

CHAPTER 375

S.B. No. 561

AN ACT

relating to licensing exemptions for wholesale distribution of prescription drugs.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (a), Section 431.2021, Health and Safety Code, is amended to read as follows:

(a) *A person who engages in wholesale distribution of prescription drugs in this state for use in humans is exempt from this subchapter if the person is exempt under:*

(1) *the Prescription Drug Marketing Act of 1987, as amended (21 U.S.C. Section 353(c)(3)(B));*

(2) *the regulations adopted by the secretary to administer and enforce that Act; or*

(3) *the interpretations of that Act set out in the compliance policy manual of the United States Food and Drug Administration [Persons who engage only in the following types of wholesale drug distribution are exempt from the licensing requirements of this subchapter:*

~~[(1) intracompany sales;~~

~~[(2) the purchase or acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations;~~

~~[(3) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;~~

~~[(4) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control; for the purpose of this section, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise;~~

~~[(5) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons; for purposes of this section, "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;~~

~~[(6) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;~~

~~[(7) the distribution of drug samples by manufacturers' representatives or distributors' representatives; or~~

~~[(8) the sale, purchase, or trade of blood and blood components intended for transfusion].~~

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 15, 1993: Yeas 30, Nays 0; passed the House on May 21, 1993: Yeas 132, Nays 0, two present not voting.

Approved June 2, 1993.

Effective June 2, 1993.