

**As Passed by the Senate**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Sub. H. B. No. 64**

**Representatives Faber, McGregor, Seitz, J. Stewart, Allen, Redfern, Wagner,  
D. Stewart, Distel, Barrett, Beatty, Carano, Chandler, Cirelli, DeBose,  
C. Evans, D. Evans, Gilb, Grendell, Hartnett, Hughes, Jolivette, Latta,  
Otterman, S. Patton, Reidelbach, Schlichter, Schmidt, Seaver, Setzer,  
Strahorn, Willamowski, Yates, Young  
Senators Nein, Austria, Harris, Padgett, Hottinger, Mumper**

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**A B I L L**

To amend section 4729.51 of the Revised Code to allow 1  
the sale of oxygen to an individual who holds a 2  
valid certificate from a nationally recognized 3  
S.C.U.B.A. diving school. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 4729.51 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 4729.51.** (A) No person other than a registered wholesale 7  
distributor of dangerous drugs shall possess for sale, sell, 8  
distribute, or deliver, at wholesale, dangerous drugs, except as 9  
follows: 10

(1) A pharmacist who is a licensed terminal distributor of 11  
dangerous drugs or who is employed by a licensed terminal 12  
distributor of dangerous drugs may make occasional sales of 13  
dangerous drugs at wholesale; 14

(2) A licensed terminal distributor of dangerous drugs having 15  
more than one establishment or place may transfer or deliver 16  
dangerous drugs from one establishment or place for which a 17  
license has been issued to the terminal distributor to another 18  
establishment or place for which a license has been issued to the 19  
terminal distributor if the license issued for each establishment 20  
or place is in effect at the time of the transfer or delivery. 21

(B)(1) No registered wholesale distributor of dangerous drugs 22  
shall possess for sale, or sell, at wholesale, dangerous drugs to 23  
any person other than the following: 24

(a) A licensed health professional authorized to prescribe 25  
drugs; 26

(b) An optometrist licensed under Chapter 4725. of the 27  
Revised Code who holds a topical ocular pharmaceutical agents 28  
certificate; 29

(c) A registered wholesale distributor of dangerous ~~drug~~ 30  
drugs; 31

(d) A manufacturer of dangerous drugs; 32

(e) A licensed terminal distributor of dangerous drugs, 33  
subject to division (B)(2) of this section; 34

(f) Carriers or warehousemen for the purpose of carriage or 35  
storage; 36

(g) Terminal or wholesale ~~distribution~~ distributors of 37  
dangerous ~~drug~~ drugs who are not engaged in the sale of dangerous 38  
drugs within this state; 39

(h) An individual who holds a current license, certificate, 40  
or registration issued under Title 47 of the Revised Code and has 41  
been certified to conduct diabetes education by a national 42  
certifying body specified in rules adopted by the state board of 43  
pharmacy under section 4729.68 of the Revised Code, but only with 44

respect to insulin that will be used for the purpose of diabetes 45  
education and only if diabetes education is within the 46  
individual's scope of practice under statutes and rules regulating 47  
the individual's profession; 48

(i) An individual who holds a valid certificate issued by a 49  
nationally recognized S.C.U.B.A. diving certifying organization 50  
approved by the pharmacy board in rule, but only with respect to 51  
medical oxygen that will be used for the purpose of emergency care 52  
or treatment at the scene of a diving emergency. 53

(2) No registered wholesale distributor of dangerous drugs 54  
shall possess dangerous drugs for sale at wholesale, or sell such 55  
drugs at wholesale, to a licensed terminal distributor of 56  
dangerous drugs, except to: 57

(a) A terminal distributor who has a category I license, only 58  
dangerous drugs described in category I, as defined in division 59  
(A)(1) of section 4729.54 of the Revised Code; 60

(b) A terminal distributor who has a category II license, 61  
only dangerous drugs described in category I and category II, as 62  
defined in divisions (A)(1) and (2) of section 4729.54 of the 63  
Revised Code; 64

(c) A terminal distributor who has a category III license, 65  
dangerous drugs described in category I, category II, and category 66  
III, as defined in divisions (A)(1), (2), and (3) of section 67  
4729.54 of the Revised Code; 68

(d) A terminal distributor who has a limited category I, II, 69  
or III license, only the dangerous drugs specified in the 70  
certificate furnished by the terminal distributor in accordance 71  
with section 4729.60 of the Revised Code. 72

(C)(1) Except as provided in division (C)(4) of this section, 73  
no person shall sell, at retail, dangerous drugs. 74

(2) Except as provided in division (C)(4) of this section, no person shall possess for sale, at retail, dangerous drugs. 75  
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(3) Except as provided in division (C)(4) of this section, no person shall possess dangerous drugs. 77  
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(4) Divisions (C)(1), (2), and (3) of this section do not apply to a registered wholesale distributor of dangerous drugs, a licensed terminal distributor of dangerous drugs, or a person who possesses, or possesses for sale or sells, at retail, a dangerous drug in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4731., and 4741. of the Revised Code. 79  
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Divisions (C)(1), (2), and (3) of this section do not apply to an individual who holds a current license, certificate, or registration issued under Title XLVII of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only to the extent that the individual possesses insulin or personally supplies insulin solely for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession. 85  
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Divisions (C)(1), (2), and (3) of this section do not apply to an individual who holds a valid certificate issued by a nationally recognized S.C.U.B.A. diving certifying organization approved by the pharmacy board in rule, but only to the extent that the individual possesses medical oxygen or personally supplies medical oxygen for the purpose of emergency care or treatment at the scene of a diving emergency. 96  
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(D) No licensed terminal distributor of dangerous drugs shall purchase for the purpose of resale dangerous drugs from any person other than a registered wholesale distributor of dangerous drugs, 103  
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except as follows: 106

(1) A licensed terminal distributor of dangerous drugs may 107  
make occasional purchases of dangerous drugs for resale from a 108  
pharmacist who is a licensed terminal distributor of dangerous 109  
drugs or who is employed by a licensed terminal distributor of 110  
dangerous drugs; 111

(2) A licensed terminal distributor of dangerous drugs having 112  
more than one establishment or place may transfer or receive 113  
dangerous drugs from one establishment or place for which a 114  
license has been issued to the terminal distributor to another 115  
establishment or place for which a license has been issued to the 116  
terminal distributor if the license issued for each establishment 117  
or place is in effect at the time of the transfer or receipt. 118

(E) No licensed terminal distributor of dangerous drugs shall 119  
engage in the sale or other distribution of dangerous drugs at 120  
retail or maintain possession, custody, or control of dangerous 121  
drugs for any purpose other than the distributor's personal use or 122  
consumption, at any establishment or place other than that or 123  
those described in the license issued by the board of pharmacy to 124  
such terminal distributor. 125

(F) Nothing in this section shall be construed to interfere 126  
with the performance of official duties by any law enforcement 127  
official authorized by municipal, county, state, or federal law to 128  
collect samples of any drug, regardless of its nature or in whose 129  
possession it may be. 130

**Section 2.** That existing section 4729.51 of the Revised Code 131  
is hereby repealed. 132