

65-1643. Registration or permit required; pharmacies, manufacturers, wholesalers, auctions, sales, distribution or dispensing of samples, retailers, institutional drug rooms, veterinary medical teaching hospital pharmacies; certain acts declared unlawful. It shall be unlawful:

- (a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; and (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.
- (b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.
- (c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.
- (d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale.
- (e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.
- (f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection (dd) of K.S.A. 65-1626, and amendments thereto, for the designation of a pharmacy or drugstore.
- (g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.
- (h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a, and amendments thereto and any rules and regulations adopted pursuant thereto.
- (i) For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662, and amendments thereto and any rules and regulations adopted pursuant thereto.
- (j) For any person to sell or distribute in a pharmacy a controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, unless:
- (1)(A) Such controlled substance is sold or distributed by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or clerk supervised by a licensed pharmacist;
 - (B) any person purchasing, receiving or otherwise acquiring any such controlled substance produces a photo identification showing the date of birth of the person and signs a log and enters in the log, or allows the seller to enter in the log, such person's address and the date and time of sale or allows the seller to enter such information into an electronic logging system pursuant to K.S.A. 2016 Supp. 65-16,102, and amendments thereto. The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer;
 - (C) the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and
 - (D) the seller enters in the log the name of the controlled substance and the quantity sold; or
- (2) there is a lawful prescription.
- (k) For any pharmacy to allow customers to have direct access to any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto. Such controlled substance shall be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.
- (l) A seller who in good faith releases information in a log pursuant to subsection (j) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.
- (m) For any person to sell or lease or offer for sale or lease durable medical equipment without first obtaining a registration from the board, in accordance with rules and regulations adopted by the board, except that this subsection shall not apply to:
- (1) Sales not made in the regular course of the person's business; or
 - (2) sales by charitable organizations exempt from federal income taxation pursuant to the internal revenue code of 1986, as amended.

History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 263, § 7; L. 1983, ch. 210, § 2; L. 1986, ch. 231, § 29; L. 1997, ch. 112, § 3; L. 1997, ch. 184, § 2; L. 1999, ch. 38, § 5; L. 1999, ch. 149, § 8; L. 2000, ch. 89, § 2; L. 2005, ch. 153, § 1; L. 2007, ch. 169, § 11; L. 2009, ch. 131, § 9; L. 2014, ch. 49, § 4; July 1.

Revisor's Note:

Section was amended twice in the 2007 session, see also 65-1643b.

Section was amended twice in the 2009 session, see also 65-1643c.