

REFERENCE TITLE: pharmaceuticals; misbranding; enforcement prohibited

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

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)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 32-1997. Misbranding; promotion of off-label use; enforcement
5 prohibited; definitions

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

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

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

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

25 E. THIS STATE AND ALL POLITICAL SUBDIVISIONS OF THIS STATE ARE
26 PROHIBITED FROM USING ANY PERSONNEL OR FINANCIAL RESOURCES TO ENFORCE OR
27 COOPERATE WITH THE FEDERAL GOVERNMENT'S ATTEMPT TO ENFORCE OR APPLY 21
28 UNITED STATES CODE SECTION 331 OR 352 AGAINST OR OTHERWISE PROSECUTE A
29 PHARMACEUTICAL MANUFACTURER OR ITS REPRESENTATIVE SOLELY FOR ENGAGING IN
30 TRUTHFUL PROMOTION OF AN OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR
31 DEVICE.

32 F. FOR THE PURPOSES OF THIS SECTION:

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

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

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

41 Sec. 2. Short title

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