

ENROLLED SENATE
BILL NO. 911

BY: WEEDN of the SENATE

and

HILLIARD of the HOUSE

AN ACT RELATING TO DRUGS, DEVICES AND COSMETICS;
AMENDING 63 O.S. 1991, SECTIONS 1-1119, 1-1406
AND 1-1408, WHICH RELATE TO REQUIRED LICENSES,
ADULTERATION OF DRUGS AND DEVICES AND VIOLATIONS;
PROVIDING FOR EXCEPTION TO CERTAIN LICENSING
REQUIREMENT AND FEE; MODIFYING CERTAIN LANGUAGE;
DELETING CERTAIN PROCEDURE; ADDING ADDITIONAL
CONDITION UNDER WHICH A DRUG OR DEVICE SHALL BE
DEEMED TO BE ADULTERATED AND PROVIDING AN
EXCEPTION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-1119, is amended to read as follows:

Section 1-1119. A. Any manufacturer, wholesaler or broker of food or drugs doing business in the State of Oklahoma, or bringing into and offering for sale within the State of Oklahoma any article of food or drug, shall secure an annual license from the Commissioner of Health and shall pay for such license a fee, to be fixed by the State Board of Health. Unless otherwise provided by rule by the Board, each such license shall expire on the 30th day of June following its issuance.

B. Provided, that ~~this act~~ subsection A of this section shall not apply to ~~brokers~~:

1. Brokers who procure the shipment of articles of food or drugs into the State of Oklahoma directly to the wholesaler without handling such products themselves, except that such brokers shall annually list their name and address with the State Department of Public Health; and

2. Any person who is licensed by the Board of Pharmacy to manufacture, make, produce, package, pack, prepare or sell, or offer for sale, at wholesale or retail, compressed medical gases.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-1406, is amended to read as follows:

Section 1-1406. It shall be the duty of each district attorney to whom the ~~State~~ Commissioner of Health reports any violation of this ~~article~~ act to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. ~~Before any violation of this article is reported to any county attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the Commissioner, or his designated agent, and the Oklahoma State Board of Pharmacy, or its designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding; provided, that no violation of this article shall be so reported by the Commissioner unless and until the State~~

~~Board of Health, or its designated agent, and the Oklahoma State Board of Pharmacy, or its designated agent, agree thereto.~~

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-1408, is amended to read as follows:

Section 1-1408. A drug or device shall be deemed to be adulterated: ~~(a) (1) if~~

1. If it consists in whole or in part of any filthy, putrid, or decomposed substance; ~~or (2) if~~

2. If it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health, ~~or (3) if;~~

3. If it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; ~~or (4) if~~

4. If it is a drug and it bears or contains, for purposes of coloring only, a coal tar color other than one from a batch certified under the authority of the ~~federal act. (b) (1) if~~ Federal Food, Drug and Cosmetic Act, 21 U.S.C., Section 301 et seq.;

5. If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or, in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the federal act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia. ~~(c) if;~~

6. If it is not subject to the provisions of paragraph ~~(b)~~ 2 of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess. ~~(d) if;~~

7. If it is a drug and any substance has been ~~(1):~~

a. mixed or packed therewith so as to reduce its quality or strength, or ~~(2)~~

b. substituted wholly or in part therefor; or

8. If it is sold or offered for sale and is not lawfully marketed under the federal act for the purpose for which, and in the form in which, it is sold or offered for sale, unless the drug or device has been exempted from the requirements of this paragraph by the Commissioner of Health, or if the drug is compounded by a registered pharmacist pursuant to a prescription by a licensed practitioner.

SECTION 4. This act shall become effective September 1, 1992.

Passed the Senate the 25th day of February, 1992.

President of the Senate

Passed the House of Representatives the 2d day of April, 1992.

Speaker of the House of
Representatives