HB 2382

Introduced by
Representative Lovas

AN ACT

AMENDING TITLE 32, CHAPTER 18, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1997; RELATING TO PHARMACEUTICAL PRODUCTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 32, chapter 18, article 4, Arizona Revised Statutes, is amended by adding section 32-1997, to read:

32-1997. Misbranding; promotion of off-label use; enforcement prohibited; definitions

A. NOTWITHSTANDING ANY OTHER LAW, A PHARMACEUTICAL MANUFACTURER OR ITS REPRESENTATIVE MAY ENGAGE IN TRUTHFUL PROMOTION OF AN OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR DEVICE.

B. THIS SECTION DOES NOT REQUIRE A HEALTH CARE INSURER, OTHER THIRD-PARTY PAYOR OR OTHER HEALTH PLAN SPONSOR TO PROVIDE COVERAGE FOR THE COST OF ANY OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR DEVICE AS A TREATMENT.

C. NOTWITHSTANDING ANY OTHER LAW, AN OFFICIAL, EMPLOYEE OR AGENT OF THIS STATE MAY NOT ENFORCE OR APPLY SECTION 32-1967 AGAINST OR OTHERWISE PROSECUTE A PHARMACEUTICAL MANUFACTURER OR ITS REPRESENTATIVE FOR ENGAGING IN TRUTHFUL PROMOTION OF AN OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR DEVICE.

D. NOTWITHSTANDING ANY OTHER LAW, THE ARIZONA STATE BOARD OF PHARMACY, THE ARIZONA MEDICAL BOARD, THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY AND THE DEPARTMENT OF HEALTH SERVICES MAY NOT REVOKE, FAIL TO RENEW OR TAKE ANY OTHER ACTION AGAINST THE LICENSE OF A PHARMACEUTICAL MANUFACTURER OR ITS REPRESENTATIVE, A HEALTH CARE INSTITUTION OR A PHYSICIAN SOLELY FOR ENGAGING IN TRUTHFUL PROMOTION OF AN OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR DEVICE.

E. THIS STATE AND ALL POLITICAL SUBDIVISIONS OF THIS STATE ARE PROHIBITED FROM USING ANY PERSONNEL OR FINANCIAL RESOURCES TO ENFORCE OR COOPERATE WITH THE FEDERAL GOVERNMENT’S ATTEMPT TO ENFORCE OR APPLY UNITED STATES CODE SECTION 331 OR 352 AGAINST OR OTHERWISE PROSECUTE A PHARMACEUTICAL MANUFACTURER OR ITS REPRESENTATIVE SOLELY FOR ENGAGING IN TRUTHFUL PROMOTION OF AN OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR DEVICE.

F. FOR THE PURPOSES OF THIS SECTION:

1. "BIOLOGICAL PRODUCT" HAS THE SAME MEANING PRESCRIBED IN 42 UNITED STATES CODE SECTION 262.

2. "MISBRANDING" HAS THE SAME MEANING DESCRIBED IN SECTION 32-1967 OR 21 UNITED STATES CODE SECTION 352.

3. "OFF-LABEL USE" MEANS THE USE OF A UNITED STATES FOOD AND DRUG ADMINISTRATION-APPROVED DRUG, BIOLOGICAL PRODUCT OR DEVICE IN A MANNER OTHER THAN THE USE APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

Sec. 2. Short title

This act may be cited as the "Free Speech in Medicine Act".