

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Protect Minors from Pharmaceutical Marketing Practices

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA c. 1055, as amended, is repealed.

Sec. 2. 10 MRSA c. 1057 is enacted to read:

CHAPTER 1057

PHARMACEUTICAL MARKETING TO MINORS

§ 9561. Unlawful pharmaceutical marketing to minors

1. Definition. As used in this section, "minor" means a person who is at least 13 years of age and under 17 years of age.

2. Prohibition. A person may not collect and use personal information collected on the Internet from a minor for the purposes of pharmaceutical marketing in violation of rules adopted by the Attorney General under subsection 3.

3. Rules. In order to ensure the health and safety of minors, no later than one year after the effective date of this section, the Attorney General shall adopt rules governing the collection and use of personal information collected on the Internet from a minor for the purposes of pharmaceutical marketing. The rules must be consistent with and to the extent possible the same as those established under the federal Children's Online Privacy Protection Act of 1998, 15 United States Code, Sections 6501 to 6506 (2007) and 16 Code of Federal Regulations, Part 312 (1999). The rules must define "pharmaceutical marketing" in a manner that includes the business of advertising or otherwise promoting the sale of prescription and over-the-counter drugs, as regulated by the United States Food and Drug Administration pursuant to the Federal Food, Drug and Cosmetic Act, 21 United States Code, Chapter 9, and that ensures the adequate protection of the health and safety of minors. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Unfair trade practice. Violation of subsection 2 is an unfair trade practice as prohibited under Title 5, section 207. The Attorney General may establish procedures for receiving and investigating complaints of violations of subsection 2.

SUMMARY

This bill prohibits the collection and use of personal information collected on the Internet from a minor who is at least 13 years of age and under 17 years of age for the purposes of pharmaceutical marketing in violation of rules adopted by the Attorney General. The bill requires the Attorney General to adopt rules consistent with the federal Children's Online Privacy Protection Act of 1998, 15 United States

Code, Sections 6501 to 6506 (2007) and 16 Code of Federal Regulations, Part 312 (1999), which regulates the collection and use of personal information from children under 13 years of age on the Internet.

The rules, which are routine technical rules, must define "pharmaceutical marketing" in a manner that includes the business of advertising or otherwise promoting the sale of prescription and over-the-counter drugs, as regulated by the United States Food and Drug Administration, and ensures the adequate protection of the health and safety of minors who are at least 13 years of age and under 17 years of age. The bill establishes that a violation is an unfair trade practice as prohibited by the Maine Unfair Trade Practices Act.