

315.320 Illegal operation of out-of-state pharmacy -- Exemption for lapsed license or permit -- Penalty -- Exceptions from section.

- (1) A person or pharmacy is guilty of a Class C felony if the person or pharmacy, located inside or outside this Commonwealth, is not licensed by the Commonwealth of Kentucky to engage in the practice of pharmacy and knowingly:
 - (a) Communicates with a person in this Commonwealth; and
 - (b) Uses or attempts to use such communication or information, in whole, or in part, to:
 1. Fill or refill a prescription for a prescription drug for the other person; or
 2. Deliver, cause, allow, or aid in the delivery of a controlled substance, imitation controlled substance, counterfeit substance or prescription drug to the other person.
- (2) A person or pharmacy is guilty of a Class B felony if the substance or drug dispensed in subsection (1) of this section:
 - (a) Is classified in Schedule I; or
 - (b) Proximately causes serious physical injury or the death of the intended recipient of the substance or drug or any other person.
- (3) The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection (2) of this section.
- (4) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (1) of this section is guilty of a Class C felony.
- (5) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (2) of this section is guilty of a Class B felony.
- (6) A person or pharmacy may be prosecuted, convicted, and punished for a violation of this section whether or not the person is prosecuted, convicted, or punished for a violation of any other statute based upon the same act or transaction.
- (7) This section shall not apply to a licensed pharmacist or permitted pharmacy that inadvertently allows its license or permit issued by the Kentucky Board of Pharmacy to lapse for a period of less than thirty (30) days.
- (8) This section shall not apply to authorized agents of a pharmacy with a valid permit issued by the Kentucky Board of Pharmacy.
- (9) This section shall not apply to an authorized agent of a pharmacy that inadvertently allows its permit issued by the Kentucky Board of Pharmacy, to lapse for a period of less than thirty (30) days.
- (10) Unless a more specific penalty applies within this chapter, anyone who uses the Internet to communicate and facilitate the sale of controlled substances, except as specifically provided for in this chapter, may be prosecuted under KRS Chapter 218A.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 124, sec. 11, effective June 26, 2007. -- Created 2005 Ky. Acts ch. 150, sec. 14, effective June 20, 2005.