

CITY OF REDMOND, WASHINGTON

ORDINANCE NO. 513

AN ORDINANCE, relating to crimes and offenses; adopting state statutes by reference relating to dangerous drugs; prescribing penalties for violations; and amending the Redmond Municipal Code by additions thereto.

THE CITY COUNCIL OF THE CITY OF REDMOND DO ORDAIN AS FOLLOWS:

Section 1. There is added to Title 9 of the Redmond Municipal Code a new section to read as follows:

The following statutes of the State of Washington are hereby adopted by reference:

RCW 69.40.060 (Laws 1st Ex Sess 1969, Ch 256, Sec 9)
69.40.061 (Laws 1967, Ch 71, Sec 2)
69.40.063 (Laws 1963, Ch 38, Sec 21)
69.40.064 (Laws 1967, Ch 71, Sec 3)
69.40.080 (Laws 1963, Ch 205, Sec 1)
69.40.090 (Laws 1963, Ch 205, Sec 2)
69.40.100 (Laws 1963, Ch 205, Sec 3)
Laws 1st Ex Sess 1969, Ch 256, Sec 11

Section 2. There is added to Title 9 of the Redmond Municipal Code a new section to read as follows:

In any prosecution under this section, proof that a person unlawfully possessed in excess of 40 grams of cannabis, commonly known as marijuana, shall be prima facie evidence that possession was with intent to sell.

Section 3. There is added to Title 9 of the Redmond Municipal code a new section to read as follows:

It shall be unlawful for any person to use or administer any drug defined in RCW 69.40.060 except in the amount, for the purposes, and as prescribed by the order or prescription pursuant to which the same was acquired.

Section 4. There is added to Title 9 of the Redmond Municipal Code a new section to read as follows:

It shall be unlawful for any person to be under the influence of any drug defined in RCW 69.40.060 in any private premises or house to the annoyance of any individual, or in a public place, in a vehicle in or on a public place, or in a place open to the public view or to

which the public has access. A person is "under the influence" of a drug for the purpose of this section when any of his normal faculties are substantially affected or impaired as a result of the use of such drug.

Section 5. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished as provided in Section 1.01.110 of the Redmond Municipal Code.

Section 6. This ordinance shall take effect and be in force five (5) days after the date of its publication in the manner provided by law.

PASSED by the Council of the City of Redmond, Washington at a regular meeting thereof, and APPROVED by the Mayor this 16 day of December, 1969.

ATTEST:

Eleanor J. Hayden
ELEANOR J. HAYDEN
CITY CLERK

CITY OF REDMOND

Selwyn L. Young
SELWYN L. YOUNG
MAYOR

APPROVED AS TO FORM:

John D. Lawson
JOHN D. LAWSON
CITY ATTORNEY

PUBLISHED in the Sammamish Valley News on DEC 23 1969

UNIFORM NARCOTIC ACT

69.32.080 Unlawful possessor, use—Penalty. It shall be unlawful for any person to use, administer by hypodermic or otherwise any narcotic drug as defined in the uniform narcotic drug act. RCW 69.32.220 now or hereafter amended, except as prescribed and under the direction of a physician authorized by law to practice medicine in this state, and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment. The unlawful possession of narcotic drugs as defined herein shall be prima facie evidence of an intent to illegally use such drugs.

69.33.220 Definitions. The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

- (1) "Person" includes any corporation, association, copartnership, or one or more individuals.
(2) "Physician" means a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment.
(3) "Dentist" means a person authorized by law to practice dentistry in this state.
(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.
(5) "Manufacturer" means a person who by compounding, mixing, distilling, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.
(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this chapter shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this state.

(8) "Hospital" means an institution for the care and treatment of the sick and injured, found by the state board of pharmacy to have a custodian of narcotics proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(9) "Laboratory" means a laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of narcotic drugs and

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the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(10) "Sale" includes barter, exchange, or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(11) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine and ecgonine may be synthesized or made.

(12) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

(13) "Cannabis" includes all parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(14) "Narcotic drugs" means coca leaves, opium, cannabis and every other substance neither chemically nor physically distinguishable from them; any other drugs to which the federal laws relating to narcotic drugs may now apply; and any drug found by the board of pharmacy, after reasonable notice and opportunity for hearing, to have addiction-forming or addiction-habit forming similar to morphine or cocaine, from the date of publication of such finding by the state board of pharmacy.

(15) "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

(16) "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order forms are provided, then on an official form provided for that purpose by the state board of pharmacy.

(17) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(18) "Registry number" means the number assigned to each person registered under the federal narcotic laws. [1959 c 27 § 69.33.220. Prior: (1) 1953 c 86 § 2; 1951 2nd ex.s. c 22 § 1. (2) 1923 c 47 § 2, part; RRS § 2509-2, part. Formerly RCW 69.33.010.]

69.33.230 Compliance required. It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this chapter. [1959 c 27 § 69.33.230. Prior: 1951 2nd ex.s. c 22 § 2. Formerly RCW 69.33.020.]

69.33.240 License required. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the state board of pharmacy. [1959 c 27 § 69.33.240. Prior: 1951 2nd ex.s. c 22 § 3. Formerly RCW 69.33.030.]

69.33.250 Qualifications for license—Suspension or revocation. No license shall be issued under RCW 69.33.240 unless and until the applicant therefor has furnished proof satisfactory to the state board of pharmacy.

(1) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.

(2) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

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No license shall be granted to any person who has within five years been convicted of a willful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic addict.

The state board of pharmacy may suspend or revoke any license for cause. [1959 c 27 § 69.33.250. Prior: 1951 2nd ex.s. c 22 § 4. Formerly RCW 69.33.040.]

69.33.260 Sale by manufacturer, wholesaler—Conditions—Use of drugs. (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

- (a) To a physician, dentist, or veterinarian.
(b) To a person in charge of a hospital, but only for use by or in that hospital.
(c) To a manufacturer, wholesaler, or apothecary.
(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

- (a) On a special written order accompanied by a certificate of exemption, as required by the federal narcotic laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government; purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.
(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed; or to a physician or surgeon duly licensed in some state, territory, or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States army, navy, or public health service employed upon such ship or aircraft, only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service.

(c) To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

(3) An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the federal narcotic laws, respecting the requirements governing the use of order forms.

(4) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof or a master of a ship or a person in charge of any aircraft upon which no physician or surgeon duly licensed in some state, territory, or the District of Columbia, to practice his profession, or a retired commissioned medical officer of the United States army, navy, or public health service employed upon such ship or aircraft who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this chapter. [1959 c 27 § 69.33.260. Prior: 1951 2nd ex.s. c 22 § 5. Formerly RCW 69.33.050.]

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69.33.270 Sale by apothecary. (1) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription or an oral prescription in pursuance to regulations promulgated by the United States commissioner of narcotics under the existing federal narcotic laws, of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter. The prescription shall not be refilled.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

(3) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than twenty percent of the complete solution, to be used for medical purposes. [1959 c 27 § 69.33-270. Prior: 1955 c 25 § 1; 1951 2nd exs. c 22 § 6. Formerly RCW 69.33.060.]

69.33.280 Dispensing by physicians, dentists, veterinarians—Return of unused portion. (1) A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause them to be administered by a nurse or intern under his direction and supervision.

(2) A veterinarian in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

(3) Any person who has obtained from a physician, dentist, or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, or veterinarian, shall return to such physician, dentist, or veterinarian any unused portion of such drug, when it is no longer required by the patient. [1959 c 27 § 69.33.280. Prior: 1951 2nd exs. c 22 § 7. Formerly RCW 69.33.070.]

69.33.290 Exempted sales and uses. Except as otherwise in this chapter specifically provided, this chapter shall not apply to the following cases:

Administering, dispensing, or selling at retail any medicinal preparation, solid or semisolid preparation, in one avoirdupois ounce, not more than one grain of cocaine or of any of its salts, or not more than one-sixth grain of dihydrocodeine or of any of its salts, or not more than two grains of noscapine (formerly narcotine) or of any of its salts, or not more than two grains of papaverine or of any of its salts. *Provided*, That any new narcotic drug of natural or synthetic origin, that may be found by the United States commissioner of narcotics to be nonhabit forming in use, and which is so designated by them as an exempt narcotic, under federal law, may be classified as an exempt narcotic in the state of Washington, by ruling of the board of pharmacy.

The exemption authorized by this section shall be subject to the following conditions: (1) That the medicinal preparation administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone;

(2) That such preparation shall be administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this chapter;

(3) The board of pharmacy may, after a hearing, rule that this exemption shall not apply to a particular drug, or medicinal preparation, when the drug or medicinal preparation is injurious to the public health and welfare.

(4) That the drug or medicinal preparation be prescribed, administered, dispensed, or sold to any person in accordance with the rules and regulations relating to narcotics promulgated by the state board of pharmacy.

(5) The state board of pharmacy may, after a hearing, rule that this exemption shall not apply to any person who has prescribed, administered, dispensed, or sold any drug or medicinal preparation in such volume as to be injurious to the public health and welfare.

(6) The board of pharmacy may, after a hearing, promulgate rules and regulations which are necessary and proper to carry out the purposes of this chapter.

Nothing in this section shall be construed to limit the quantity of cocaine or of any of its salts, or of dihydrocodeine or of any of its salts, or of noscapine (formerly narcotine) or of any of its salts, or of papaverine or of any of its salts, that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this chapter. [1959 c 27 § 1; 1959 c 27 § 69.33.290. Prior: 1957 c 161 § 1; 1953 c 88 § 4; 1951 2nd exs. c 22 § 8. Formerly RCW 69.33.080.]

69.33.300 Records to be kept. (1) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients. *Provided*, That no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight consecutive hours (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of cocaine or of any of its salts, or (d) one-fourth of a grain of heroin or of any of its salts, or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, unactivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

(3) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by RCW 69.33.290, shall keep a record showing the quantities and kinds thereof, received and sold, or disposed of otherwise, in accordance with the provisions of subsection 5 of this section.

(5) The form of records shall be prescribed by the state board of pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture; and the date of such production or removal from process of manufacture; and the record shall in

every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced and the proportion of resin contained in or producible from the plant *Cannabis Sativa L.* The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, the drug or species of animal for which the drug was sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of, such loss, destruction, or theft. [1959 c 27 § 69.33.300. Prior: 1951 2nd exs. c 22 § 9. Formerly RCW 69.33.090.]

69.33.310 Labels required. (1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person except an apothecary for the purpose of filling a prescription under this chapter, shall alter, deface, or remove any label so affixed.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was issued, and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed. [1959 c 27 § 69.33.310. Prior: 1955 c 25 § 2; 1951 2nd exs. c 22 § 10. Formerly RCW 69.33.100.]

69.33.320 User must keep drug in original container. A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of RCW 69.33.260, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same. [1959 c 27 § 69.33.320. Prior: 1951 2nd exs. c 22 § 11. Formerly RCW 69.33.110.]

69.33.330 Possession, control by common carriers, warehousemen, public officers, and certain employees. The provisions of this chapter restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs, or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties. [1959 c 27 § 69.33.330. Prior: 1951 2nd exs. c 22 § 12. Formerly RCW 69.33.120.]

69.33.340 Narcotics resort a public nuisance. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for illegal keeping or selling of the same, shall be deemed

a public nuisance. No person shall keep or maintain such a public nuisance. [1959 c 27 § 69.33.340. Prior: 1951 2nd exs. c 22 § 13. Formerly RCW 69-33.150.]

Conducting narcotics joint: RCW 9.91.030.

69.33.350 Disposal of seized narcotics. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(1) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them.

(2) Upon written application by the state board of pharmacy, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said state board of pharmacy, for distribution or destruction, as hereinafter provided.

(3) Upon application by any hospital within this state, not operated for private gain, the state board of pharmacy may in its discretion deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medical use. The state board of pharmacy may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy the same.

(4) The state board of pharmacy shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs, the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws. [1959 c 27 § 69.33.350. Prior: 1951 2nd exs. c 22 § 14. Formerly RCW 69.33.170.]

69.33.360 Violation—Revocation of license—Reinstatement. On the conviction of any person of the violation of any provision of this chapter, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. Upon receipt of a certified copy of such final judgment and sentence, and opinion in any, the licensing board or officer concerned shall call and conduct a hearing, as provided by law, to determine whether the revocation or the professional license of such person shall be revoked. The certified copy of judgment and sentence shall, for purposes of the hearing, constitute conclusive evidence of violation of this chapter. Conviction of violation of any provision of this chapter shall constitute grounds for revocation of the registration or the professional license of the person convicted. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officers may reinstate such license or registration. [1959 c 27 § 69.33.360. Prior: 1951 2nd exs. c 22 § 15. Formerly RCW 69.33.210.]

69.33.370 Inspection of records, drug stocks—Confidential Information. Prescriptions, orders, and records, required by this chapter, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecu-

tion or proceeding the person to whom such prescriptions, order, or records relate is a party. [1959 c 27 § 69.33.370. Prior: 1951 2nd exs. c 22 § 16. Formerly RCW 69.33.180.]

69.33.380 Fraud in obtaining or dispensing narcotics. (1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or of the giving of a false address.

(2) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall willfully make a false statement in any prescription, order, report, or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(7) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of RCW 69.33.290, in the same way as they apply to transactions under all other sections. [1959 c 27 § 69.33.380. Prior: 1951 2nd exs. c 22 § 17. Formerly RCW 69.33.140.]

69.33.390 Exceptions and exemptions not required to be negatived. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant. [1959 c 27 § 69.33.390. Prior: 1951 2nd exs. c 22 § 18; 1923 c 47 § 7. HRS § 2309-5.]

69.33.190 Enforcement of chapter. It is hereby made the duty of the state board of pharmacy, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all county prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to narcotic drugs. [1953 c 27 § 69.33.400. Prior: 1951 2nd exs. c 22 § 19. Formerly RCW 69.33.180.]

69.33.110 Violation—Penalty. Whoever violates any provision of this chapter shall, upon conviction, be fined and imprisoned as herein provided:

(1) For the first offense the offender shall be guilty of a felony and the court shall impose a fine of not to exceed ten thousand dollars, and a sentence of not less than five years or more than twenty years in the state penitentiary, or both such fine and imprisonment;

(2) For a second offense, or if, in the case of a first conviction of violation of any provision of this chapter, the offender shall previously have been convicted of any violation of the laws of the United States or of any other state, territory or district relating to dangerous drugs, narcotic drugs or marijuana, the offender shall be guilty of a felony and shall be fined not more than ten thousand dollars and be imprisoned in the state penitentiary not less than ten or more than twenty years;

(3) For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the law of the United States or of any other state, territory or district relating to dangerous drugs, narcotic drugs or marijuana, the offender shall be guilty of a felony and shall be fined not more than twenty-five thousand

dollars and be imprisoned in the state penitentiary not less than fifteen or more than forty years;

(4) For any offense under the provisions of this chapter knowingly involving a sale to or other transaction with a minor the offender shall be imprisoned in the state penitentiary not less than twenty or more than forty years. [1963 c 38 § 20; 1959 c 27 § 69.33.410. Prior: 1953 c 88 § 3; 1951 2nd exs. c 22 § 20. Formerly RCW 69.33.190.]

Severability: See RCW 18.64.911. RCW 69.33.420 through 69.33.960 not included.

POISONS AND DANGEROUS DRUGS

RCW 69.40.010 through 69.40.030 not included.

69.40.010 False label on drugs, etc.—Penalty. A person who, in putting up any drug, medicine, or food, or preparation used in medical practice, or making up any prescription, or filling any order for drugs, medicine, food, or preparations, puts any untrue designation of contents upon the container thereof, or substitutes or dispenses a different article for the article prescribed, ordered, or demanded, or puts in a greater or less quantity of any ingredient specified in the prescription, order or demand than that prescribed, ordered, or demanded, or otherwise deviates from the terms of the prescription, order, or demand by substituting one drug for another, shall be guilty of a misdemeanor. Except in the case of a pharmacist's prescription, nothing herein shall affect the right of an apothecary, druggist, pharmacist, or other person to recommend the purchase of an article other than that ordered, required, or demanded, but of a similar nature, or to sell such other articles in place of an article ordered, required, or demanded, with the knowledge and consent of the purchaser. [1909 c 249 § 255; RRS § 2507.1]

***69.40.060 Certain drugs to be sold only on prescription or order.—Exemptions.** It shall be unlawful for a person, firm or corporation to sell, give away, barter, exchange or distribute amygdal, lumnal, venonal, barbital, acid diethyl-barbituric, or any salts, derivatives, or compounds thereof, or any preparation or compound containing any of the foregoing substances, or their salts, derivatives, or compounds, or any registered, trademarked, or copyrighted preparation or compound registered in the United States patent office containing more than one grain to the avoirdupois or third ounce of the above substances; or to sell, give away, barter, exchange or distribute barbituric acid, benzene sulfonamide, sulfanilamide, sulfamidyl, prontosil, prontosil, neo prontosil, neo prontosil, edimatin, sulfonamidyl, prontosil, derivatives, or compounds thereof or any registered, trademarked, or copyrighted preparation or compound registered in the United States patent office containing such substances, or to sell, give away, barter, exchange, or distribute/any amphetamine or any doxtramphetamine, or any salts, derivatives, or compounds thereof, or any preparation or compound containing any of the foregoing substances, or their salts, derivatives, or compounds, or any registered, trademarked, or copyrighted preparation or compound registered in the United States patent office, or any other drug which is required by any applicable federal or state law or regulation to be used only on prescription, except upon the written or oral order or prescription of a physician, surgeon, dentist, or veterinary surgeon licensed to practice in the state, and shall not be refilled without the written or oral order of the prescriber. *Provided*, That the above provisions shall not apply to the sale at wholesale by any drug jobbers, drug wholesalers, and drug manufacturers to pharmacists or to physicians, dentists, or veterinary surgeons, nor to each other, nor to the sale at retail in pharmacies by pharmacists to each other or to physicians, surgeons, dentists or veterinary surgeons licensed to practice in this state, nor to the sale of sulfa drugs and their compounds for external or topical application when so marked and labeled or to the sale of veterinary sulfa products and their compounds when so marked and labeled but only after each of the drugs or products has been approved as being safe for use without medical supervision by regulation of the board of pharmacy of the state. [1961 c 49 § 1; 1959 c 24 § 1; 1945 c 57 § 1; 1939 c 29 § 1; 1939 c 6 § 1; Rem. Supp. 1945 § 2509-15.]

Physicians and surgeons, use of prescription of above described drugs for other than incipient purposes as in professional conduct. RCW 18.72.030(8). Same, osteopaths. RCW 18.57.10(9).

69.40.061 Possession of certain drugs unlawful. It shall be unlawful for any person to possess any of the drugs described in RCW 69.40.060, as amended from time to time, or any other drug which is required by any applicable federal or state law or regulation to be used only on prescription, except upon the order or prescription of a physician, surgeon, dentist or veterinary surgeon duly licensed to practice in the state of Washington. *Provided*, however, that the above provision shall not apply to the possession by drug jobbers, drug wholesalers and drug manufacturers, to registered pharmacists or to physicians, dentists or veterinary surgeons. [1961 c 49 § 2; 1955 c 23 § 1.]

69.40.062 Penalty for violation of RCW 69.40.061. [1955 c 23 § 2.] Repealed by 1963 c 38 § 25.

69.40.063 Dangerous drugs—Defined.—Unlawful practices—Communications not privileged. Dangerous drugs are those referred to in RCW 69.40.060 or any other drug which is required by any applicable federal or state law or regulation to be used only on prescription.

(1) No person shall obtain or attempt to obtain a dangerous drug, or procure or attempt to procure the administration of a dangerous drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact, or (d) by the use of a false name or the giving of a false address.

(2) Information communicated to a physician in an effort unlawfully to procure a dangerous drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall willfully make a false statement in any prescription, order, report, or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a dangerous drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing dangerous drugs. [1963 c 38 § 21.]

Severability: Severability as to RCW 69.40.063, 69.40.064 and 69.40.070, see RCW 18.64.091.

Reviser's note: Compare RCW 69.40.090.

69.40.064 Prescriptions. A prescription, in order to be effective in legalizing the possession of dangerous drugs, must be issued for a legitimate medical purpose by one authorized to prescribe the use of such dangerous drugs. An order purporting to be a prescription issued to an addict or habitual user of dangerous drugs, not in the course of professional treatment is not a prescription within the meaning and intent of this section; and the person who knows or should know that he is filling such an order, as well as the person issuing it, may be charged with violation of this chapter. [1963 c 38 § 22.]

69.40.070 Violations—Penalty. Whoever violates any provision of chapter 69.40 RCW shall, upon conviction be fined and imprisoned as herein provided.

(1) For the first offense, the offender shall be guilty of a misdemeanor, and punishable by a fine not exceeding two hundred dollars or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment.

(2) For a second offense, or if, in the case of a first conviction of violation of any provision of this chapter, the offender shall previously have been convicted of any violation of the laws of the United States, this state or any other state, territory, or district relating to dangerous drugs, narcotic drugs or marihuana, the offender shall be guilty of a gross misdemeanor and the court may in its discretion impose a fine of not to exceed one thousand dollars or a sentence not to exceed one year in the county jail, or both such fine and imprisonment.

(3) For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the laws of the United States or of this state, or of any other state, territory or district relating to dangerous drugs, narcotic drugs or marihuana, the offender shall be guilty of a felony and shall be fined not more than ten thousand dollars and be imprisoned in the state penitentiary not more than ten years.

(4) For any offense under the provisions of this chapter involving a sale to or other transaction with a minor the offender shall be guilty of a felony and shall be fined not more than fifty thousand dollars and be imprisoned in the state penitentiary not more than twenty years. [1963 c 38 § 23; 1939 c 6 § 2; RRS § 2509-16.]

69.40.080 Dangerous drugs—Places deemed public nuisance. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, public or private, which is resorted to by users of dangerous drugs, as defined in this chapter, or which is used for the illegal keeping, selling, giving away or bartering of the same, shall be deemed a public nuisance. No person shall keep or maintain such a public nuisance. [1963 c 205 § 1.]

Places resorted to for use of narcotics or dangerous drugs: RCW 9.91.030.

69.40.090 Dangerous drugs—Unlawful practices—Communications not privileged. (1) No person shall obtain or attempt to obtain a dangerous drug, or procure or attempt to procure the administration of a dangerous drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

(2) Information communicated to a physician in an effort unlawfully to procure a dangerous drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall willfully make a false statement in any prescription, order, report or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a dangerous drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing dangerous drugs. [1963 c 205 § 2.]

Reviser's note: Compare RCW 69.40.063.

69.40.109 Dangerous drugs—Search and seizure. If upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court or justice of the peace that there is probable cause to believe that any dangerous drug is being used, manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter; such justice of the peace or judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any peace officer in the county, commanding him to search the premises designated and described in such complaint and warrant, and to seize all dangerous drugs there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing or otherwise disposing of such. [1963 c 205 § 3.]