

By the Committee on Health, Aging, and Long-Term Care; and
Senator Crist

317-2041-03

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A bill to be entitled
An act relating to pharmacy; creating s.
465.0158, F.S.; requiring an on-line pharmacy
to have a written prescription from a
practitioner licensed by this state before
selling or dispensing a controlled substance to
a person residing in this state; providing for
facsimile transmission and verification of such
prescription; amending s. 499.01, F.S.;
requiring on-line pharmacies to obtain a permit
to operate under pt. I of ch. 499, F.S., the
Florida Drug and Cosmetic Act; amending s.
499.081, F.S.; providing that on-line
pharmacies are not carriers exempt from pt. I
of ch. 499, F.S.; providing an effective date.

WHEREAS, medicinal drugs, including controlled
substances, are being provided to the public through on-line
pharmacies without consultation of or prescription by a
physician the patient has seen in person, and

WHEREAS, drugs provided on-line without consultation
with or prescription by a physician in person may be
inappropriate for the patient and potentially deadly, and

WHEREAS, drugs provided through on-line pharmacies may
endanger those persons who are addicted or disposed to
addiction to drugs by giving them easy access to those drugs
to further their addiction, and

WHEREAS, drugs provided through on-line pharmacies may
be obtained in quantities large enough to be used for illicit
sale in circumvention of drug abuse laws, and

1 WHEREAS, as a result, the state has a compelling
2 interest in placing reasonable limitations on on-line
3 pharmacies to protect the health, safety, and welfare of the
4 public, NOW, THEREFORE,

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6 Be It Enacted by the Legislature of the State of Florida:

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8 Section 1. Section 465.0158, Florida Statutes, is
9 created to read:

10 465.0158 On-line pharmacies; dispensing of controlled
11 substances.--An on-line pharmacy may not sell or dispense a
12 controlled substance, as defined in s. 893.02, to a person
13 residing in this state without having a written prescription
14 for that substance provided by a practitioner as defined in s.
15 893.02. The prescription may be provided by facsimile
16 transmission, if confirmed at the time by audio communication
17 of the prescribing physician via telephonic, electronic, or
18 similar means.

19 Section 2. Paragraph (d) of subsection (1) of section
20 499.01, Florida Statutes, is amended to read:

21 499.01 Permits; applications; renewal; general
22 requirements.--

23 (1) Any person that is required under ss.
24 499.001-499.081 to have a permit must apply to the department
25 on forms furnished by the department.

26 (d) A permit is required for each establishment that
27 operates as a:

- 28 1. Prescription drug manufacturer;
- 29 2. Over-the-counter drug manufacturer;
- 30 3. Compressed medical gas manufacturer;
- 31 4. Device manufacturer;

- 1 5. Cosmetic manufacturer;
- 2 6. Prescription drug wholesaler;
- 3 7. Compressed medical gas wholesaler;
- 4 8. Out-of-state prescription drug wholesaler;
- 5 9. Retail pharmacy drug wholesaler;
- 6 10. Veterinary legend drug retail establishment;
- 7 11. Medical oxygen retail establishment;
- 8 12. Complimentary drug distributor; ~~or~~
- 9 13. Restricted prescription drug distributor; or
- 10 14. On-line pharmacy.

11 Section 3. Section 499.081, Florida Statutes, is
12 amended to read:

13 499.081 Carriers in interstate commerce exempted from
14 ss. 499.001-499.081.--Carriers engaged in interstate commerce
15 are not subject to ss. 499.001-499.081 if they are engaged in
16 the usual course of business as carriers. An on-line pharmacy
17 may not be considered a carrier for purposes of this section.

18 Section 4. This act shall take effect upon becoming a
19 law.

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21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 2310

24 The committee substitute expands the types of practitioners
25 who may provide a written prescription from an on-line
26 pharmacy from Florida-licensed medical or osteopathic
27 physicians to any "practitioner" as defined in section 893.02,
28 F.S. Section 893.02, F.S., defines "practitioner" to mean a
29 Florida-licensed medical physician, dentist, veterinarian,
30 osteopathic physician, naturopathic physician, or podiatrist,
31 if such practitioner holds a valid federal controlled
substance registry number.