



Substitute House Bill No. 5252

Public Act No. 18-22

AN ACT CONCERNING REVISIONS TO THE CONNECTICUT ANTITRUST ACT AND DISCOVERY CONDUCTED BY THE ATTORNEY GENERAL IN WHISTLE-BLOWER AND FALSE CLAIMS ACTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 35-46a of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

In any action brought under subsection (c) of section 35-32 or seeking treble damages under section 35-35, a defendant: [that sells, distributes or otherwise disposes of any drug or device, as defined in 21 USC 321, as amended from time to time:]

(1) May not assert as a defense that the defendant did not deal directly with the person on whose behalf the action is brought; and

(2) May, in order to avoid duplicative liability, prove, as a partial or complete defense against a damage claim, that all or any part of an alleged overcharge [for a drug or device] ultimately was passed on to another person by a purchaser or a seller in the chain of manufacture, production or distribution [of the drug or device] that paid the alleged overcharge.

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Sec. 2. Subsection (d) of section 4-61dd of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

(d) The Attorney General may summon witnesses, require the production of any necessary books, papers or other documents and administer oaths to witnesses, where necessary, for the purpose of an investigation pursuant to this section or for the purpose of investigating a suspected violation of subsection (a) of section 4-275 until such time as the Attorney General files a civil action pursuant to section 4-276. Service of a subpoena ad testificandum, subpoena duces tecum and a notice of deposition, may be made by: (1) Personal service or service at the usual place of abode; or (2) registered or certified mail, return receipt requested, a duly executed copy thereof addressed to the person to be served at such person's principal place of business in this state, or, if such person has no principal place of business in this state, at such person's principal office or such person's residence. Upon the conclusion of the investigation, the Attorney General shall where necessary, report any findings to the Governor, or in matters involving criminal activity, to the Chief State's Attorney. In addition to the exempt records provision of section 1-210, the Auditors of Public Accounts and the Attorney General shall not, after receipt of any information from a person under the provisions of this section or sections 4-276 to 4-280, inclusive, disclose the identity of such person without such person's consent unless the Auditors of Public Accounts or the Attorney General determines that such disclosure is unavoidable, and may withhold records of such investigation, during the pendency of the investigation. All documentary material or other information furnished to the Attorney General, his or her deputy or any assistant attorney general designated by the Attorney General, pursuant to a demand issued under this subsection for the purpose of investigating a suspected violation of subsection (a) of section 4-275, shall be returned to the person furnishing such documentary material

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or other information upon the termination of the Attorney General's investigation or final determination of any action or proceeding commenced thereunder.

Approved May 29, 2018