

Senate Bill 192

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires registration of international drug outlets delivering drugs in Oregon from other jurisdiction. Authorizes State Board of Pharmacy to adopt rules regulating international drug outlets located in jurisdiction other than Oregon.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to international drug outlets; amending ORS 689.005, 689.135, 689.155, 689.305, 689.335 and
3 689.405; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 689.005 is amended to read:

6 689.005. As used in this chapter:

7 (1) "Administer" means the direct application of a drug or device whether by injection,
8 inhalation, ingestion, or any other means, to the body of a patient or research subject by:

9 (a) A practitioner or the authorized agent thereof; or

10 (b) The patient or research subject at the direction of the practitioner.

11 (2) "Approved continuing pharmacy education program" means those seminars, classes,
12 meetings, workshops and other educational programs on the subject of pharmacy approved by the
13 board.

14 (3) "Board of pharmacy" or "board" means the State Board of Pharmacy.

15 (4) "Continuing pharmacy education" means professional, pharmaceutical post-graduate educa-
16 tion in the general areas of socio-economic and legal aspects of health care; the properties and
17 actions of drugs and dosage forms; and the etiology, characteristics and therapeutics of the disease
18 state.

19 (5) "Continuing pharmacy education unit" means the unit of measurement of credits for ap-
20 proved continuing education courses and programs.

21 (6) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or
22 device other than by administration from one person to another, whether or not for a consideration.

23 (7) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro
24 reagent or other similar or related article, including any component part or accessory, which is re-
25 quired under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

26 (8) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pur-
27 suant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent
28 administration to or use by a patient or other individual entitled to receive the prescription drug.

29 (9) "Distribute" means the delivery of a drug other than by administering or dispensing.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (10) “Drug” means:

2 (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National
3 Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any
4 of them;

5 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of dis-
6 ease in a human or other animal;

7 (c) Articles (other than food) intended to affect the structure or any function of the body of
8 humans or other animals; and

9 (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c)
10 of this subsection.

11 (11) “Drug order” means a written order, in a hospital or other inpatient care facility, for an
12 ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by
13 other means of communication from a practitioner, that is immediately reduced to writing by a
14 pharmacist, licensed nurse or other practitioner.

15 (12) “Drug outlet” means any pharmacy, nursing home, shelter home, convalescent home, ex-
16 tended care facility, drug abuse treatment center, penal institution, hospital, family planning clinic,
17 student health center, retail [*store*] **drug outlet**, [*wholesaler*] **wholesale drug outlet**, **international**
18 **drug outlet**, manufacturer or mail-order vendor with facilities located within or out of this state
19 that is engaged in dispensing, delivery or distribution of drugs within this state.

20 (13) “Drug room” means a secure and lockable location within an inpatient care facility that
21 does not have a licensed pharmacy.

22 (14) “Electronically transmitted” or “electronic transmission” means a communication sent or
23 received through technological apparatuses, including computer terminals or other equipment or
24 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
25 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

26 (15) “Institutional drug outlet” means hospitals and inpatient care facilities where medications
27 are dispensed to another health care professional for administration to patients served by the hos-
28 pitals or facilities.

29 (16) “Intern” means any person who has completed the junior or third academic year of a course
30 of study at an approved college of pharmacy and is licensed with the board as an intern.

31 (17) **“International drug outlet” means a pharmacy licensed outside of the United States,**
32 **a retail drug outlet licensed outside of the United States or a wholesale drug outlet licensed**
33 **outside of the United States that is engaged in dispensing, delivery or distribution of drugs**
34 **within this state through the mail or other common carrier.**

35 [(17)] (18) “Internship” means a professional and practical experience program approved by the
36 board under the supervision of a licensed pharmacist registered with the board as a preceptor.

37 [(18)] (19) “Itinerant vendor” means all persons who sell or otherwise distribute nonprescription
38 drugs by passing from house to house, or by haranguing the people on the public streets or in public
39 places, or who use the customary devices for attracting crowds and therewith recommending their
40 wares and offering them for sale.

41 [(19)] (20) “Labeling” means the process of preparing and affixing of a label to any drug con-
42 tainer exclusive, however, of the labeling by a manufacturer, packer or distributor of a
43 nonprescription drug or commercially packaged legend drug or device. Any such label shall include
44 all information required by federal and state law or regulation.

45 [(20)] (21) “Manufacture” means the production, preparation, propagation, compounding, con-

1 version or processing of a device or a drug, either directly or indirectly by extraction from sub-
2 stances of natural origin or independently by means of chemical synthesis or by a combination of
3 extraction and chemical synthesis and includes any packaging or repackaging of the substances or
4 labeling or relabeling of its container, except that this term does not include the preparation or
5 compounding of a drug by an individual for their own use or the preparation, compounding, pack-
6 aging or labeling of a drug:

7 (a) By a practitioner as an incident to administering or dispensing of a drug in the course of
8 professional practice; or

9 (b) By a practitioner or by the practitioner's authorization under supervision of the practitioner
10 for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

11 [(21)] **(22)** "Manufacturer" means a person engaged in the manufacture of drugs.

12 [(22)] **(23)** "Nonprescription drug outlet" means shopkeepers and itinerant vendors registered
13 under ORS 689.305.

14 [(23)] **(24)** "Nonprescription drugs" means drugs which may be sold without a prescription and
15 which are prepackaged for use by the consumer and labeled in accordance with the requirements
16 of the statutes and regulations of this state and the federal government.

17 [(24)] **(25)** "Person" means an individual, corporation, partnership, association or any other legal
18 entity.

19 [(25)] **(26)** "Pharmacist" means an individual licensed by this state to engage in the practice of
20 pharmacy.

21 [(26)] **(27)** "Pharmacy" means a place that meets the requirements of rules of the board, is li-
22 censed and approved by the board where the practice of pharmacy may lawfully occur and includes
23 apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and
24 prescription laboratories but does not include a place used by a manufacturer or wholesaler.

25 [(27)] **(28)** "Pharmacy technician" means a person registered by the State Board of Pharmacy
26 who assists the pharmacist in the practice of pharmacy pursuant to rules of the board.

27 [(28)] **(29)** "Practitioner" means a person licensed and operating within the scope of such license
28 to prescribe, dispense, conduct research with respect to or administer drugs in the course of pro-
29 fessional practice or research:

30 (a) In this state; or

31 (b) In another state or territory of the United States not residing in Oregon and registered un-
32 der the federal Controlled Substances Act.

33 [(29)] **(30)** "Preceptor" means a pharmacist licensed and in good standing, registered by the
34 board to supervise the internship training of a licensed intern.

35 [(30)] **(31)** "Prescription drug" or "legend drug" means a drug which is:

36 (a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of
37 the following statements:

38 (A) "Caution: Federal law prohibits dispensing without prescription"; or

39 (B) "Caution: Federal law restricts this drug to use by or on the order of a licensed
40 veterinarian"; or

41 (b) Required by any applicable federal or state law or regulation to be dispensed on prescription
42 only or is restricted to use by practitioners only.

43 [(31)] **(32)** "Prescription" or "prescription drug order" means a written, oral or electronically
44 transmitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and
45 use of a drug. When the context requires, "prescription" also means the drug prepared under such

1 written, oral or electronically transmitted direction.

2 [(32)] (33) "Retail drug outlet" means a place used for the conduct of the retail sale, adminis-
3 tering or dispensing or compounding of drugs or chemicals or for the administering or dispensing
4 of prescriptions and licensed by the board as a place wherein the practice of pharmacy may lawfully
5 occur.

6 [(33)] (34) "Shopkeeper" means a business establishment, open to the general public, for the sale
7 of nonlegend drugs, in the original and unbroken package, properly labeled according to state and
8 federal laws, in conformity with the rules of the board.

9 [(34)] (35) "Unit dose" means a sealed single-unit container so designed that the contents are
10 administered to the patient as a single dose, direct from the container. Each unit dose container
11 must bear a separate label, be labeled with the name and strength of the medication, the name of
12 the manufacturer or distributor, an identifying lot number and, if applicable, the expiration date of
13 the medication.

14 [(35)] (36) "Wholesale drug outlet" means any person who imports, stores, distributes or sells for
15 resale any drugs including legend drugs and nonprescription drugs.

16 [(36)] (37) "Class I wholesaler" means any person operating or maintaining a wholesale distrib-
17 ution center, wholesale business or any other business in which drugs, medicinal chemicals, or poi-
18 sons are sold, dispensed, stocked, exposed or offered for sale at wholesale to a pharmacy or other
19 legally licensed drug outlets or persons.

20 [(37)] (38) "Class II wholesaler" means any person operating or maintaining a wholesale dis-
21 tribution center, wholesale business or any other business in which nonprescription drugs are of-
22 fered for sale at wholesale to a drug outlet legally authorized to resell.

23 **SECTION 2.** ORS 689.155 is amended to read:

24 689.155. The State Board of Pharmacy shall also have the following responsibilities in regard to
25 medications, drugs, devices and other materials used in this state in the diagnosis, mitigation and
26 treatment or prevention of injury, illness and disease:

27 (1) The regulation of the sale at retail, the administering by pharmacists to the extent provided
28 in ORS 689.645 and 689.655 and the dispensing of medications, drugs, devices and other materials
29 including the right to seize any such drugs, devices and other materials found to be detrimental to
30 the public health and welfare by the board after appropriate hearing as required under ORS chapter
31 183.

32 (2) The specifications of minimum professional and technical equipment, environment, supplies
33 and procedures for the compounding, administering and dispensing of such medications, drugs, de-
34 vices and other materials within the practice of pharmacy and any drug outlet.

35 (3) The control of the purity and quality of such medications, drugs, devices and other materials
36 within the practice of pharmacy and any drug outlet.

37 (4) The issuance and renewal of certificates of registration of drug outlets for purposes of as-
38 certaining those persons engaged in the manufacture and distribution of drugs, receiving and col-
39 lecting annual fees therefrom and suspending, revoking or refusing to renew such registration in the
40 manner provided in this chapter.

41 (5) In conjunction with the regularly constituted law enforcement agencies of this state, enforce
42 all laws of the state which pertain to the practice of pharmacy, the manufacture, production, sale
43 or distribution of drugs, chemicals and poisons, and to their standard of strength and purity.

44 (6) Investigate all complaints of alleged violations of this chapter and take necessary action as
45 the board may require or direct.

1 (7) Pursuant to ORS chapter 183, make such rules as are necessary and feasible for carrying out
 2 ORS 453.175, 453.185, 475.005, 475.135 and 475.185 and this chapter and make rules relating to con-
 3 trolled substances, designated as such pursuant to ORS 475.025 and 475.035.

4 (8) At all reasonable hours, in performance of the duties imposed by this section, enter, or cause
 5 its authorized representatives to enter upon, and examine the premises or records required by law
 6 of any drug outlet under the jurisdiction of the board.

7 (9) Assist the regularly constituted law enforcement agencies of this state in enforcing ORS
 8 453.005 to 453.135, 475.005 and 475.135 and this chapter by prosecution in the courts of this state
 9 or otherwise.

10 (10) Cause to have made a regular inspection of all pharmacies.

11 (11) Pursuant to ORS chapter 183, make [*such*] rules [*as*] **that** are necessary for **drug outlets**,
 12 pharmacies, drug manufacturers and wholesalers to sell or otherwise lawfully distribute designated
 13 pharmaceutical agents to licensed optometrists consistent with the provisions of ORS 683.010 to
 14 683.335.

15 **SECTION 3.** ORS 689.305 is amended to read:

16 689.305. (1) All drug outlets shall annually register with the State Board of Pharmacy.

17 (2)(a) Each drug outlet shall apply for a certificate of registration in one or more of the fol-
 18 lowing classifications:

19 (A) Retail drug outlet.

20 (B) Institutional drug outlet.

21 (C) Manufacturing drug outlet.

22 (D) Wholesale drug outlet.

23 (E) Nonprescription drug outlet.

24 **(F) International drug outlet.**

25 (b) No individual who is employed by a corporation [*which*] **that** is registered under any classi-
 26 fication listed in paragraph (a) of this subsection need register under the provisions of this section.

27 (3) The board shall establish by rule under the powers granted to it under ORS 689.155 and
 28 689.205 the criteria [*which*] **that** each drug outlet must meet to qualify for registration in each
 29 classification designated in subsection (2)(a) of this section. The board may issue various types of
 30 certificates of registration with varying restrictions to the designated **drug** outlets where the board
 31 deems it necessary by reason of the type of drug outlet requesting a certificate.

32 (4) It shall be lawful for a drug outlet registered under this section to sell and distribute
 33 nonprescription drugs. Drug outlets engaging in the sale and distribution of such items shall not be
 34 deemed to be improperly engaged in the practice of pharmacy.

35 **SECTION 4.** ORS 689.335 is amended to read:

36 689.335. (1) [*No*] **A** drug outlet designated in ORS 689.305 [*shall be operated*] **may not operate**
 37 **in this state or deliver drugs as specified in a prescription drug order to a person in this**
 38 **state** until a certificate of registration has been issued to [*said*] **the** facility by the State Board of
 39 Pharmacy. Upon the finding of a violation of ORS 689.305 or 689.405, the board may impose one or
 40 more of the penalties under ORS 689.445.

41 (2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board
 42 may be granted in accordance with the procedures specified by ORS 689.445 (2).

43 **SECTION 5.** ORS 689.405 is amended to read:

44 689.405. (1) The State Board of Pharmacy may refuse to issue or renew, or may suspend, revoke
 45 or restrict the license of any person or the certificate of registration of any drug outlet upon one

1 or more of the following grounds:

2 (a) Unprofessional conduct as that term is defined by the rules of the board.

3 (b) Repeated or gross negligence.

4 (c) Incapacity of a nature that prevents a person from engaging in the activity for which the
5 person is licensed with reasonable skill, competence and safety to the public.

6 (d) Habitual or excessive use of intoxicants, drugs or controlled substances.

7 (e) Being found guilty by the board of a violation of subparagraph (B) of this paragraph, or by
8 a court of competent jurisdiction of one or more of the following:

9 (A) A felony, as defined by the laws of this state; or

10 (B) Violations of the pharmacy or drug laws of this state or rules pertaining thereto, or of
11 statutes, rules or regulations of any other [state] **jurisdiction**, or of the federal government.

12 (f) Fraud or intentional misrepresentation by a licensee or registrant in securing or attempting
13 to secure the issuance or renewal of a license.

14 (g) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without
15 a license, or falsely using the title of pharmacist.

16 (h) Aiding and abetting an individual in performing the duties of a pharmacy technician without
17 registering.

18 (i) Being found by the board to be in violation of any of the provisions of ORS 435.010 to 435.130,
19 453.025, 453.045, 475.035 to 475.190, 475.805, 475.940 to 475.999 or this chapter or rules adopted
20 pursuant to ORS 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.940 to 475.999
21 and this chapter.

22 (j) Disciplinary action by another [state] **jurisdiction** regarding a license, based upon acts by the
23 licensee similar to acts described in this subsection. A certified copy of the record of disciplinary
24 action of the [state] **jurisdiction** taking the disciplinary action is conclusive evidence thereof.

25 (2) Upon receipt of a complaint under this chapter, the board shall conduct an investigation as
26 described under ORS 676.165.

27 (3) Actions taken under subsection (1) of this section shall be considered a contested case under
28 ORS chapter 183.

29 **SECTION 6.** ORS 689.135 is amended to read:

30 689.135. (1) The State Board of Pharmacy shall have such other duties, powers and authority as
31 may be necessary to the enforcement of this chapter and to the enforcement of board rules made
32 pursuant thereto, which shall include, but are not limited to, the following:

33 (a) Cause to have printed and circulated annually copies of any changes in the laws relating to
34 pharmacy, controlled substances, drugs and poisons and the rules adopted to enforce such laws, and
35 set reasonable charges therefor.

36 (b) Appoint advisory committees.

37 (2) The board may join such professional organizations and associations organized exclusively
38 to promote the improvement of the standards of the practice of pharmacy for the protection of the
39 health and welfare of the public and whose activities assist and facilitate the work of the board.

40 (3) In addition to any statutory requirements, the board may require such surety bonds as it
41 deems necessary to guarantee the performance and discharge of the duties of any officer or em-
42 ployee receiving and disbursing funds.

43 (4) The executive director of the board shall keep the seal of the board and shall affix it only
44 in such manner as may be prescribed by the board.

45 (5) The board shall determine within 30 days prior to the beginning of each state fiscal year the

1 fees to be collected for:

2 (a) Examinations and reexaminations, which fee shall not exceed \$400.

3 (b) Pharmacist licenses, which fee shall not exceed \$250.

4 (c) Pharmacist licensing by reciprocity, which fee shall not exceed \$300.

5 (d) Intern license, which fee shall not exceed \$50.

6 (e) Duplicate pharmacist certificate, which fee shall not exceed \$50.

7 (f) Pharmacist license, delinquent renewal fee, which fee shall not exceed \$50.

8 (g) Certification of approved providers of continuing education courses, which fee shall not ex-
9 ceed \$300.

10 (h) Registration of drug outlets other than pharmacies, **international drug outlets or institu-**
11 **tional drug outlets**, and renewal of registration, which fee shall not exceed \$500.

12 (i) Initial pharmacy or institutional drug outlet **registration**, which fee shall not exceed \$300.

13 (j) **Renewal of annual registration for** pharmacy or institutional drug outlet, which fee shall
14 not exceed \$300.

15 (k) Pharmacy or institutional drug outlet delinquent renewal fee, which fee shall not exceed
16 \$200.

17 (L) Nonprescription drug outlets, which fee shall not exceed \$50.

18 (m) Nonprescription drug outlet delinquent renewal fee, which fee shall not exceed \$50.

19 **(n) Initial international drug outlet registration, which fee shall not exceed \$3,000.**

20 **(o) Renewal of annual registration for international drug outlet, which fee shall not ex-**
21 **ceed \$1,000.**

22 **(p) International drug outlet delinquent renewal fee, which fee shall not exceed \$200.**

23 [(n)] **(q) Reinspection fee, which fee shall not exceed \$100.**

24 [(o)] **(r) Drug outlets, other than pharmacies, international drug outlets or institutional drug**
25 **outlets, delinquent renewal fee, which fee shall not exceed \$100.**

26 (6) All moneys collected either as costs or fines under ORS 435.010 to 435.130, 453.175, 453.185
27 and 453.990 and this chapter shall be paid by the magistrate or other officer receiving them to the
28 treasurer of the county where the prosecution is conducted. These moneys shall be applied, first,
29 to the payment of the costs of such prosecution; the remainder shall be paid by the county treasurer
30 to the General Fund in the State Treasury and, in the case of:

31 (a) All moneys except criminal fines, placed to the credit of the Public Health Account and such
32 moneys hereby are appropriated continuously and shall be used only for the administration and
33 enforcement of ORS 435.010 to 435.130 and this chapter.

34 (b) Criminal fines, placed to the credit of the Criminal Fine and Assessment Account.

35 (7) All moneys received by the Department of Human Services under ORS 435.010 to 435.130,
36 453.185 and 453.990 and this chapter shall be paid into the General Fund in the State Treasury and
37 placed to the credit of the Public Health Account and such moneys hereby are appropriated con-
38 tinuously and shall be used only for the administration and enforcement of ORS 435.010 to 435.130
39 and this chapter.

40 (8) The board may receive and expend funds, in addition to its [annual] biennial appropriation,
41 from parties other than the state, provided:

42 (a) Such moneys are awarded for the pursuit of a specific objective which the board is author-
43 ized to accomplish by this chapter, or which the board is qualified to accomplish by reason of its
44 jurisdiction or professional expertise;

45 (b) Such moneys are expended for the pursuit of the objective for which they are awarded;

1 (c) Activities connected with or occasioned by the expenditures of such funds do not interfere
2 with or impair the performance of the board's duties and responsibilities and do not conflict with
3 the exercise of the board's powers as specified by this chapter;

4 (d) Such moneys are kept in a separate, special state account; and

5 (e) Periodic reports are made to the Governor concerning the board's receipt and expenditure
6 of such moneys.

7 (9) The board may assign to each drug outlet under its jurisdiction, a uniform state number,
8 coordinated where possible with all other states which adopt the same uniform numbering system.

9 (10) The board or its authorized representatives shall also have power to investigate and gather
10 evidence concerning alleged violations of the provisions of this chapter or of the rules of the board.

11 (11) The president and vice president of the board may administer oaths in connection with the
12 duties of the board.

13 (12) The books, registers and records of the board as made and kept by the executive director
14 or under the supervision of the executive director, subject to the direction of the board, shall be
15 prima facie evidence of the matter recorded therein, in any court of law.

16 (13) The board may administer oaths, issue notices and subpoenas in the name of the board,
17 enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other
18 acts as are reasonably necessary to carry out its duties under this chapter.

19 (14)(a) Notwithstanding anything in this chapter to the contrary, whenever a duly authorized
20 representative of the board finds or has probable cause to believe that any drug or device is
21 adulterated, misbranded or a new drug, as defined in Section 201(p) of the Federal Food, Drug and
22 Cosmetic Act, for which there is no approval in effect pursuant to Section 505(b) of the federal Act
23 nor an approved notice of claimed investigational exemption pursuant to Section 505(i) of the federal
24 Act, or otherwise rendered unsafe for use as a result of fire, flood or other natural disaster, the
25 representative shall affix to such drug or device a tag or other appropriate marking giving notice
26 that such article is or is suspected of being adulterated, misbranded, or otherwise rendered unsafe
27 and has been detained or embargoed and warning all persons not to remove or dispose of such ar-
28 ticle by sale or otherwise until provision for removal or disposal is given by the board, its agent or
29 the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise
30 without the permission of the board or its agent or, after summary proceedings have been instituted,
31 without permission from the court.

32 (b) When a drug or device detained or embargoed under paragraph (a) of this subsection has
33 been declared by such representative to be adulterated, misbranded or a new drug, or rendered un-
34 safe, the board shall, as soon as practical thereafter, petition the judge of the circuit court in whose
35 jurisdiction the article is detained or embargoed for an order for condemnation of such article. If
36 the judge determines that the drug or device so detained or embargoed is not adulterated or mis-
37 branded or rendered unsafe, the board shall direct the immediate removal of the tag or other
38 marking.

39 (c) If the court finds the detained or embargoed drug or device is adulterated or misbranded or
40 rendered unsafe, such drug or device, after entry of the judgment, shall be destroyed at the expense
41 of the owner under the supervision of a board representative and all court costs and fees, storage
42 and other proper expense shall be borne by the owner of such drug or device. When the
43 adulteration or misbranding can be corrected by proper labeling or processing of the drug or device,
44 the court, after entry of the judgment and after such costs, fees and expenses have been paid and
45 a good and sufficient bond has been posted, may direct that such drug or device be delivered to the

1 owner thereof for such labeling or processing under the supervision of a board representative. Ex-
2 pense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of
3 the drug or device on representation to the court by the board that the drug or device is no longer
4 in violation of the embargo and the expense of supervision has been paid.

5 (d) It is the duty of the Attorney General to whom the board reports any violation of this sub-
6 section to cause appropriate proceedings to be instituted in the proper court without delay and to
7 be prosecuted in the manner required by law. Nothing in this subsection shall be construed to re-
8 quire the board to report violations whenever the board believes the public's interest will be ade-
9 quately served in the circumstances by a suitable written notice or warning.

10 (15) Except as otherwise provided to the contrary, the board shall exercise all of its duties,
11 powers and authority in accordance with ORS chapter 183.

12 **SECTION 7. This 2005 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
14 **on its passage.**