

BILL ANALYSIS

Senate Research Center

S.B. 1392
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Health & Human Services
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DIGEST AND PURPOSE

Current Texas law requires the Texas Department of Health (TDH) to regulate the sale of medical devices within the state, and issues licenses for medical device salvage establishments and medical device salvage brokers. As proposed, S.B. 1392 eliminates that licensing requirement.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Board of Health is modified in SECTION 10 (Section 432.011(b), Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 431.008, Health and Safety Code, by amending Subsections (a) and (c), as follows:

(a) Deletes a device from the list of items that are distressed merchandise for purposes of Chapter 432 or that has been subject to reconditioning in accordance with Chapter 432.

(c) Deletes a device distributor from the list of persons who hold a license under Chapter 432 and are engaging in conduct within the scope of that license who are not required to hold a certain second license.

SECTION 2. Amends Section 431.023, Health and Safety Code, as follows:

Sec. 431.023. New heading: LIMITED EXEMPTION FOR DISTRESSED FOOD, DRUGS, OR COSMETICS. Deletes a device from the list of products in relation to which Sections 431.021(a), (c), and (d) do not prohibit certain actions.

SECTION 3. Amends the heading to Chapter 432, Health and Safety Code, to read as follows:

CHAPTER 432. FOOD, DRUG, AND COSMETIC SALVAGE ACT

SECTION 4. Amends Section 432.001, Health and Safety Code, to delete "Device" from the short title of Chapter 432.

SECTION 5. Amends Section 432.002, Health and Safety Code, by deleting devices from the list of goods whose sale this chapter aims to prevent under certain circumstances to protect the health of the people of this state.

SECTION 6. Amends Section 432.003(6), Health and Safety Code, by redefining "distressed merchandise" to exclude a device. Makes conforming changes.

SECTION 7. Amends Section 432.003, Health and Safety Code, by adding Subsection (19) to define "refurbishing a device."

SECTION 8. Amends Section 432.004(a), Health and Safety Code, by deleting a manufacturer or common carrier of a device who takes certain actions from the list of persons to whom this

chapter does not apply. Adds Subsection (5) to provide that this chapter does not apply to a person or organization who engages in refurbishing medical devices for purposes of selling.

SECTION 9. Amends Section 432.010, Health and Safety Code, by deleting “device” from the description of a fund in the state treasury to which a fee collected under this chapter is required to be deposited for use in implementing this chapter.

SECTION 10. Amends Section 432.011(b), Health and Safety Code, by deleting devices from the list of products for which certain rules must prescribe standards.

SECTION 11. Amends Section 432.020(a), Health and Safety Code, by deleting devices from the list of products whose sale or distribution the commissioner of health or the commissioner’s designee may issue an emergency order concerning.

SECTION 12. Effective date: September 1, 2003.