agency of the state in which the nonresident pharmacy is located fails to resolve the violation complained of within a reasonable time, not less than 180 days from the date that the complaint is filed, disciplinary proceedings may be initiated by the board. The board also may initiate disciplinary actions against a nonresident pharmacy if the regulatory or licensing agency of the state in which the nonresident pharmacy is located lacks or fails to exercise jurisdiction.

~~(g)~~ (h) The board shall adopt rules and regulations that make exceptions to the requirement of registration by a nonresident pharmacy when the out-of-state pharmacy supplies lawful refills to a patient from a prescription that was originally filled and delivered to a patient within the state in which the nonresident pharmacy is located, or when the prescriptions being mailed into the state of Kansas by a nonresident pharmacy occurs only in isolated transactions. In determining whether the prescriptions being mailed into the state of Kansas by a nonresident pharmacy are isolated transactions, the board shall consider whether the pharmacy has promoted its services in this state and whether the pharmacy has a contract with any employer or organization to provide pharmacy services to employees or other beneficiaries in this state.

~~(h)~~ (i) It is unlawful for any nonresident pharmacy which is not registered under this act to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of a nonresident pharmacy which has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

~~(i)~~ (j) Upon request of the board, the attorney general may bring an action in a court of competent jurisdiction for injunctive relief to restrain a violation of the provisions of this section or any rules and regulations adopted by the board under authority of this section. The remedy provided under this subsection shall be in addition to any other remedy provided under this section or under the pharmacy act of the state of Kansas.

~~(j)~~ (k) The board may adopt rules and regulations as necessary and as are consistent with this section to carry out the provisions of this section.

~~(k)~~ (l) The executive secretary of the board shall remit all moneys received from fees under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the manner specified under K.S.A. 74-1609, and amendments thereto.

~~(l)~~ (m) A violation of this section is a severity level 10, nonperson felony.

~~(m)~~ (n) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 8. K.S.A. 2007 Supp. 75-4209, as amended by Section 9 of 2008 House Substitute for Senate Bill No. 387, is hereby amended to read as follows: 75-4209. (a) The director of investments may invest and reinvest state moneys eligible for investment which are not invested in accordance with K.S.A. 75-4237, and amendments thereto, in the following investments:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of the United States sponsored enterprises which under federal law may be accepted as security for public funds, on and after the effective date of this act moneys available for investment

under this subsection shall not be invested in mortgage-backed securities of such enterprises and of the government national mortgage association, except that any such mortgage-backed securities held prior to the effective date of this act may be held to maturity;

(2) repurchase agreements with a bank or a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds;

(3) commercial paper that does not exceed 270 days to maturity and which has received one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm; *and*

(4) *corporate bonds which have received one of the two highest ratings by a nationally recognized investment rating firm.*

(b) When moneys are available for deposit or investments, the director of investments may invest in SKILL act projects and bonds pursuant to K.S.A. 74-8920, and amendments thereto, and in state agency bonds and bond projects.

(c) When moneys are available for deposits or investments, the director of investments may invest in preferred stock of Kansas venture capital, inc., under terms and conditions prescribed by K.S.A. 74-8203, and amendments thereto, but such investments shall not in the aggregate exceed a total amount of \$10,000,000.

(d) When moneys are available for deposits or investments, the director of investments may invest in loans pursuant to legislative mandates, except that not more than the lesser of 10% or \$140,000,000 of the state moneys shall be invested.

(e) Interest on investment accounts in banks is to be paid at maturity, but not less than annually.

(f) Investments made by the director of investments under the provisions of this section shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(g) Investments under subsection (a) or (b) or under K.S.A. 75-4237, and amendments thereto, shall be for a period not to exceed four years, except that linked deposits authorized under the provisions of K.S.A. 2-3703 through 2-3707, and amendments thereto, shall not exceed a period of 10 years; agricultural production loan deposits authorized under the provisions of K.S.A. 2007 Supp. 75-4268 through 75-4274, and amendments thereto, shall not exceed a period of eight years and housing loan deposits authorized under sections 2 through 7 of *2008 House Substitute for Senate Bill No. 387*, and amendments thereto, shall not exceed a period of five years.

(h) Investments in securities under paragraph (1) of subsection (a) shall be limited to securities which do not have any more interest rate risk than do direct United States government obligations of similar maturities. For purposes of this subsection, “interest rate risk” means market value changes due to changes in current interest rates.

(i) The director of investments shall not invest state moneys eligible for investment under subsection (a), in the municipal investment pool fund, created under K.S.A. 12-1677a, and amendments thereto.

(j) The director of investments shall not invest moneys in the pooled money investment portfolio in derivatives. As used in this subsection, “derivatives” means a financial contract whose value depends on the value of an underlying asset or index of asset values.

(k) Moneys and investments in the pooled money investment portfolio shall be invested and reinvested by the director of investments in accordance with investment policies developed, approved, published and updated on an annual basis by the board. Such investment policies shall include at a minimum guidelines which identify credit standards, eligible instruments, allowable maturity ranges, methods for valuing the portfolio, calculating earnings and yields and limits on portfolio concentration for each type of investment. Any changes in such investment policies shall be approved by the pooled money investment board. Such investment

policies may specify the contents of reports, methods of crediting funds and accounts and other operating procedures.

(l) The board shall adopt rules and regulations to establish an overall percentage limitation on the investment of moneys in investments authorized under paragraph (3) of subsection (a), and within such authorized investment, the board shall establish a percentage limitation on the investment in any single business entity.

Sec. 9. K.S.A. 21-3110, 21-3110b, 59-3069, 59-3069, as amended by section 9 of 2008 House Bill No. 2644, 65-1657, as amended by section 2 of 2008 House Bill No. 2207, 65-1657, as amended by section 17 of 2008 Senate Bill No. 491, and 65-4603 and K.S.A. 2007 Supp. 8-2110, as amended by section 1 of 2008 Senate Bill No. 366, 8-2110, as amended by section 3 of 2008 House Bill No. 2968, 44-322a, 44-322a, as amended by section 14 of chapter 145 of the 2004 Session Laws of Kansas, 55-193, as amended by section 1 of 2008 House Bill No. 2735, 55-193, as amended by section 166 of 2008 Senate Bill No. 534, 72-6624a, 72-6625a, 75-4209, as amended by section 9 of 2008 House Substitute for Senate Bill No. 387, and 75-4209, as amended by section 1 of 2008 Senate Bill No. 472, are hereby repealed.

Sec. 10. On and after October 1, 2008, K.S.A. 36-504, as amended by section 5 of 2008 Senate Bill No. 557 and 36-504, as amended by section 13 of 2008 Senate Bill No. 584, are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.