

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 751

102ND GENERAL ASSEMBLY

2024

4271S.05T

AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to the distribution of 340B drugs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 376, RSMo, is amended by adding thereto
2 one new section, to be known as section 376.414, to read as
3 follows:

**376.414. 1. For purposes of this section, the
2 following terms mean:**

3 (1) "340B drug", a drug that:

4 (a) Is a covered outpatient drug within the meaning of
5 Section 340B of the Public Health Service Act, 42 U.S.C.
6 Section 256b, enacted by Section 602 of the Veterans Health
7 Care Act of 1992, P.L. 102-585;

8 (b) Has been subject to any offer for reduced prices
9 by a manufacturer under 42 U.S.C. Section 256b(a)(1); and

10 (c) Is purchased by a covered entity;

11 (2) "Covered entity", the same meaning given to the
12 term in Section 340B(a)(4) of the Public Health Service Act,
13 42 U.S.C. Section 256b(a)(4);

14 (3) "Package", the same meaning given to the term in
15 21 U.S.C. Section 360eee(11)(A);

16 (4) "Pharmaceutical manufacturer", an entity that is
17 engaged in the production, preparation, propagation,
18 compounding, conversion, or processing of covered outpatient
19 drugs, whether directly or indirectly, by extraction from
20 substances of natural origin, independently by means of
21 chemical synthesis, or by a combination of extraction and
22 chemical synthesis, or any entity engaged in the packaging,
23 repackaging, labeling, relabeling, or distribution of
24 covered outpatient drugs;

25 (5) "Pharmacy", the same meaning given to the term in
26 section 338.210;

27 (6) "Third-party logistics provider", the same meaning
28 given to the term in section 338.330.

29 2. A pharmaceutical manufacturer, third-party
30 logistics provider, or an agent or affiliate of such
31 pharmaceutical manufacturer or third-party logistics
32 provider, shall not deny, restrict, or prohibit, either
33 directly or indirectly, the acquisition of a 340B drug by,
34 or delivery of a 340B drug to, a pharmacy that is under
35 contract with, or otherwise authorized by, a covered entity
36 to receive 340B drugs on behalf of the covered entity unless
37 such receipt is prohibited by the United States Department
38 of Health and Human Services. A wholesale drug distributor,
39 as defined in section 338.330, shall not be considered an
40 agent or affiliate for purposes of this subsection.

41 3. The commission of any act prohibited by subsection
42 2 of this section shall constitute an unlawful practice
43 within the meaning of section 407.020, and any action
44 authorized in sections 407.010 to 407.130 may be taken.
45 Each package of 340B drugs determined to be subject to a
46 prohibited act under subsection 2 of this section shall

47 constitute a separate violation under subsection 2 of this
48 section.

49 4. The state board of pharmacy is authorized to
50 investigate any complaint of a violation of subsection 2 of
51 this section by an individual or entity licensed by the
52 board of pharmacy, and to impose discipline, suspension, or
53 revocation of the license of any such individual or entity.

54 5. The state board of pharmacy may promulgate rules to
55 implement the provisions of subsection 2 of this section.
56 Any rule or portion of a rule, as that term is defined in
57 section 536.010, that is created under the authority
58 delegated in this section shall become effective only if it
59 complies with and is subject to all of the provisions of
60 chapter 536 and, if applicable, section 536.028. This
61 section and chapter 536 are nonseverable and if any of the
62 powers vested with the general assembly pursuant to chapter
63 536 to review, to delay the effective date, or to disapprove
64 and annul a rule are subsequently held unconstitutional,
65 then the grant of rulemaking authority and any rule proposed
66 or adopted after August 28, 2024, shall be invalid and void.

67 6. Nothing in this section shall be construed or
68 applied to be less restrictive than any federal law as to
69 any person or entity regulated by this section. Nothing in
70 this section shall be construed or applied to be in conflict
71 with any of the following:

- 72 (1) Applicable federal law and related regulation; or
73 (2) Other laws of this state, if the state law is
74 compatible with applicable federal law.

75 7. Limited distribution of a drug required under 21
76 U.S.C. Section 355-1 shall not be construed as a violation
77 of subsection 2 of this section.

✓