

## **BILL ANALYSIS**

Senate Research Center  
78R1891 SGA-D

S.B. 183  
By: Janek  
State Affairs  
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As Filed

### **DIGEST AND PURPOSE**

Under current Texas law, a health care provider or veterinarian can be named in a lawsuit in connection with prescribing an allegedly defective drug, device, or other product, even if the product has been approved by the Federal Drug Administration. As proposed, S.B. 183 prohibits the prescribing health care practitioner or veterinarian from being named or being liable in a suit for deceptive trade practices for a prescribed drug, medical device, or blood product that has been approved by the FDA.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 17.45, Business & Commerce Code, by adding Subdivisions (14) through (23), to define respectively the terms “advanced practice nurse,” “dentist,” “device,” “drug,” “health care practitioner,” “optometrist,” “physician,” “physician assistant,” “podiatrist,” and “veterinarian.”

SECTION 2. Amends Section 17.49, Business & Commerce Code, by adding Subsection (d-1), to prohibit a person from naming as a defendant in a civil action a health care practitioner or veterinarian who prescribed a drug or device responsibly and in a manner consistent with what a similarly licensed health care practitioner or veterinarian would have done under similar circumstances; and to exempt such a health care provider or veterinarian who prescribed a drug or device responsibly and prudently from being liable to a claimant.

SECTION 3. Amends Section 82.001, Civil Practice and Remedies Code, by adding Subdivisions (5) through (14), to define respectively the terms “advanced practice nurse,” “dentist,” “device,” “drug,” “health care practitioner,” “optometrist,” “physician,” “physician assistant,” “podiatrist,” and “veterinarian.”

SECTION 4. Amends Chapter 82, Civil Practice and Remedies Code, by adding Section 82.007, as follows:

Sec. 82.007. EXEMPTION FROM LIABILITY FOR HEALTH CARE PRACTITIONERS AND VETERINARIANS. Prohibits a person from naming as a defendant in a products liability action a health care practitioner or veterinarian who prescribed a drug or device responsibly and in a manner consistent with what a similarly licensed health care practitioner or veterinarian would have done under similar circumstances; and exempts such a health care provider or veterinarian who prescribed a drug or device responsibly and prudently from being liable to a claimant in a products liability action, including a class action, against the manufacturer or seller of a drug or device, such as a blood product, that has been approved by the United States Food and Drug Administration

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: upon passage or September 1, 2003.