## Stricken language would be deleted from and underlined language would be added to present law. Act 719 of the Regular Session

1	State of Arkansas	As Engrossed: S2/24/11	
2	88th General Assembly	A Bill	
3	Regular Session, 2011		SENATE BILL 243
4			
5	By: Senators Madison, D. Johnson	1	
6	By: Representatives Williams, J. E	Edwards	
7			
8		For An Act To Be Entitled	
9	AN ACT TO MAKI	E VARIOUS CORRECTIONS TO TITLE 4	OF THE
10	ARKANSAS CODE	OF 1987 CONCERNING BUSINESS AND	
11	COMMERCE; AND	FOR OTHER PURPOSES.	
12			
13			
14		Subtitle	
15	AN ACT T	O MAKE VARIOUS CORRECTIONS TO	
16	TITLE 4	OF THE ARKANSAS CODE OF 1987	
17	CONCERNI	ING BUSINESS AND COMMERCE.	
18			
19			
20	BE IT ENACTED BY THE GENE	RAL ASSEMBLY OF THE STATE OF ARK	ANSAS:
21			
22		s Code § 4-56-104(a)(2)(A), rega	_
23		uction contracts as unenforceabl	e, is amended to add
24	language to read as follow		
25		truction agreement" means the ba	
26		¥ the language of the parties or	
27	_	course of performance, course of	dealing, or usage
28	of trade as provided in §	4-1-303.	
29	SECTION 2 Artrongo	a Codo & / 96 109 is repealed to	he moved to enother
30 31	location in the Arkansas	s Code § 4-86-108 is repealed to	be moved to another
32		ion of drug samples .	
33	(a) As used in thi		
34		s section: zed distributors of record" mean	s those distributors
35		urer has established an ongoing	
36	distribute the drug manufi		r

1	(2) "Board" means the Arkansas State Board of Pharmacy;
2	(3) "Distribute" does not include the providing of a drug sample
3	to a patient by a:
4	(A) Physician or practitioner licensed to prescribe the
5	<del>drug;</del>
6	(B) Health care professional acting at the direction and
7	under the supervision of a physician or practitioner; or
8	(C) Pharmacy that has been granted approval from the
9	Arkansas State Board of Pharmacy to handle samples at the direction of a
10	physician or practitioner and that received the sample under this subchapter;
11	(4) "Drug" includes all medicines and preparations recognized in
12	the United States Pharmacopoeia or the National Formulary as substances
13	intended to be used for the care, mitigation, or prevention of disease of
14	either humans or other animals;
15	(5) "Drug sample" means a unit of a prescription drug that is
16	not intended to be sold and is intended to promote the sale of the drug;
17	(6) "Licensed pharmacist" means a person holding a license under
18	<del>§ 17-92-101 et seq.;</del>
19	(7) "Pharmacy" means the place licensed by the board in which
20	drugs, chemicals, medicines, prescriptions, and poisons are compounded,
21	dispensed, or sold at retail; and
22	(8) "Physician" means a practitioner of medicine licensed under
23	the laws of this state or some other state.
24	(b) Except under subsections (c) and (d) of this section, a person
25	shall not distribute a drug sample.
26	(c)(l) A drug manufacturer or authorized distributor of record of a
27	drug may distribute a drug sample by mail, common carrier, or by direct
28	distribution by an authorized company representative to physicians or
29	practitioners licensed to prescribe the drugs.
30	$(2)(\Lambda)$ $\Lambda$ distribution of a drug sample under subdivision (c)(1)
31	of this section shall be made only upon the written request of the licensed
32	<del>physician or practitioner.</del>
33	(B) The written request shall contain:
34	(i) The name, address, professional designation, and
35	signature of the physician or practitioner making the request;
36	(ii) The identity of the drug sample requested and

1	the quantity requested;
2	(iii) The name of the drug manufacturer of the drug
3	sample requested; and
4	(iv) The date of the request.
5	(d)(l)(A) A drug manufacturer or authorized distributor of record may
6	distribute drug samples to its authorized company representatives by common
7	<del>carrier.</del>
8	(B) A drug sample that is distributed by common carrier
9	shall be shipped in a manner which requires the signature of the recipient
10	before delivery.
11	(C) The authorized company representative shall personally
12	sign for this delivery.
13	(2) The drug manufacturer or authorized distributor of record
14	does not violate this subsection if the common carrier fails to obtain the
15	authorized company representative's signature.
16	(e)(1) The authorized company representative shall store the drug
17	samples under conditions that will maintain the stability, integrity, and
18	effectiveness of the drug samples and ensure that the drug samples will be
19	free of contamination, deterioration, and adulteration as required under the
20	Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.
21	(2) All compendial and labeling requirements for storage and
22	handling of a particular prescription drug shall be followed.
23	(f)(1) The name and address of the individual responsible for
24	responding to requests by the United States Food and Drug Administration
25	regarding samples on behalf of a drug manufacturer or distributor shall be
26	provided by the manufacturer to the board.
27	(2) The individual identified under subdivision (f)(1) of this
28	section shall further serve as the initial contact person to the board
29	concerning any alleged violations of this section.
30	(g)(1) A drug manufacturer or an authorized distributor of record
31	shall maintain a list of:
32	(A) The name and address of each representative of the
33	manufacturer or authorized distributor who distributes drug samples; and
34	(B) Each site where drug samples are stored.
35	(2) A record and a list maintained under this subsection shall
36	he made available by the drug manufacturer or authorized distributor to the

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1	<del>board upon request.</del>
2	(h) A drug manufacturer or an authorized distributor shall notify the
3	board of any significant loss of drug samples and any known theft of drug
4	samples. □
5	(i) The board may report to the United States Food and Drug
6	Administration any violation of this section.
7	(j) This section shall apply only to the distribution of drug samples
8	within the State of Arkansas.
9	(k) A drug manufacturer that distributes drug samples in the State of
10	Arkansas shall have a policy for drug screening of an employee who
11	distributes drug samples in this state.
12	
13	SECTION $3$ . Arkansas Code Title 4, Chapter 86, is amended to move prior
14	4-86-108 by adding a new subchapter to read as follows:
15	4-86-201. Definitions.
16	As used in this subchapter:
17	(1) "Authorized distributors of record" means those distributors with
18	whom a drug manufacturer has established an ongoing relationship to
19	distribute the drug manufacturer's products;
20	(2) "Board" means the Arkansas State Board of Pharmacy;
21	(3)(A) "Distribute" means the distribution of drug samples.
22	(B) "Distribute" does not include the providing of a drug
23	sample to a patient by a:
24	(i) Physician or practitioner licensed to prescribe
25	the drug;
26	(ii) Health care professional acting at the
27	direction and under the supervision of a physician or practitioner; or
28	(iii) Pharmacy that has been granted approval from
29	the Arkansas State Board of Pharmacy to handle samples at the direction of a
30	physician or practitioner and that received the sample under this subchapter;
31	(4) "Drug" means all medicines and preparations recognized in
32	the United States Pharmacopoeia or the National Formulary as substances
33	intended to be used for the care, mitigation, or prevention of disease of
34	either humans or other animals;
35	(5) "Drug sample" means a unit of a prescription drug that is
36	not intended to be sold and is intended to promote the sale of the drug;

1	(6) "Licensed pharmacist" means a person holding a license under
2	§ 17-92-101 et seq.;
3	(7) "Pharmacy" means the place licensed by the board in which
4	drugs, chemicals, medicines, prescriptions, and poisons are compounded,
5	dispensed, or sold at retail; and
6	(8) "Physician" means a practitioner of medicine licensed under
7	the laws of this state or some other state.
8	
9	4-86-202. Distribution of drug samples.
10	(a) Except under subsections (b) and (c) of this section, a person
11	shall not distribute a drug sample.
12	(b)(1) A drug manufacturer or authorized distributor of record of a
13	drug may distribute a drug sample by mail, common carrier, or by direct
14	distribution by an authorized company representative to physicians or
15	practitioners licensed to prescribe the drugs.
16	(2)(A) A distribution of a drug sample under subdivision (c)(1)
17	of this section shall be made only upon the written request of the licensed
18	physician or practitioner.
19	(B) The written request shall contain:
20	(i) The name, address, professional designation, and
21	signature of the physician or practitioner making the request;
22	(ii) The identity of the drug sample requested, the
23	strength of the drug, and the quantity requested;
24	(iii) The name of the drug manufacturer of the drug
25	sample requested; and
26	(iv) The date of the request.
27	(c)(l)(A) A drug manufacturer or authorized distributor of record may
28	distribute drug samples to its authorized company representatives by common
29	<u>carrier.</u>
30	(B) A drug sample that is distributed by common carrier
31	shall be shipped in a manner that requires the signature of the recipient
32	before delivery.
33	(C) The authorized company representative shall personally
34	sign for this delivery.
35	(2) The drug manufacturer or authorized distributor of record
36	does not violate this subsection if the common carrier fails to obtain the

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- 1 authorized company representative's signature.
- 2 (d)(1) The authorized company representative shall store the drug
- 3 <u>samples under conditions that will maintain the stability, integrity, and</u>
- 4 effectiveness of the drug samples and ensure that the drug samples will be
- 5 free of contamination, deterioration, and adulteration as required under the
- 6 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.
- 7 (2) All compendial and labeling requirements for storage and
- 8 handling of a particular prescription drug shall be followed.
- 9 (e)(1) The name and address of the individual responsible for
- 10 responding to requests by the United States Food and Drug Administration
- ll regarding samples on behalf of a drug manufacturer or distributor shall be
- 12 provided by the manufacturer to the board.
- 13 (2) The individual identified under subdivision (f)(1) of this
- 14 <u>section shall further serve as the initial contact person to the board</u>
- 15 <u>concerning any alleged violations of this section.</u>
- (f)(1) A drug manufacturer or an authorized distributor of record
- 17 <u>shall maintain a list of:</u>
- 18 (A) The name and address of each representative of the
- 19 manufacturer or authorized distributor who distributes drug samples; and
- 20 <u>(B) Each site where drug samples are stored.</u>
- 21 (2) A record and a list maintained under this subsection shall
- 22 be made available by the drug manufacturer or authorized distributor to the
- 23 board upon request.

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- 24 (g) A drug manufacturer or an authorized distributor shall notify the
- 25 <u>board of a significant loss of drug samples and known theft of drug samples.</u>
- 26 (h) The board may report to the United States Food and Drug
- 27 Administration any violation of this section.
- 28 <u>(i) This section shall apply only to the distribution of drug samples</u>
- 29 within the State of Arkansas.
- 30 (j) A drug manufacturer that distributes drug samples in the State of
- 31 Arkansas shall have a policy for drug screening of an employee who
- 32 <u>distributes drug samples in this state.</u>
- 34 SECTION 4. Arkansas Code § 4-88-502(a) and (b)(1) are amended for clarity to read as follows:
- 36 (a) Nothing in this subchapter This subchapter shall not be construed

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I	to permit an activity otherwise prohibited by law.
2	(b)(1) Any $\underline{A}$ person who solicits advertisements for school calendars
3	must shall disclose whether or not the school whose name, emblem, or mascot
4	is used will receive any funds as a result of the solicitation and, if so,
5	what percentage or amount of those funds the school will receive.
6	
7	SECTION 5. Arkansas Code § 4-113-103(a)(4) is amended to add language
8	and delete language for clarification as follows:
9	(4)(A) Recognizing Recognize that such services such as
10	geographical information system data delivery and high-definition television
11	programs require increasingly huge demands in bandwidth promote broadband
12	backbone networks that will serve all of Arkansas with the bandwidth to
13	support Arkansas home and business needs into the foreseeable future; and
14	(B) Promote broadband backbone networks that will serve
15	all of Arkansas with the bandwidth to support Arkansas home and business
16	needs into the foreseeable future.
17	
18	SECTION $6$ . DO NOT CODIFY. The enactment and adoption of this act
19	shall not repeal, expressly or impliedly, the acts passed at the regular
20	session of the Eighty-Eighth General Assembly. All such acts shall have the
21	full force and effect and, so far as those acts intentionally vary from or
22	conflict with any provision contained in this act, those acts shall have the
23	effect of subsequent acts and as amending or repealing the appropriate parts
24	of the Arkansas Code of 1987.
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26	/s/Madison
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29	APPROVED: 03/25/2011
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