

ENROLLED SENATE  
BILL NO. 1754

By: Leftwich of the Senate  
and  
Denney of the House

An Act relating to public health and safety; amending 63 O.S. 2001, Section 1-1401, which relates to drugs, devices, and cosmetics; updating language; modifying certain definitions; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1401, is amended to read as follows:

Section 1-1401. For the purposes of this article:

~~(a)~~ A. The term "drug" means:

~~(1) articles~~ 1. Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; ~~and~~

~~(2) articles~~ 2. Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; ~~and~~

~~(3) articles~~ 3. Articles, ~~(other than food),~~ intended to affect the structure or any function of the body of man or other animals; and

~~(4) articles~~ 4. Articles intended for use as a component of any article specified in ~~clause (1), (2) or (3)~~ paragraphs 1, 2 and 3 of this subsection; but does not include devices or their components, parts or accessories.

~~(b) B.~~ The term "device", ~~(except when used in paragraph (k) subsection K of this Section section and in Sections 1402(i), 1409(e) subsection (i) of Section 1-1402, subsection (c) of Section 1-1409, and 1411(e) subsection (c) of Section 1-1411 of this Article title)~~, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

~~(1) for~~ 1. For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

~~(2) to~~ 2. To affect the structure or any function of the body of man or other animals.

~~(e) C.~~ The term "cosmetic" means:

~~(1) articles~~ 1. Articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and

~~(2) articles~~ 2. Articles intended for use as a component of any such articles, except that such term shall not include soap.

~~(d) D.~~ The term "official compendium" means ~~the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them~~ authoritative compendia as identified by the Secretary of the United States Department of Health and Human Services.

~~(e) E.~~ The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appear on the label shall not be considered to be complied with unless such work, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

~~(f)~~ F. The term "immediate container" does not include package liners.

~~(g)~~ G. The term "labeling" means all labels and other written, printed or graphic matter:

~~(1)~~ ~~upon~~ 1. Upon an article or any of its containers or wrappers; or

~~(2)~~ ~~accompanying~~ 2. Accompanying such article.

~~(h)~~ H. If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then, in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

~~(i)~~ I. The term "advertisement" means all representations disseminated in any manner or by any means, other than labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs, devices, or cosmetics.

~~(j)~~ J. The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

~~(k)~~ K. The term "contaminated with filth" applies to any drug, device, or cosmetic not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

~~(1)~~ L. The provisions of this article regarding the selling of drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such article in the conduct of any drug or cosmetic manufacturing establishment.

~~(m)~~ M. The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act, as amended.

SECTION 2. This act shall become effective November 1, 2010.

Passed the Senate the 22nd day of February, 2010.

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Presiding Officer of the Senate

Passed the House of Representatives the 14th day of April, 2010.

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Presiding Officer of the House  
of Representatives