

RÉSUMÉ DIGEST

ACT 108 (SB 70)

2017 Regular Session

Donahue

Prior law provided that the term "drug" includes all substances and preparations recognized in the official compendium and intended for use in the diagnosis, treatment, or prevention of disease in man or beast, and all substances and preparations, other than food and cosmetics, intended to affect the structure or any function of the body.

New law retains prior law.

Prior law provided that a drug or device is considered misbranded if it has been found to be misbranded by any department of the U.S. government, or if, among other things:

- (1) Its labeling is false or misleading in any particular. Any representation concerning any effect of a drug or device is considered false for purposes of prior law if the representation is not supported by demonstrable scientific facts or substantial and reliable medical or scientific opinion.
- (2) It is dangerous to health under the conditions of use prescribed in the labeling or advertising thereof.
- (3) It is a drug and its container is so made, formed, or filled as to mislead the purchaser.

New law retains prior law.

Prior law prohibited, among others, the following acts relative to drugs:

- (1) The introduction or delivery for introduction into commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.
- (2) The adulteration, or misbranding, of any food, drug, device, or cosmetic in commerce.
- (3) The possession in any place where sales or service is made to the public of any food, drug, device or cosmetic that is adulterated or misbranded.

New law retains prior law.

Prior law provided that whoever violates prior law relative to the misbranding or adulteration of any drug is to be fined, for the first offense, up to \$1,000, imprisoned for up to one year, or both. Prior law provided that for the second or subsequent offense, the person is to be fined up to \$3,000, or imprisoned for up to two years, or both. Prior law further provided that any person who violates prior law relative to the false or misleading advertising of a drug is to be fined up to \$1,000 for each violation if the violation does not involve gross deception or imminent danger to health, and is established by opinion evidence only.

New law retains prior law and adds that any person who violates prior law relative to misbranding or adulteration of any drug with the intent to defraud or mislead is to be imprisoned, with or without hard labor, for up to five years, or fined up to \$10,000, or both.

Effective August 1, 2017.

(Amends R.S. 40:639; adds R.S. 40:971.3)