BILL ANALYSIS

Senate Research Center

C.S.H.B. 358
By: Maxey (Zaffirini)
Health & Human Services
5-1-97
Committee Report (Substituted)

DIGEST

Currently, the Texas Department of Health (department) is authorized to place under detention any potentially misbranded or adulterated drug or medical device. The law does not specify if such detained products cannot be used. This bill would prohibit the use of certain articles detained or embargoed by the department under the authority of the Health and Safety Code. Additionally, this bill would revise a provision relating to certain misbranded drugs and devices.

PURPOSE

As proposed, C.S.H.B. 358 prohibits the use of certain articles detained or embargoed by the Texas Department of Health under authority of the Health and Safety Code. Additionally, this bill revises a provision relating to certain misbranded drugs and devices.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 431.021, Health and Safety Code, to provide that the use of a detained or embargoed article in violation of Section 431.048, among other actions, is unlawful and prohibited.

SECTION 2. Amends Section 431.048(b) and (c), Health and Safety Code, to require the tag or marking on a detained or embargoed article to warn all persons not to use the article, among other actions, until permission for use is given by the Commissioner of Health (commissioner), the authorized agent, or a court. Prohibits a person from using a detained or embargoed article or from disposing of a detained or embargoed article by sale or otherwise, among other actions, without permission of the commissioner, the authorized agent, or a court.

SECTION 3. Amends Section 431.049(a), Health and Safety Code, to authorize the commissioner or an authorized agent, under certain conditions, to order the transfer of certain articles to one or more secure storage areas to prevent their unauthorized use, among other actions.

SECTION 4. Amends Section 431.112, Health and Safety Code, to require a drug or device to be deemed misbranded in the case of any restricted device distributed or offered for sale in this state if it is sold, distributed, or used in violation of regulations prescribed under Section 520(e) of the Federal Food, Drug, & Cosmetic Act (Title 21, U.S.C. 301 et seq.), rather than Subsection (e), among other actions.

SECTION 5. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

Revises proposed relating clause.

SECTION 4.

Adds Section 431.112, Health and Safety Code, to amend Subsection (r)(2). Redesignates SECTION 4 as SECTION 5.