

Chapter 453

1957 REPLACEMENT PART

Drugs, Poisons, Caustics and Corrosives; Radiation Sources

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**REGULATIONS CONCERNING
PREPARATION AND SALE
OF POISONS AND OTHER
DANGEROUS SUBSTANCES**

453.010 Definitions. (1) As used in ORS 453.010 to 453.160, unless the context requires otherwise:

(a) "Poison" includes all articles enumerated and defined in ORS 453.060, 453.090 and 453.110.

(b) "Deadly poison" means any drug, chemical or preparation which, according to standard works on medicine, toxicology or materia medica is liable to be destructive to adult human life, or as promulgated by the State Board of Pharmacy.

(2) The definitions of ORS 689.010 apply to ORS 453.010 to 453.160.

453.020 Manufacture and sale of drugs to conform to standards; substitutions prohibited; file of prescriptions. (1) No person shall manufacture, compound or sell or offer for sale or cause to be manufactured, compounded, sold or offered for sale any medicine, compound or preparation for internal or external use under or by a name recognized in the Pharmacopoeia, Formulary or New and Nonofficial Remedies which differs from the standard of strength and purity specified therein as official at the time of manufacture, compounding, sale or offering for sale.

(2) No person shall manufacture, compound, sell or offer for sale, or cause to be manufactured, sold or offered for sale, any drug, medicine, chemical or pharmaceutical preparation, the strength and purity of which falls below the professed standard of strength and purity under which it is sold.

(3) No person, being requested by means of a prescription or otherwise to sell, furnish or compound any drug, medicine, chemical or pharmaceutical preparation, shall substitute or cause to be substituted therefor without notification to the prescriber or purchaser, any other drug, medicine, chemical or pharmaceutical preparation.

(4) No pharmacist or any other person, requested by means of a prescription, shall substitute for a specified brand named product without the expressed authorization of the prescriber.

(5) Each licensed pharmacy shall keep on file as evidence of compliance with this section, the original prescriptions received and filled at its place of business, filed in such manner as will readily be accessible

for inspection by the board or its duly authorized agent. [Amended by 1953 c.64 §2]

453.030 Necessity for drug and poison label; required data; change of requirements.

(1) Except as otherwise specifically provided by law, no person shall sell or dispense at retail any drug, medicine or poison without affixing to the box, bottle, vessel or package containing the drug, medicine or poison, a clear and legible label, either printed or written, bearing the name of the article with the name and the place of business of the registered pharmacist, owner or manager.

(2) Labeling specifications regarding any substance, drug, chemical, poison or medicine controlled by ORS 453.010 to 453.160 may be changed or exemption granted by the board in form of special permit as the board may judge to be in the best interests of public safety.

453.040 Record of poison sales; sales to be made only by registered pharmacist.

(1) No person shall sell or deliver, or cause to be sold or delivered, any poisons or any caustic or corrosive substances specified in ORS 453.010 to 453.160, 453.210, 689.010 to 689.340 and 689.410 to 689.640, without making or causing to be made an entry in a book kept solely for that purpose, stating the date and hour of the sale, the name and address and the signature of the purchaser, the kind and quantity of the poison sold, a statement by the purchaser of the purpose for which it is required, and the name of the dispenser, who must be a duly registered pharmacist or duly registered assistant pharmacist.

(2) The poison register shall be in the form of columns with the following headings:

- (a) Date and hour.
- (b) Name of purchaser.
- (c) Residence.
- (d) Kind and quantity.
- (e) Purpose of use.
- (f) Means of identification.
- (g) Signature of purchaser.
- (h) Signature of druggist.

(3) The poison register shall always be open for inspection by the proper authorities and shall be preserved for at least five years after the date of the last entry.

(4) Official poison register books will be furnished by the board only to registered pharmacists.

453.050 Sale of poisons to minors. No person shall sell or deliver any poison to a

minor under 18 years of age without the written order of an adult.

453.060 Distributing certain poisons without labeling prohibited. No person shall vend, sell, give away or furnish, or cause to be vended, sold, given away or furnished, either directly or indirectly, any arsenic and its preparations, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnine, essential oil of bitter almonds, aconite, belladonna, nux vomica, oil of savin, oil of tansy, ergot, cotton root, cantharides, carbolic acid (phenol), corrosive sublimate, corrosive sublimate tablets, antiseptic tablets containing corrosive sublimate, and other deadly poisons in original packages or otherwise without labeling the box, vessel or bottle in which the poison is contained with:

- (1) The name of the article.
- (2) The word "poison."
- (3) The name and place of business of the seller.

453.070 False representations by purchasers of certain poisons prohibited. No person shall give a fictitious name or make any false representations to the seller or dealer when buying any of the poisons listed in ORS 453.060.

453.080 Sale of certain poisons to persons not aware of its poisonous character prohibited. No person shall deliver or sell any of the poisons listed in ORS 453.060 unless upon inquiry it be found that the purchaser is aware of its poisonous character.

453.090 Sale of certain poisons only by registered pharmacist; sale without labeling prohibited. Except as otherwise specifically provided by law, no person shall sell or deliver to any person any cocculus, conium, cotton root bark, digitalis, henbane, nux vomica, veratrum (hellebore), chloroform, ether, barbituric acid or its derivatives, salts of barium, lead salts, oxalic acid, mineral acids, iodine, tincture of iodine, compound solution of cresol, creosote, acetic acid, salicylic acid, croton oils, oils of pennyroyal, rue, savin and tansy, or any other drug, chemical substance or preparation which, according to standard works on medicine, materia medica or toxicology, while not considered toxic in doses of five grains or less, is nevertheless liable to be destructive to human life in doses of 60 grains or less, without plainly labeling with:

- (1) The name of the article in English.
- (2) The word "poison."
- (3) The name and place of business of the dispenser. [Amended by 1953 c.351 §2]

453.100 Sale of certain poisons prohibited unless for a lawful purpose and purchaser is aware of its poisonous character. No person shall sell or deliver to any person any of the poisons listed in ORS 453.090 without having learned by due inquiry that such person is aware of the poisonous character thereof and that it is desired for a lawful purpose.

453.110 Regulations concerning sale of certain poisons. (1) No person shall sell strychnine, arsenic, completely denatured alcohol, methyl alcohol (methanol), or any other deadly poison that the board may designate from time to time by promulgation under ORS 689.620 and 689.630, without absolute identification on the part of the purchaser thereof by automobile driver's license or other positive identification bearing purchaser's signature, or personal identification, and then only when the same has been properly packaged, labeled and fully registered according to the pharmacy law.

(2) Completely denatured alcohol, methyl alcohol (methanol), canned heat or solidified forms of denatured alcohol must be labeled in accordance with federal regulations and must state on the label the federal formula number and the percentage of methanol, if any, contained therein. Methyl alcohol (methanol) in any concentration greater than five percent must be labeled methanol with the percentage of methanol stated on the label and must carry the antidote for methanol. The label shall be in conformity with federal regulations.

(3) Stores and shops other than retail pharmacies may sell completely denatured alcohol or methyl alcohol (methanol) in quantities of not less than one gallon only in original containers and only when properly labeled by distiller or wholesale distributor and bearing also seller's label. Name and address of seller must be applied by label on the container. Record of such wholesale quantities must be kept by the seller and information including date, means of identification and purported use.

(4) Retail sales of completely denatured alcohol, methyl alcohol (methanol), canned heat and other solidified forms of denatured alcohol, in quantities of less than one gallon will be confined to registered phar-

macists and registration of same must be made in their official poison register.

(5) Local police authorities shall furnish to all retail druggists licensed to sell completely denatured alcohol, methyl alcohol (methanol), canned heat and other solidified forms of denatured alcohol within their respective localities twice each year the names of known addicts and a statement prohibiting sale to them.

(6) Sellers of denatured alcohol, methyl alcohol (methanol) only are exempted from the shopkeepers' license provision of the pharmacy law.

(7) Distributors and transporters, stores and shops, other than retail pharmacies may deliver, or sell carbolic acid (phenol) for commercial use only in quantities of not less than 15 gallons but only when the container is properly labeled by the manufacturer or wholesale distributor and also bears a label containing the name and address of the seller or deliverer. Record of sales or deliveries of quantities of 15 gallons or more of carbolic acid (phenol) shall be kept by the seller and deliverer. The record shall contain information, including the date, name of purchaser or person receiving the delivery and purposed use.

(8) A distributor, transporter, store or shop shall not by reason of the delivery or sale of carbolic acid (phenol) in quantities of 15 gallons or more become subject to the shopkeepers' license provision of the pharmacy law. Retail sales of carbolic acid (phenol) in quantities of less than 15 gallons shall be confined to registered pharmacies and registration of such sales shall be made on their official poison register. [Amended by 1953 c.351 §2]

453.120 Exemption of poisons dispensed under a prescription. (1) Whenever poisons are dispensed in accordance with a written prescription by a licensee of the State Board of Medical Examiners, dentists or veterinarians, and such written prescription is filed and retained by the pharmacist as required by ORS 453.020, the requirements of ORS 453.040 to 453.160 are satisfied and the pharmacist shall affix a poison label only when the prescribing licensee of the State Board of Medical Examiners, dentists or veterinarians so directs.

(2) ORS 453.040 to 453.160 do not apply to the dispensing of physicians prescriptions of any poisons.

453.130 Application to the manufacture or wholesale sales of poisons. Nothing in ORS 453.040 to 453.160 applies to the manufacture, making or selling at wholesale any poisons, except as therein provided, but each box, vessel or package, other than physicians' prescriptions, in which the poison is contained shall be labeled as provided in ORS 453.040 to 453.160.

453.140 Certain medicinal narcotics and other medicinal preparations exempted. The provisions of ORS 453.010 to 453.160, 689.010 to 689.340 and 689.410 to 689.640, governing the sale and distribution of poisons, unless otherwise specifically provided by law, do not apply to the sale or distribution of compounds, preparations or remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if solid or semi-solid preparations, in one avoirdupois ounce; or to liniments, ointments or other preparations which are prepared for external use only, when sold or distributed for use as medicines.

453.150 Sale of antifreeze by garages and filling stations not affected. ORS 453.010 to 453.160, 689.010 to 689.340 and 689.410 to 689.640, shall not be construed to interfere with or prevent the legitimate sale of completely denatured alcohol, methyl alcohol (methanol) by garages and filling stations, when used for antifreeze purposes and poured directly into the radiator of any automobile or motor vehicle by the seller thereof.

453.160 Sale of alcohols for beverage purposes prohibited. No person shall knowingly sell, furnish or give away or cause to be sold, furnished or given away completely denatured alcohol, methyl alcohol (methanol), canned heat or other solidified forms of denatured alcohol, or any preparation containing those substances, to be used for beverage purposes.

453.170 Sale of poisons restricted or prohibited by rule; list of regulated poisons. (1) When, in the opinion of the State Board of Pharmacy, it is in the interest of the public health and morals, it may restrict or prohibit the retail sale of any poison or alcoholic mixture by rules adopted by it, not in-

consistent with law and to be applicable to all persons alike.

(2) The board, upon request, shall furnish any dealer with a list of all articles, preparations and compounds, the sale of which is prohibited or regulated pursuant to this section.

453.180 to 453.200 [Reserved for expansion]

**DISTRIBUTION AND SALE OF
CAUSTIC OR CORROSIVE
ACIDS, ALKALIS AND
OTHER SIMILAR
SUBSTANCES**

453.210 Definitions and explanations.
As used in ORS 453.210 to 453.240, unless the context otherwise requires:

(1) "Dangerous caustic or corrosive substance" means the following substances:

(a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCL) in a concentration of 10 percent or more.

(b) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 percent or more.

(c) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of five percent or more.

(d) Carbolic acid (C_6H_5OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five percent or more.

(e) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of 10 percent or more.

(f) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 percent or more.

(g) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 percent or more.

(h) Hypochlorous acid, either free or combined, and any preparation containing the same concentration so as to yield 10 percent or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime.

(i) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), includ-

ing caustic potash and Vienna paste, in a concentration of 10 percent or more.

(j) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 percent or more.

(k) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of five percent or more.

(L) Ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and hartshorn, in a concentration of five percent or more.

(2) "Misbranded parcel, package or container" means a retail parcel, package or container of any dangerous caustic or corrosive substance for household use not bearing a conspicuous, easily legible label or sticker, containing:

(a) The name of the article.

(b) The name and place of business of the manufacturer, packer, seller or distributor.

(c) The word "POISON," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker.

(d) Directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance.

453.220 Sales in misbranded packages prohibited. No person shall sell, barter or exchange, or receive, hold, pack, display or offer for sale, barter or exchange any dangerous caustic or corrosive substance in a misbranded parcel, package or container.

453.230 Proceedings for seizure and confiscation of misbranded goods; disposition; redelivery. (1) Any dangerous caustic or corrosive substance in a misbranded parcel, package or container suitable for household use that is being sold, bartered or exchanged, or held, displayed or offered for sale, barter or exchange, shall be liable to be proceeded against in any circuit court of the state within the jurisdiction of which the same is found and seized for confiscation by the sheriff of the county in which the same

is found. If such substance is condemned as misbranded, by the court, it shall be disposed of by destruction or sale, as the court may direct. If sold, the proceeds, less the actual costs and charges, shall be paid over to the State Board of Pharmacy, but such substance shall not be sold contrary to the laws of the state. However, upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof.

(2) The condemnation proceedings under this section shall conform as near as may be to proceedings provided for in ORS 471.660 and 471.665.

453.240 Enforcement of statute by State Board of Pharmacy. The State Board of Pharmacy shall enforce ORS 453.210 to 453.240. The board may approve and register such brands and labels intended for use under ORS 453.210 to 453.240 as may be submitted to it for that purpose and as may in its judgment conform to the requirements of those statutes. However, in any prosecution under ORS 453.210 to 453.240, the fact that any brand or label involved in the prosecution has not been submitted to the board for approval, or if submitted, has not been approved by it, is immaterial.

453.250 to 453.300 [Reserved for expansion]

PROHIBITING SALE OF DRUGS BY VENDING MACHINES AND SALE OF ADULTERATED DRUGS

453.310 Dispensing of drugs by automatic vending devices prohibited. (1) No drugs shall be dispensed to the public by means of automatic vending machines.

(2) As used in this section:

(a) "Drugs" includes all medicine and preparations recognized in the United States Pharmacopoeia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or animals.

(b) "Automatic vending machine" means any mechanical device or contrivance whereby the purchaser is able to secure drugs without the aid or assistance of another party.

453.320 Sale of adulterated drugs prohibited. No person shall adulterate for the purpose of sale any drug or medicine in such manner as to render the same injurious to health, or knowingly sell or offer for sale any such adulterated drug or medicine.

453.330 to 453.600 [Reserved for expansion]

RADIATION SOURCES

453.610 Definitions. For the purposes of ORS 453.610 to 453.650, the term:

(1) "Radiation" means gamma rays, X rays, alpha and beta particles, high speed electrons, neutrons, protons and other nuclear particles; but does not include sound or radio waves, or visible, infrared or ultra-violet light.

(2) "Radiation source" means any radioactive material or any instrument or material used for the production of radiation.

(3) "Radioactive material" means any material, whether solid, liquid or gas, that emits radiation spontaneously. [1957 c.399 §2]

453.620 Declaration of public policy. Whereas radiation can be instrumental in the improvement of health, welfare and productivity of the public if properly utilized, and may impair the health, welfare and productivity of the public and the industrial and agricultural potentials of the state if improperly utilized, it hereby is declared to be the public policy of this state to encourage the constructive uses of radiation and to control any associated harmful effects. [1957 c.399 §1]

453.630 Regulation of radiation sources.

(1) The State Board of Health, after making a two-year study of the problem, shall promulgate regulations and standards, in conformance with the policy expressed in ORS 453.620, for the safe use, handling, disposal and control of all radiation sources within this state except those excluded by subsection (2) of this section.

(2) Radiation sources emitting nonhazardous quantities of radiation as determined by the State Board of Health in accordance with nationally accepted standards shall not be subject to regulation or control under ORS 453.610 to 453.650. In making such determinations the State Board of Health will obtain the advice of a radiation advisory committee in accordance with ORS 453.640. [1957 c.399 §§3, 4]

453.640 Radiation Advisory Committee. The State Board of Health shall appoint a Radiation Advisory Committee to advise the State Board of Health on matters relating to radiological health and radiation protection. The committee shall consist of five persons who because of their training and experience are qualified to advise the State Board of Health on such matters and they shall serve at the pleasure of the State Board of Health. The members of the Radiation Advisory Committee shall receive no compensation for their services as members, but, subject to any other applicable law regulating mileage, traveling and other expenses for state officers, shall receive their actual and necessary traveling and other expenses incurred in the performance of their official duties. [1957 c.399 §5]

453.650 Enforcement of regulations and standards. (1) No person shall violate or refuse to comply with any regulation or standard promulgated under subsection (1) of ORS 453.630.

(2) The State Board of Health may apply to an appropriate court for an order restraining any person from violating or refusing to comply with any standard or regulation promulgated by the State Board of Health under subsection (1) of ORS 453.630. If the court finds that the defendant is doing or threatening to do any act in violation of any standard or regulation so promulgated or is refusing to comply with such standards or regulations, the court shall grant an injunction restraining the violation or refusal. The court may, on motion and affidavits, grant a preliminary injunction ex parte and an interlocutory injunction, upon such terms as may be just. The State Board of Health shall not be required to give security before the issuance of any such injunction. [1957 c.399 §6]

453.660 to 453.980 [Reserved for expansion]

PENALTIES

453.990 Penalties. (1) Violation of ORS 453.020 is punishable, upon conviction, by a fine of not less than \$20 nor more than \$50 and the cost of prosecution for the first of-

fense. Each subsequent offense is punishable, upon conviction, by a fine of not less than \$25 nor more than \$100.

(2) Any sale in violation of the rules and regulations of the board, as provided in subsection (1) of ORS 453.030, is punishable, upon conviction, by a fine of not less than \$20 nor more than \$100.

(3) Violation of ORS 453.040 to 453.150 is punishable, upon conviction, by a fine of not less than \$20 nor more than \$100 or by imprisonment for not more than 30 days, or both.

(4) Violation of ORS 453.050, 453.090 or 453.100 is punishable, upon conviction, by a fine of not less than \$20 nor more than \$100 and the cost of prosecution of each offense.

(5) Violation of ORS 453.160 is a felony and is punishable, upon conviction, by a fine of not less than \$200 nor more than \$500 or by imprisonment in the penitentiary for not more than five years, or both. The penalties in this subsection do not supplant, mitigate or diminish the penalties provided by law for a person found guilty of manslaughter.

(6) Any sale in violation of the rules or regulations made under ORS 453.170 is punishable, upon conviction, by a fine of not less than \$25 nor more than \$500.

(7) Violation of ORS 453.210 to 453.240 is punishable, upon conviction, by a fine of not more than \$200, or by imprisonment for not more than 90 days, or by both.

(8) Violation of ORS 453.310 is punishable, upon conviction, by a fine of not more than \$100, or imprisonment in the county jail for not more than 90 days, or by both.

(9) Violation of ORS 453.320 is punishable, upon conviction, by a fine of not less than \$50 nor more than \$500 or by imprisonment in the county jail for not less than three months nor more than one year. Moreover, the adulterated drugs or medicines shall be forfeited and destroyed.

453.992 Jurisdiction. Circuit courts, justice courts and district courts have concurrent original jurisdiction to try causes arising out of violations of ORS 453.010 to 453.160.

DRUGS, POISONS, CAUSTICS AND CORROSIVES; RADIATION

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel

CHAPTERS 454 AND 455

[Reserved for expansion]

