

Senator Scott K. Jenkins proposes the following substitute bill:

SHELTER ANIMAL VACCINE AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Richard A. Greenwood

LONG TITLE

General Description:

This bill amends the Veterinary Practice Act.

Highlighted Provisions:

This bill:

▶ exempts an employee of an animal shelter, from the requirement to be licensed as a veterinarian for the purpose of administering a rabies vaccination to a shelter animal; and

▶ exempts an animal shelter operating under the indirect supervision of a veterinarian from the requirement to obtain a license as a pharmacy for purposes of handling, storing, and administering a rabies vaccination, or a drug used for purposes of animal euthanasia.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-309, as last amended by Laws of Utah 2013, Chapter 278



26 **58-28-307**, as last amended by Laws of Utah 2013, Chapter 278



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **58-17b-309** is amended to read:

30 **58-17b-309. Exemptions from licensure.**

31 (1) For purposes of this section:

32 (a) "Cosmetic drug":

33 (i) means a prescription drug that is:

34 (A) for the purpose of promoting attractiveness or altering the appearance of an
35 individual; and

36 (B) listed as a cosmetic drug subject to the exemption under this section by the division
37 by administrative rule or has been expressly approved for online dispensing, whether or not it is
38 dispensed online or through a physician's office; and

39 (ii) does not include a prescription drug that is:

40 (A) a controlled substance;

41 (B) compounded by the physician; or

42 (C) prescribed or used for the patient for the purpose of diagnosing, curing, or
43 preventing a disease.

44 (b) "Injectable weight loss drug":

45 (i) means an injectable prescription drug:

46 (A) prescribed to promote weight loss; and

47 (B) listed as an injectable prescription drug subject to exemption under this section by
48 the division by administrative rule; and

49 (ii) does not include a prescription drug that is a controlled substance.

50 (c) "Prescribing practitioner" means an individual licensed under:

51 (i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with
52 prescriptive practice;

53 (ii) Chapter 67, Utah Medical Practice Act;

54 (iii) Chapter 68, Utah Osteopathic Medical Practice Act; or

55 (iv) Chapter 70a, Physician Assistant Act.

56 (2) In addition to the exemptions from licensure in Sections **58-1-307** and

57 [58-17b-309.5](#), the following individuals may engage in the acts or practices described in this
58 section without being licensed under this chapter:

59 (a) if the individual is described in Subsections (2)(b), (d), or (e), the individual
60 notifies the division in writing of the individual's intent to dispense a drug under this
61 subsection;

62 (b) a person selling or providing contact lenses in accordance with Section [58-16a-801](#);

63 (c) an individual engaging in the practice of pharmacy technician under the direct
64 personal supervision of a pharmacist while making satisfactory progress in an approved
65 program as defined in division rule;

66 (d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an
67 injectable weight loss drug to the prescribing practitioner's patient in accordance with
68 Subsection (4); [or]

69 (e) an optometrist, as defined in Section [58-16a-102](#), acting within the optometrist's
70 scope of practice as defined in Section [58-16a-601](#), who prescribes and dispenses a cosmetic
71 drug to the optometrist's patient in accordance with Subsection (4)[-]; and

72 (f) an animal shelter that, in accordance with Section [58-28-307](#) and under the indirect
73 supervision of a veterinarian, stores, handles, or administers a rabies vaccine or a drug used for
74 ethanising an animal:

75 (3) In accordance with Subsection [58-1-303](#)(1)(a), an individual exempt under
76 Subsection (2)(c) must take all examinations as required by division rule following completion
77 of an approved curriculum of education, within the required time frame. This exemption
78 expires immediately upon notification of a failing score of an examination, and the individual
79 may not continue working as a pharmacy technician even under direct supervision.

80 (4) A prescribing practitioner or optometrist is exempt from licensing under the
81 provisions of this part if the prescribing practitioner or optometrist:

82 (a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has the
83 authority to dispense under Subsection (4)(b); and

84 (ii) informs the patient:

85 (A) that the prescription may be filled at a pharmacy or dispensed in the prescribing
86 practitioner's or optometrist's office;

87 (B) of the directions for appropriate use of the drug;

88 (C) of potential side-effects to the use of the drug; and

89 (D) how to contact the prescribing practitioner or optometrist if the patient has

90 questions or concerns regarding the drug;

91 (b) dispenses a cosmetic drug or injectable weight loss drug only to the prescribing
92 practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's
93 patients;

94 (c) follows labeling, record keeping, patient counseling, storage, purchasing and
95 distribution, operating, treatment, and quality of care requirements established by
96 administrative rule adopted by the division in consultation with the boards listed in Subsection
97 (5)(a); and

98 (d) follows USP-NF 797 standards for sterile compounding if the drug dispensed to
99 patients is reconstituted or compounded.

100 (5) (a) The division, in consultation with the board under this chapter and the relevant
101 professional board, including the Physician Licensing Board, the Osteopathic Physician
102 Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the
103 Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board,
104 shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative
105 Rulemaking Act to designate:

106 (i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug
107 under this section; and

108 (ii) the requirements under Subsection (4)(c).

109 (b) When making a determination under Subsection (1)(a), the division and boards
110 listed in Subsection (5)(a) may consider any federal Food and Drug Administration indications
111 or approval associated with a drug when adopting a rule to designate a prescription drug that
112 may be dispensed under this section.

113 (c) The division may inspect the office of a prescribing practitioner or optometrist who
114 is dispensing under the provisions of this section, in order to determine whether the prescribing
115 practitioner or optometrist is in compliance with the provisions of this section. If a prescribing
116 practitioner or optometrist chooses to dispense under the provisions of this section, the
117 prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the
118 prescribing practitioner's or optometrist's office and determine if the provisions of this section

119 are being met by the prescribing practitioner or optometrist.

120 (d) If a prescribing practitioner or optometrist violates a provision of this section, the
121 prescribing practitioner or optometrist may be subject to discipline under:

122 (i) this chapter; and

123 (ii) (A) Chapter 16a, Utah Optometry Practice Act;

124 (B) Chapter 31b, Nurse Practice Act;

125 (C) Chapter 67, Utah Medical Practice Act;

126 (D) Chapter 68, Utah Osteopathic Medical Practice Act;

127 (E) Chapter 70a, Physician Assistant Act; or

128 (F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.

129 (6) Except as provided in Subsection (2)(e), this section does not restrict or limit the
130 scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah
131 Optometry Practice Act.

132 Section 2. Section **58-28-307** is amended to read:

133 **58-28-307. Exemptions from chapter.**

134 In addition to the exemptions from licensure in Section [58-1-307](#) this chapter does not
135 apply to:

136 (1) any person who practices veterinary medicine, surgery, or dentistry upon any
137 animal owned by him, and the employee of that person when the practice is upon an animal
138 owned by his employer, and incidental to his employment, except:

139 (a) this exemption does not apply to any person, or his employee, when the ownership
140 of an animal was acquired for the purpose of circumventing this chapter; and

141 (b) this exemption does not apply to the administration, dispensing, or prescribing of a
142 prescription drug, or nonprescription drug intended for off label use, unless the administration,
143 dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient
144 relationship;

145 (2) any person who as a student at a veterinary college approved by the board engages
146 in the practice of veterinary medicine, surgery, and dentistry as part of his academic training
147 and under the direct supervision and control of a licensed veterinarian, if that practice is during
148 the last two years of the college course of instruction and does not exceed an 18-month
149 duration;

150 (3) a veterinarian who is an officer or employee of the government of the United
151 States, or the state, or its political subdivisions, and technicians under his supervision, while
152 engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

153 (4) any person while engaged in the vaccination of poultry, pullorum testing, typhoid
154 testing of poultry, and related poultry disease control activity;

155 (5) any person who is engaged in bona fide and legitimate medical, dental,
156 pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or
157 dentistry is directly related to, and a necessary part of, that research;

158 (6) veterinarians licensed under the laws of another state rendering professional
159 services in association with licensed veterinarians of this state for a period not to exceed 90
160 days;

161 (7) registered pharmacists of this state engaged in the sale of veterinary supplies,
162 instruments, and medicines, if the sale is at his regular place of business;

163 (8) any person in this state engaged in the sale of veterinary supplies, instruments, and
164 medicines, except prescription drugs which must be sold in compliance with state and federal
165 regulations, if the supplies, instruments, and medicines are sold in original packages bearing
166 adequate identification and directions for application and administration and the sale is made in
167 the regular course of, and at the regular place of business;

168 (9) any person rendering emergency first aid to animals in those areas where a licensed
169 veterinarian is not available, and if suspicious reportable diseases are reported immediately to
170 the state veterinarian;

171 (10) any person performing or teaching nonsurgical bovine artificial insemination;

172 (11) any person affiliated with an institution of higher education who teaches
173 nonsurgical bovine embryo transfer or any technician trained by or approved by an institution
174 of higher education who performs nonsurgical bovine embryo transfer, but only if any
175 prescription drug used in the procedure is prescribed and administered under the direction of a
176 veterinarian licensed to practice in Utah;

177 (12) (a) upon written referral by a licensed veterinarian, the practice of animal
178 chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician
179 Practice Act, who has completed an animal chiropractic course approved by the American
180 Veterinary Chiropractic Association or the division;

181 (b) upon written referral by a licensed veterinarian, the practice of animal physical
182 therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who
183 has completed at least 100 hours of animal physical therapy training, including quadruped
184 anatomy and hands-on training, approved by the division;

185 (c) upon written referral by a licensed veterinarian, the practice of animal massage
186 therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act,
187 who has completed at least 60 hours of animal massage therapy training, including quadruped
188 anatomy and hands-on training, approved by the division; and

189 (d) upon written referral by a licensed veterinarian, the practice of acupuncture by an
190 acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a
191 course of study on animal acupuncture approved by the division;

192 (13) unlicensed assistive personnel performing duties appropriately delegated to the
193 unlicensed assistive personnel in accordance with Section [58-28-502](#);

194 (14) an animal shelter employee who is:

195 (a) (i) acting under the indirect supervision of a licensed veterinarian; and

196 [~~(b)~~] (ii) (A) performing animal euthanasia in the course and scope of employment;

197 [~~and~~] or

198 (B) administering a rabies vaccine to a shelter animal in accordance with the
199 Compendium of Animal Rabies Prevention and Control; and

200 (15) an individual providing appropriate training for animals; however, this exception
201 does not include diagnosing any medical condition, or prescribing or dispensing any
202 prescription drugs or therapeutics.