S-1552.1

SENATE BILL 5781

State of Washington 69th Legislature 2025 Regular Session

By Senators Fortunato, J. Wilson, Christian, and McCune

AN ACT Relating to restoring trust in public health by conforming to food and drug administration labeling; and adding a new chapter to Title 70 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) The United States food and drug administration is the federal agency responsible for protecting public health by ensuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our nation's food supply, cosmetics, and products that emit radiation;

(b) Food and drug administration authorization and approval sets forth conditions related to printed matter, advertising, and promotion;

(c) The United States department of health and human services spent nearly $1,000,000,000 hiring a behavioral change company, Fors Marsh, to execute COVID-19 campaigns, promoting masking, vaccination, and other measures in Washington state while ignoring the very same promotional conditions the food and drug administration placed on those interventions;

(d) The United States centers for disease control and prevention also made recommendations and promoted products outside of the food and drug administration limitations;

(e) The governor, the Washington state department of health, local health departments, and numerous public and private organizations also ignored the food and drug administration promotional limitations, overstating the benefits of COVID-19 interventions to the public; and

(f) The government's response to the pandemic resulted in a collapse of the public's trust in public health messaging, as detailed in the October 2024 report from house energy and commerce committee, chair Cathy McMorris Rogers: "We Can Do This: An Assessment of the Department of Health and Human Services' COVID-19 Public Health Campaign" where the centers for disease control an prevention's guidance went beyond the terms of food and drug administration's emergency use authorization to state, without evidence, that COVID-19 vaccines were highly effective against transmission. This ultimately had a negative impact on vaccine confidence and the centers for disease control and prevention's credibility now that the unproven claim has been retracted.

(2) Therefore, in order to restore and maintain trust in public health messaging, the legislature intends that all policies and communications related to food and drug administration-regulated products, treatments, or devices follow the same promotional instructions and limitations provided in food and drug administration authorization or approval and be free from unproven claims or promotional language that could mislead consumers.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Executive branch" means the Washington state governor, state agencies, and the directors, secretaries, and staff of those agencies.

(3) "Food and drug administration labeling" means the conditions of authorization or approval as granted in letters that specify conditions related to printed matter, advertising, promotion, and other requirements.

(4) "Food and drug administration regulated product" means any drug, biological product, medical device, food, or other product regulated by the food and drug administration, including the general class of products when a specific product is not mentioned.

NEW SECTION. **Sec. 3.** (1) The department, other executive branch actors, and local health departments may only promote, distribute, or endorse food and drug administration-regulated products in compliance with the same terms and conditions specified in food and drug administration labeling. Promotion, distribution, or endorsement extends to information concerning general categories or types of food and drug administration-regulated products where no specific product is referenced.

(2) All information disseminated that references a general class of food and drug administration-regulated products:

(a) Must be universally true for all products within the class under current food and drug administration regulations; or

(b) Must include qualifications or disclaimers that highlight the exceptions or limitations based on individual product labels.

(3) The department, other executive branch actors, and local health departments may not use funding or other forms of inducements that might lead to the dissemination of information that does not conform to food and drug administration labeling.

(4) When the department, other executive branch actors, and local health departments direct health care providers or the public to information about food and drug administration-regulated products from sources not covered by this section, they shall include a notice stating that the entity providing this information may not comply with food and drug administration labeling laws.

(5) All preexisting informational materials, regardless of format, that do not comply with this section must be withdrawn from use or public dissemination within 30 days of the effective date of this section to ensure conformity with the provisions herein.

(6) Nothing in this section shall be construed to prohibit the department, other executive branch actors, or local health departments from publicly expressing criticism of or disagreement with product authorization, approval, or labeling decisions of the food and drug administration.

NEW SECTION. **Sec. 4.** (1) The department, other executive branch actors, and local health departments shall establish internal review processes to ensure compliance with section 3 of this act in all its communications, educational materials, and public health campaigns.

(2) Upon determination of a violation of section 3 of this act, the violating entity must:

(a) Immediately halt the dissemination of any information deemed to be in violation of section 3 of this act; and

(b) Disseminate a correction notice, which shall:

(i) Clearly state the nature of the violation;

(ii) Explain the steps being taken to rectify the issue; and

(iii) Be disseminated through the same channels, to the same extent, and to the same audience as the original prohibited information.

(3) Each state agency, the governor's office, and local health departments shall submit annual reports to the state auditor detailing efforts to comply with section 3 of this act, including any violations and corrective actions taken.

(4) The state auditor shall:

(a) Accept and investigate complaints concerning violations of section 3 of this act;

(b) Ensure complainants are protected against retaliation; and

(c) Consider evidence of retaliation as a separate violation of this section and investigate accordingly.

NEW SECTION. **Sec. 5.** Violation of sections 3 and 4 of this act by any employee of the executive branch or local health department shall result in disciplinary action up to and including termination.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute a new chapter in Title 70 RCW.

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