

Assembly Bill No. 611

CHAPTER 350

An act to amend Sections 4050.6, 4080, 4080.1, 4080.2, 4080.3, 4081, 4227, 4231, 4232, 4330, and 4416 of, and to add Sections 4034.6, 4035.5, 4050.9, 4133, 4134, 4134.5, 4386.2, and 4387.2 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor August 3, 1995. Filed with
Secretary of State August 4, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 611, Aguiar. Pharmacy.

Existing law, the Pharmacy Law, regulates the licensure of pharmacies and medical device retailers and includes provisions requiring, among other things, that certificates, licenses, permits, or registrations for these businesses be obtained by, and renewed by persons conducting these businesses in compliance with certain application procedures. Existing law requires the State Board of Pharmacy to issue temporary permits upon conditions determined by the board when the ownership of these businesses is transferred and authorizes the board to, under certain circumstances, void the licenses of these businesses and obtain a court order authorizing the board to enter the premises of these businesses and arrange for the transfer or sale of dangerous drugs, controlled substances, or dangerous devices found therein.

This bill would make various of these provisions regulating pharmacies and medical device retailers also applicable to veterinary food-animal drug retailers, as defined, and would make a technical change.

Existing law provides that a dangerous drug, as defined, does not include a veterinary drug that is labeled as a veterinary drug.

This bill would, notwithstanding this provision, provide that veterinary food-animal drugs include any dangerous drug to be used in food-producing animals that can be furnished only pursuant to certain requirements, or are livestock drugs that are used in a manner that would require a prescription.

This bill would provide that only certain authorized persons would be permitted to be in an area or premises where veterinary food-animal drugs are stored.

Existing law provides that it is unlawful for a person to, among other things, manufacture or sell a dangerous drug or device unless he or she is a registered pharmacist, establishes certain exceptions to

this prohibition, and requires those applying for an exemption to pay a certain fee to the executive officer of the board.

This bill would provide an exception to this requirement for veterinary food-animal drug retailers who sell or dispense veterinary food-animal drugs for food-producing animals based on certain criteria, and would also require those applying for the exemption to pay certain fees. By providing for the deposit of additional moneys in the Pharmacy Board Contingent Fund, a continuously appropriated fund, this bill would make an appropriation.

The bill would establish minimum standards for veterinary food-animal drug retailers, and would require them to establish written policies and procedures regarding certain information. The bill would also require a consulting pharmacist to be retained to review the policies and procedures of the veterinary food-animal drug retailer, and to certify at least twice a year whether the retailer is in compliance with the requirements of the Pharmacy Law. It would require the veterinary food-animal drug retailer to submit the most recent certification with the annual renewal licensure application.

Existing law provides that a person may furnish a dangerous drug or device only pursuant to an authorized prescription and requires that the stock and records regarding dangerous drugs or devices belonging to, among others, manufacturers, wholesalers, and pharmacies, be open for inspection by authorized officers of the law during business hours, and requires those persons responsible for the dangerous drugs or devices to furnish specified information to the law officer, upon request.

This bill would apply these requirements to veterinary food-animal drug retailers.

The bill would make it a misdemeanor to obtain a license, certificate, permit, or registration as a veterinary food-animal drug retailer and fail to place certain authorized persons in charge, or to take charge of a veterinary food-animal drug retailer or dispense a prescription as a veterinary food-animal drug retailer without proper authorization.

Existing law provides for various fees and other moneys collected on behalf of the board in connection with the licensure of wholesalers of dangerous drugs, pharmacies, and medical device retailers to be credited to the Pharmacy Board Contingent Fund. Existing law continuously appropriates the moneys in the Pharmacy Board Contingent Fund.

The bill would establish the initial fee for a veterinary food-animal drug retailer certificate, license, permit, or registration at \$400. It would establish the renewal fee at \$250.

By providing for the licensure of veterinary food-animal drug retailers and the corresponding collection and deposit of fees and



other moneys in the Pharmacy Board Contingent Fund, this bill would make an appropriation.

By applying licensure requirements to veterinary food-animal drug retailers, and requiring compliance by veterinary food-animal drug retailers with the provisions of the Pharmacy Law governing pharmacies and medical device retailers, this bill would change the definition of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 4034.6 is added to the Business and Professions Code, to read:

4034.6. (a) “Veterinary food-animal drug retailer” is an area, place, or premises, other than a pharmacy, that holds a valid certificate, license, permit, or registration from the Board of Pharmacy as a wholesaler and, in and from which veterinary drugs for food-producing animals are dispensed pursuant to a prescription from a licensed veterinarian. “Veterinary food-animal drug retailer” includes, but is not limited to, any area, place, or premises described in a permit issued by the board wherein veterinary food-animal drugs, as defined, are stored, possessed, or repackaged, and from which veterinary drugs are furnished, sold, or dispensed at retail pursuant to a prescription from a licensed veterinarian.

(b) “Veterinary food-animal drugs” as used in this chapter shall include the following:

(1) Any drug to be used in food-producing animals bearing the legend, “Caution, federal law restricts this drug to use by or on the order of a licensed veterinarian” or words of similar import.

(2) Any other drug as defined in Section 14206 of the Food and Agricultural Code that is used in a manner that would require a veterinary prescription.

(A) Any veterinary food-animal drug dispensed pursuant to a prescription from a licensed veterinarian for food producing animals from a veterinary food-animal drug retailer pursuant to this chapter is subject to the labeling requirements of Sections 4047.5, 4048, and 4228.

(B) All prescriptions filled by a veterinary food-animal drug retailer shall be kept on file and maintained for at least three years in accordance with Section 4331.



SEC. 2. Section 4035.5 is added to the Business and Professions Code, to read:

4035.5. No person other than a registered pharmacist, as defined in Section 4037, or an intern pharmacist, as defined in Section 4038.1, an exempt person, as specified in Section 4050.9, or an authorized officer of the law or a person authorized to prescribe, as provided in Section 4036, shall be permitted in that area, place, or premises described in the permit issued by the board pursuant to Section 4034.6, wherein veterinary food-animal drugs as therein defined are stored, possessed, or repacked, except that a registered pharmacist or exemptee shall be responsible for any individual who enters the veterinary food-animal drug retailer as described in Section 4034.6 for the purpose of performing clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to the veterinary food-animal drug retailer.

SEC. 3. Section 4050.6 of the Business and Professions Code is amended to read:

4050.6. Each person applying for an exemption under Section 4050.5, 4050.7, 4050.8, or 4050.9 shall pay to the executive officer of the board the fees provided for in subdivision (h) of Section 4416.

SEC. 4. Section 4050.9 is added to the Business and Professions Code, to read:

4050.9. Section 4050 shall not prohibit a veterinary food-animal drug retailer from selling or dispensing veterinary food-animal drugs for food-producing animals if the board finds that sufficient qualified supervision is employed by the veterinary food-animal drug retailer to adequately safeguard and protect the public health. Each person applying for an exemption shall meet the following requirements to obtain and maintain that exemption:

(a) The veterinary food-animal drug retailer shall be in the charge of an exempt person who has taken and passed an examination administered by the board and whose certificate of exemption is currently valid.

(b) Each premises maintained by a veterinary food-animal drug retailer shall have a permit issued by the board and shall have an exempt person on the premises if veterinary food-animal drugs are furnished, sold, or dispensed.

(c) Only the exempt person shall prepare and affix the label to all veterinary food-animal drugs.

(d) The exempt person shall complete a training program to be approved by the Board of Pharmacy and qualify through examination on areas covering the essential knowledge necessary to properly read, fill, label, and dispense veterinary food-animal prescriptions.

SEC. 5. Section 4080 of the Business and Professions Code is amended to read:



4080. (a) No person shall conduct a pharmacy, medical device retailer, or veterinary food-animal drug retailer in the State of California unless he or she has obtained a certificate, license, permit, or registration from the board. A certificate, license, permit, or registration shall be required for each pharmacy, medical device retailer, or veterinary food-animal drug retailer owned or operated by a specific person. A separate certificate, license, permit, or registration shall be required for each of the premises of any person operating a pharmacy, medical device retailer, or veterinary food-animal drug retailer in more than one location. The certificate, license, permit, or registration shall be renewed annually and shall not be transferable.

(b) A warehouse owned by a medical device retailer, the primary purpose of which is storage, not dispensing of dangerous devices to patients, shall be licensed at a fee one-half of that for a medical device retailer. There shall be no separate or additional license fee for warehouse premises owned by a medical device retailer that are physically connected to the retail premises or that share common access.

SEC. 6. Section 4080.1 of the Business and Professions Code is amended to read:

4080.1. The board may issue a temporary permit, when the ownership of a pharmacy, medical device retailer, or veterinary food-animal drug retailer is transferred from one person to another, upon conditions and for periods of time as the board determines to be in the public interest. A temporary permit fee shall be fixed by the board at an amount not to exceed the annual fee for renewal of a permit to conduct a pharmacy, medical device retailer, or veterinary food-animal drug retailer.

SEC. 7. Section 4080.2 of the Business and Professions Code is amended to read:

4080.2. (a) The board may void the certificate, license, permit, or registration of a wholesaler, pharmacy, medical device retailer, or veterinary food-animal drug retailer obtained pursuant to subdivision (a) of Section 4080, if the licensed premises remains closed, as defined in subdivision (e), other than by order of the board. For good cause shown, the board may void a license after a shorter period of closure. To void a license pursuant to this subdivision, the board shall make a diligent, good-faith effort to give notice by personal service on the licensee. If no written objection is received within 10 days after personal service is made or a diligent, good-faith effort to give notice by personal service on the licensee has failed, the board may void the license without the necessity of a hearing. If the licensee files a written objection, the board shall file an accusation based on the licensee remaining closed. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section



11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter.

(b) In the event that the certificate, license, permit, or registration of a wholesaler, pharmacy, medical device retailer, or veterinary food-animal drug retailer is voided pursuant to subdivision (a) or revoked pursuant to Article 9 (commencing with Section 4350), or a wholesaler, pharmacy, medical device retailer, or veterinary food-animal drug retailer notifies the board of its intent to remain closed or to discontinue business, the licensee shall, within 10 days thereafter, arrange for the transfer of all dangerous drugs and controlled substances or dangerous devices to another licensee authorized to possess the dangerous drugs and controlled substances or dangerous devices. The licensee transferring the dangerous drugs and controlled substances or dangerous devices shall immediately confirm in writing to the board that the transfer has taken place.

(c) If a wholesaler, pharmacy, medical device retailer, or veterinary food-animal drug retailer fails to comply with subdivision (b), the board may seek and obtain an order from the superior court in the county in which the wholesaler, pharmacy, medical device retailer, or veterinary food-animal drug retailer is located, authorizing the board to enter the wholesaler, pharmacy, medical device retailer, or veterinary food-animal drug retailer and inventory and store, transfer, sell, or arrange for the sale of, all dangerous drugs and controlled substances or dangerous devices found on the premises of the wholesaler, pharmacy, medical device retailer, or veterinary food-animal drug retailer.

(d) In the event that the board sells or arranges for the sale of any dangerous drugs or controlled substances or dangerous devices pursuant to subdivision (c), the board may retain from the proceeds of the sale an amount equal to the cost to the board of obtaining and enforcing an order issued pursuant to subdivision (c). The remaining proceeds, if any, shall be returned to the licensee from whose premises the dangerous drugs or controlled substances or dangerous devices were removed.

The licensee shall be notified of his or her right to the remaining proceeds by personal service or by certified mail, postage prepaid.

Where a statute or regulation requires the licensee to file with the board his or her address, and any change of address, the notice required by this subdivision may be sent by certified mail, postage prepaid, to the latest address on file with the board and service of notice in this manner shall be deemed completed on the 10th day after the mailing.

If the licensee is notified as provided in this subdivision, and the licensee fails to contact the board for the remaining proceeds within 30 calendar days after personal service has been made or service by certified mail, postage prepaid, is deemed completed, the remaining proceeds shall be deposited by the board into the Pharmacy Board



Contingent Fund. These deposits shall be deemed to have been received pursuant to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure and shall be subject to claim or other disposition as provided in that chapter.

(e) For the purposes of this section, “closed” means not engaged in the ordinary activity for which a certificate, license, permit, or registration has been issued for at least one day each calendar week during any 120-day period.

(f) Anyone who knowingly violates subdivision (b) is guilty of a misdemeanor.

(g) Nothing in this section shall be construed as requiring a pharmacy to be open seven days a week.

SEC. 8. Section 4080.3 of the Business and Professions Code is amended to read:

4080.3. When, in the opinion of the board, a high standard of patient safety consistent with good patient care, including animal safety and care in the case of an animal patient, can be provided by the licensure of a pharmacy, medical device retailer, or veterinary food-animal drug retailer that does not meet all of the requirements for licensure as a pharmacy, medical device retailer, or veterinary food-animal drug retailer, the board may waive any requirements pertaining to minimum equipment, minimum space, sanitary facilities, waiting area, or any other licensing requirements.

SEC. 9. Section 4081 of the Business and Professions Code is amended to read:

4081. (a) Each application to conduct a pharmacy, medical device retailer, or veterinary food-animal drug retailer shall be made on a form furnished by the board, and shall state the name, address, usual occupation, and professional qualifications, if any, of the applicant. If the applicant is other than a natural person, the application shall state the information as to each person beneficially interested therein.

(b) As used in this section, and subject to subdivision (c), the term “person beneficially interested” means and includes:

(1) If the applicant is a partnership or other unincorporated association, each partner or member.

(2) If the applicant is a corporation, each of its officers, directors, and stockholders, provided that no natural person shall be deemed to be beneficially interested in a nonprofit corporation.

(3) If the applicant is a limited liability company, each officer, manager, or member.

(c) In any case where the applicant is a partnership or other unincorporated association, or is a limited liability company, or is a corporation, and where the number of partners, members, or stockholders, as the case may be, exceeds five, the application shall so state, and shall further state the information required by



subdivision (a) as to each of the five partners, members, or stockholders who own the five largest interests in the applicant entity. Upon request by the executive officer, the applicant shall furnish the board with the information required by subdivision (a) as to partners, members, or stockholders not named in the application, or shall refer the board to an appropriate source of that information.

(d) The application shall contain a statement to the effect that the applicant has not been convicted of a felony and has not violated any of the provisions of this chapter. If the applicant cannot make this statement the application shall contain a statement of the violation, if any, or reasons that will prevent the applicant from being able to comply with the requirements with respect to the statement.

(e) Upon the approval of the application by the board and payment of the fee required by this chapter for each pharmacy, medical device retailer, or veterinary food-animal drug retailer, the executive officer of the board shall issue a permit to conduct a pharmacy, medical device retailer, or veterinary food-animal drug retailer under the provisions of Section 4080, if all of the provisions of this chapter have been complied with.

(f) Any other provision of law notwithstanding, the permit shall authorize the holder to conduct a pharmacy and to sell and dispense prophylactics, hypodermics, hypnotics, and poisons. The permit shall be renewed annually and shall not be transferable, and any change in the beneficial ownership interest of the pharmacy shall be reported within 30 days thereafter upon a form to be furnished by the board.

(g) Any other provision of law notwithstanding, the medical device retailer permit shall authorize the holder thereof to operate as a medical device retailer and to sell and dispense dangerous devices as defined in Section 4211. Any change in the beneficial ownership interest of the medical device retailer shall be reported within 30 days thereafter upon a form to be furnished by the board.

(h) Any other provision of law notwithstanding, the veterinary food-animal drug retailer permit shall authorize the holder thereof to conduct a veterinary food-animal drug retailer and to sell and dispense veterinary food-animal drugs as defined in Section 4034.6. Any change in the beneficial ownership interest of the veterinary food-animal drug retailer shall be reported within 30 days thereafter upon a form to be furnished by the board.

SEC. 10. Section 4133 is added to the Business and Professions Code, to read:

4133. (a) The following minimum standards shall apply to all veterinary food-animal drug retailers licensed by the board:

(1) Each retailer shall store veterinary food-animal drugs in a secure, lockable area.



(2) Each retailer shall maintain on the premises fixtures and equipment in a clean and orderly condition.

(3) Each retailer shall maintain the premises in a dry, well-ventilated condition, free from rodents and insects, and with adequate lighting.

(b) The board may, by regulation, impose any other minimum standards pertaining to the acquisition, storage and maintenance of veterinary food-animal drugs, or other goods, or to the maintenance or condition of the licensed premises of any veterinary food-animal drug retailer as the board determines are reasonably necessary.

SEC. 11. Section 4134 is added to the Business and Professions Code, to read:

4134. (a) Each veterinary food-animal drug retailer shall have written policies and procedures related to the handling and dispensing of veterinary food-animal drugs by veterinary food-animal drug retailers. These written policies and procedures shall include, but not be limited to, the following:

(1) Training of staff.

(2) Cleaning, storage, and maintenance of veterinary food-animal drugs and equipment.

(3) Recordkeeping requirements.

(4) Storage and security requirements.

(5) Quality assurance.

(b) Each retailer shall prepare and maintain records of training and demonstrated competence for each individual employed or retained by the retailer. These records shall be maintained for three years from and after the last date of employment.

(c) Each retailer shall have an ongoing, documented quality assurance program which includes, but is not limited to:

(1) Monitoring personnel performance.

(2) Storage, maintenance, and dispensing of veterinary food-animal drugs.

(d) The records and documents specified in subdivisions (a) and (b) shall be maintained for three years from the date of making. The records and documents in subdivisions (a), (b), and (c) shall be, at all times during business hours, open to inspection by authorized officers of the law.

SEC. 11.5. Section 4134.5 is added to the Business and Professions Code, to read:

4134.5. To assure compliance with the requirements of this chapter regarding the operations of the veterinary food-animal drug retailer, a consulting pharmacist shall visit the veterinary food-animal drug retailer regularly and at least quarterly. The consulting pharmacist shall be retained either on a volunteer or paid basis to review, approve, and revise the policies and procedures of the veterinary food-animal drug retailer, and assure compliance with



California and federal law regarding the labeling, storage, and dispensing of veterinary food-animal drugs.

The consulting pharmacist shall certify in writing at least twice a year whether or not the veterinary food-animal drug retailer is operating in compliance with the requirements of this chapter. The most recent of the written certifications shall be submitted with the annual renewal application of a veterinary food-drug animal retailer license.

SEC. 12. Section 4227 of the Business and Professions Code is amended to read:

4227. (a) No person shall furnish any dangerous drug, except upon the prescription of a physician and surgeon, dentist, podiatrist, or veterinarian. No person shall furnish any dangerous device, except upon the prescription of a physician and surgeon, dentist, podiatrist, or veterinarian.

(b) This section shall not apply to the furnishing of any dangerous drug or device by a manufacturer or wholesaler or pharmacy to each other or to a physician and surgeon, dentist, podiatrist, or veterinarian, or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug or device, and its quantity. This section shall not apply to the furnishing of any dangerous device by a manufacturer or wholesaler or pharmacy to a physical therapist acting within the scope of his or her license under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the device, and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to Section 4050.7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations adopted by the board. The board shall adopt regulations as are necessary to ensure the safe distribution of these drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following: vendor licensing, records and labeling, patient receipts, patient training, report records, specific product and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation adopted pursuant to this subdivision shall be liable upon order of the board to surrender his or her personal license. These penalties shall be in addition to penalties which may be imposed pursuant to Section 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of these drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a renal dialysis center accredited by the State



Department of Health Services. The physician and surgeon prescribing the hemodialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed the program.

(e) A registered pharmacist may furnish a dangerous drug authorized for use pursuant to Section 2620.3 to a physical therapist or may furnish a topical pharmaceutical agent authorized for use pursuant to subdivision (e) of Section 3041 to an optometrist. A record containing the date, name and address of the buyer, and name and quantity of the drug shall be maintained. This subdivision shall not be construed to authorize the furnishing of a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(f) A medical device retailer shall dispense, furnish, transfer, or sell a dangerous device only to another medical device retailer, a pharmacy, a licensed physician and surgeon, a licensed health care facility, a licensed physical therapist, or a patient or his or her personal representative.

(g) A registered pharmacist may furnish electroneuromyographic needle electrodes or hypodermic needles used for the purpose of placing wire electrodes for kinesiological electromyographic testing to physical therapists who are certified by the Physical Therapy Examining Committee of California to perform tissue penetration in accordance with Section 2620.5.

(h) The amendments made to subdivisions (b) and (f) by the act adding this subdivision shall not be construed to permit a licensed physical therapist to dispense or furnish a dangerous device without a prescription of a physician and surgeon, dentist, podiatrist, or veterinarian.

(i) A veterinary food-animal drug retailer shall dispense, furnish, transfer, or sell veterinary food-animal drugs only to another veterinary food-animal drug retailer, a pharmacy, a licensed veterinarian, or to a veterinarian's client pursuant to a prescription from the licensed veterinarian for food-producing animals.

SEC. 13. Section 4231 of the Business and Professions Code is amended to read:

4231. All stock of any dangerous drug or device of a manufacturer, wholesaler, pharmacy, medical device retailer, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, or laboratory, shipments through a customs broker or carrier shall be at all times during business hours open to inspection by authorized officers of the law.

SEC. 14. Section 4232 of the Business and Professions Code is amended to read:

4232. All records of manufacture and of sale, purchase or disposition of dangerous drugs or devices shall be at all times, during business hours, open to inspection by authorized officers of the law,



and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, medical device retailer, veterinary food-animal drug retailer, physician, dentist, podiatrist, or veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 3 (commencing with Section 1620) of Division 2 of, Chapter 2 (commencing with Section 2300) of Division 3 of, or Part 2 (commencing with Section 5699) of Division 6 of, the Welfare and Institutions Code who maintains a stock of dangerous drugs or devices.

The owner, officer, and partner of any pharmacy, veterinary food-animal drug retailer, or medical device retailer shall be jointly responsible, with the pharmacist-in-charge, for maintaining the records and inventory described in this section.

The pharmacist-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee which violate this section and of which the pharmacist-in-charge had no knowledge, or in which he or she did not knowingly participate.

Any person who fails, neglects, or refuses to maintain these records or who, when called upon by an authorized officer or a member of the board, fails, neglects or refuses to produce the records within a reasonable time, or who willfully produces or furnishes records which are false, is guilty of a misdemeanor.

SEC. 15. Section 4330 of the Business and Professions Code is amended to read:

4330. When called upon by an officer, a member of the board, or a duly authorized inspector, the owner or manager of any pharmacy, veterinary food-animal drug retailer, or medical device retailer or other store, shop, building, or premises retailing or storing drugs shall furnish the officer, member or inspector with the names of the owner or owners, manager or managers, and employees together with a brief statement of the capacity in which these persons are employed on the premises.

SEC. 16. Section 4386.2 is added to the Business and Professions Code, to read:

4386.2. Any person who has obtained a certificate, license, permit, or registration to operate as a veterinary food-animal drug retailer and who fails to place in charge of that veterinary food-animal drug retailer a registered pharmacist or exemptee, or any person who, by himself or herself, or by any other person permits the dispensing of prescriptions, by a registered pharmacist or exemptee, or as otherwise provided in this chapter, is guilty of a misdemeanor.



SEC. 17. Section 4387.2 is added to the Business and Professions Code, to read:

4387.2. Any person who is neither a registered pharmacist nor an exemptee pursuant to Section 4050.9 and who takes charge of a veterinary food-animal drug retailer or who dispenses a prescription except as otherwise provided in this chapter is guilty of a misdemeanor.

SEC. 18. Section 4416 of the Business and Professions Code is amended to read:

4416. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the board according to the following schedule:

(a) The fee for a nongovernmental pharmacy license shall be three hundred forty dollars (\$340) and may be increased to four hundred dollars (\$400).

The fee for a nongovernmental pharmacy annual renewal shall be one hundred seventy-five dollars (\$175) and may be increased to two hundred fifty dollars (\$250).

The fee for a veterinary food-animal drug retailer certificate, license, permit, or registration shall be four hundred dollars (\$400).

The annual renewal fee for a veterinary food-animal drug retailer shall be two hundred fifty dollars (\$250).

(b) The fee for processing remodeling plans and inspecting a remodeled pharmacy shall be one hundred thirty dollars (\$130) and may be increased to one hundred seventy-five dollars (\$175).

(c) The fee for the pharmacist examination shall be one hundred fifty-five dollars (\$155) and may be increased to one hundred eighty-five dollars (\$185).

(d) The fee for regrading an examination shall be seventy-five dollars (\$75) and may be increased to eighty-five dollars (\$85). If an error in grading is found and the applicant passes the examination, the regrading fee shall be refunded.

(e) The fee for a pharmacist license and biennial renewal shall be one hundred fifteen dollars (\$115) and may be increased to one hundred fifty dollars (\$150).

(f) The fee for a wholesaler permit and annual renewal shall be five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600).

(g) The fee for a hypodermic license and renewal shall be ninety dollars (\$90) and may be increased to one hundred twenty-five dollars (\$125).

(h) The fee for examination and investigation for an exemption certificate under Sections 4050.5 and 4050.7 shall be seventy-five dollars (\$75) and may be increased to one hundred dollars (\$100). The fee for examination and investigation for an exemption certificate under Section 4050.9 shall be one hundred dollars (\$100).



(i) The fee for an exemption certificate and annual renewal under Sections 4050.5 and 4050.7 shall be one hundred ten dollars (\$110) and may be increased to one hundred fifty dollars (\$150). The fee for an exemption certificate under Section 4050.9 shall be one hundred fifty dollars (\$150). The fee for annual renewal under Section 4050.9 shall be one hundred ten dollars (\$110) and may be increased to one hundred fifty dollars (\$150). The fee for filing a late renewal of an exemption certificate under Section 4050.9 is fifty-five dollars (\$55).

(j) The fee for an out-of-state drug distributor's license and annual renewal issued pursuant to Section 4084.6 shall be five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600).

(k) The fee for registration and annual renewal of providers of continuing education shall be one hundred dollars (\$100) and may be increased to one hundred thirty dollars (\$130).

(l) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars (\$40) per course hour.

(m) The fee for evaluation of applications submitted by graduates of foreign colleges of pharmacy or colleges of pharmacy not recognized by the board shall be one hundred sixty-five dollars (\$165) and may be increased to one hundred seventy-five dollars (\$175).

(n) The fee for an intern license or extension shall be sixty-five dollars (\$65) and may be increased to seventy-five dollars (\$75). The fee for transfer of intern hours or verification of licensure to another state shall be established by the board not to exceed twenty dollars (\$20).

(o) The board may, by regulation, provide for the waiver or refund of the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next succeeding regular renewal date.

(p) The board shall collect all accrued and unpaid renewal fees and the applicable penalty fees for a pharmacist license that has been delinquent for more than one year.

(q) The fee for the reissuance of any permit, license, or certificate, or renewal thereof, which has been lost or destroyed or reissued due to a name change is thirty dollars (\$30).

The fee for the reissuance of any permit, license, or certificate, or renewal thereof, which must be reissued because of a change in the information, is sixty dollars (\$60) and may be increased to one hundred dollars (\$100).

(r) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures.

(s) The fee for any applicant for a clinic permit is three hundred forty dollars (\$340) and may be increased to four hundred dollars



(\$400) for each permit. The annual fee for renewal of the permit is one hundred seventy-five dollars (\$175) and may be increased to two hundred fifty dollars (\$250) for each permit.

(t) The board shall charge a fee for the processing and issuance of a registration to a pharmacy technician and a separate fee for the biennial renewal of the registration. The registration fee shall be twenty-five dollars (\$25), and may be increased to fifty dollars (\$50). The biennial renewal fee shall be twenty-five dollars (\$25), and may be increased to fifty dollars (\$50).

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

