

1 SB367
2 118831-4
3 By Senators Butler, Coleman, Means, Dunn, Little (Z), French,
4 Waggoner, Dixon, Mitchem, and Smith
5 RFD: Health
6 First Read: 04-FEB-10

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 34-23-1, Code of Alabama 1975,
12 relating to the definitions for purposes of regulating and
13 licensing pharmacies and pharmacists, to define further the
14 terms pharmacy and permit for such purposes.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 34-23-1, Code of Alabama 1975, is
17 amended to read as follows:

18 "§34-23-1.

19 "For the purpose of this chapter, the following
20 words and phrases shall have the following meanings:

21 "(1) ASSOCIATION. The Alabama Pharmacy Association.

22 "(2) BOARD or STATE BOARD. The Alabama State Board
23 of Pharmacy.

24 "(3) CHEMICAL. Any substance of a medicinal nature,
25 whether simple or compound, obtained through the process of
26 the science and art of chemistry, whether of organic or
27 inorganic origin.

1 "(4) DISPENSE. To sell, distribute, administer,
2 leave with, give away, dispose of, deliver, or supply a drug
3 or medicine to the ultimate user or their agent.

4 "(5) DRUGS. All medicinal substances, preparations,
5 and devices recognized by the United States Pharmacopoeia and
6 National Formulary, or any revision thereof, and all
7 substances and preparations intended for external and internal
8 use in the cure, diagnosis, mitigation, treatment, or
9 prevention of disease in man or animal and all substances and
10 preparations other than food intended to affect the structure
11 or any function of the body of man or animal.

12 "(6) EXTERN. A candidate for licensure as a
13 pharmacist during the time prior to graduation from an
14 accredited college of pharmacy.

15 "(7) HOSPITAL. An institution for the care and
16 treatment of the sick and injured, licensed by the Alabama
17 State Board of Health and authorized to be entrusted with the
18 custody of drugs and medicines, the professional use of drugs
19 and medicines being under the direct supervision of a medical
20 practitioner or pharmacist.

21 "(8) INTERN. An individual who is currently licensed
22 by this state to engage in the practice of pharmacy while
23 under the personal supervision of a pharmacist and is
24 satisfactorily progressing toward meeting the requirements for
25 licensure as a pharmacist; or a graduate of an approved
26 college of pharmacy who is currently licensed by the State
27 Board of Pharmacy for the purpose of obtaining practical

1 experience as a requirement for licensure as a pharmacist; or
2 a qualified applicant awaiting examination for licensure.

3 "(9) LEGEND DRUG. Any drug, medicine, chemical, or
4 poison bearing on the label the words, "caution, federal law
5 prohibits dispensing without prescription," or similar wording
6 indicating that such drug, medicine, chemical, or poison may
7 be sold or dispensed only upon the prescription of a licensed
8 medical practitioner.

9 "(10) LICENSE. The grant of authority by the State
10 Board of Pharmacy to a person authorizing him or her to engage
11 in the practice of pharmacy in this state.

12 "(11) MANUFACTURER. A person, except a pharmacy, who
13 prepares, derives, produces, compounds, or packages any drug,
14 medicine, chemical, or poison.

15 "(12) MEDICAL PRACTITIONER. Any physician, dentist,
16 or veterinarian, or any other person authorized by law to
17 treat, use, or prescribe medicine and drugs for sick and
18 injured human beings or animals in this state.

19 "(13) MEDICINE. Any drug or combination of drugs
20 that has the property of curing, diagnosing, preventing,
21 treating, or mitigating diseases or that which may be used for
22 those purposes.

23 "(14) PATENT OR PROPRIETARY MEDICINES. Completely
24 compounded nonprescription packaged drugs, medicines, and
25 nonbulk chemicals which are sold, offered, promoted, or
26 advertised by the manufacturer or primary distributor under a
27 trademark, trade name, or other trade symbol, and the labeling

1 of which conforms to the requirements of the Federal Food,
2 Drug, and Cosmetic Act; provided, that this definition shall
3 not include:

4 "a. Drugs which are only advertised and promoted
5 professionally to licensed physicians, dentists, or
6 veterinarians by manufacturers or primary distributors.

7 "b. A narcotic or drug containing a narcotic.

8 "c. A drug the label of which bears substantially
9 either the statements "caution--federal law prohibits
10 dispensing without prescription" or "warning--may be
11 habit-forming".

12 "d. A drug intended for injection.

13 "(15) PERMIT. The grant of authority by the State
14 Board of Pharmacy to any person, firm, or corporation
15 authorizing the operation of a pharmacy, wholesale drug
16 distributor, repackager, bottler, manufacturer, or packer of
17 drugs, medicines, chemicals, or poisons for medicinal
18 purposes. A permit shall not include any requirement for the
19 receipt or inventory of any drugs, medicines, medical devices,
20 chemicals, or poisons. Nonresident wholesale drug distributors
21 registered with the appropriate agency, in the state in which
22 they are domiciled, and operating in compliance with
23 Prescription Drug Marketing Act standards, shall be allowed to
24 do business in this state. No permit shall be required of
25 any physician licensed to practice medicine for any act or
26 conduct related to or connected with his or her professional
27 practice.

1 "(16) PERSON. Any individual, partnership,
2 corporation, association, trust, or other entity.

3 "(17) PHARMACIST. Any person licensed by the Alabama
4 State Board of Pharmacy to practice the profession of pharmacy
5 in the State of Alabama and whose license is in good standing.

6 "(18) PHARMACY. A place licensed by the Alabama
7 State Board of Pharmacy in which prescriptions, drugs,
8 medicines, medical devices, chemicals, and poisons are sold,
9 offered for sale, compounded, or dispensed, and shall include
10 all places whose title may imply the sale, offering for sale,
11 compounding, or dispensing of prescriptions, drugs, medicines,
12 chemicals, or poisons, but shall not include any requirement
13 for the receipt or inventory of any drugs, medicines, medical
14 devices, chemicals, or poisons.

15 "(19) POISON. Any substance other than agricultural
16 products and pesticides which when applied to, introduced
17 into, or developed within the body in relatively small
18 quantities by its inherent chemical action uniformly produces
19 serious bodily injury, disease, or death.

20 "(20) PRECEPTOR. A person who is duly licensed to
21 practice pharmacy in the state and meets the requirements as
22 established by the State Board of Pharmacy.

23 "(21) PRESCRIPTION. Any order for drug or medical
24 supplies, written or signed or transmitted by word of mouth,
25 telephone, telegraph, closed circuit television, or other
26 means of communication by a legally competent practitioner,
27 licensed by law to prescribe and administer such drugs and

1 medical supplies intended to be filled, compounded, or
2 dispensed by a pharmacist.

3 "(22) PROFESSIONAL DEGREE. A degree in pharmacy
4 requiring a minimum of five academic years.

5 "(23) REPACKAGER. A person who purchases or acquires
6 from a manufacturer or distributor, a drug, medicine,
7 chemical, or poison for the purpose of bottling, labeling, or
8 otherwise repackaging for sale or distribution. This
9 definition shall not apply to a physician licensed to practice
10 medicine who as a part of his or her professional practice
11 dispenses, administers, sells, or otherwise distributes any
12 drug to a patient.

13 "(24) SALE. Barter, exchange, or gift, or offer of
14 barter, exchange, or gift, and shall include each transaction
15 made by any person, whether a principal, proprietor, agent,
16 servant, or employee.

17 "(25) WHOLESALE DRUG DISTRIBUTORS. A person engaged
18 in the business of distributing drugs and medicines for resale
19 to pharmacies, hospitals, practitioners, government agencies,
20 or other lawful outlets permitted to sell drugs or medicines.
21 The sale, purchase, or trade of a drug by a retail pharmacy to
22 another retail pharmacy or practitioner, for relief of
23 temporary shortages, is exempt from this definition. Also
24 exempt from this definition shall be (a) intracompany sales,
25 (b) manufacturer and distributor sales representatives who
26 distribute drug samples, (c) charitable organizations
27 distributing to nonprofit affiliates of that organization, (d)

1 certain purchases by hospitals or other health care entities
2 that are members of a group purchasing organization, and (e)
3 the distributors of blood and blood components."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Health 04-FEB-10

Read for the second time and placed on the calen-
dar with 1 substitute and 25-FEB-10

Read for the third time and passed as amended ... 14-APR-10

Yeas 27
Nays 0
Abstaining 1

McDowell Lee
Secretary