

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

ASSOCIATION FOR ACCESSIBLE
MEDICINES,

Plaintiff,

v.

Case No.: 3:25-cv-1757-OAW

MARK D. BOUGHTON, in his official
capacity as Commissioner of the Connecticut
Department of Revenue Services; and

WILLIAM M. TONG, in his official capacity
as Attorney General of the State of
Connecticut,

Defendants.

**STIPULATION REGARDING DEFENDANTS’
ENFORCEMENT POSITION AND DISMISSAL**

Plaintiff Association for Accessible Medicines (“AAM”); Defendant Mark D. Boughton, in his official capacity as Commissioner of the Connecticut Department of Revenue Services; and Defendant William M. Tong, in his official capacity as Attorney General of the State of Connecticut, by and through their attorneys of record, hereby stipulate and agree as follows:

WHEREAS, beginning on January 1, 2026, sections 345 through 347 of Connecticut Public Act No. 25-168 (“the Act”) prohibit pharmaceutical manufacturers and wholesale distributors from selling “identified prescription drug[s]” “in this state” at a price above the cap set by the Act;

WHEREAS, AAM filed this action on October 17, 2025 (ECF No. 1), and, on October 23, 2025, filed a motion for a preliminary injunction (ECF No. 20) to enjoin Defendants and all persons in active concert or participation with them from enforcing the Act against AAM’s members, or their agents and licensees, based on their sales of generic drugs or biosimilars that occur outside of Connecticut;

WHEREAS, in its complaint (ECF No. 1) and motion for preliminary injunction (ECF No. 20), AAM alleges and represents that its members engage in sales of “identified prescription drugs” that occur “wholly outside Connecticut,” and therefore in this action seeks declaratory and injunctive relief as to Defendants’ enforcement of the Act as to “the wholly out-of-state transactions of AAM’s members, or any of their agents, privies, or licensees”;

WHEREAS, at the December 9, 2025 hearing on AAM’s motion for preliminary injunction, “Defendants clarified, *for the first time*, that it is their position that Sections 345 through 347 of [the Act] do *not* apply to non-Connecticut manufacturers transacting with non-Connecticut distributors outside of Connecticut,” ECF No. 33, because a sale “in this state” includes only a sale in which title transfers in Connecticut;

WHEREAS, Defendants argued that based on that interpretation the Court should reject Plaintiff’s claim that the Act as applied to AAM members’ transactions likely violates the constitutional prohibition on extraterritorial legislation and should deny AAM’s motion for preliminary injunction; and

WHEREAS, the adopting and maintaining of that interpretation by the officials with authority to enforce the Act addresses AAM’s claim of harm and request for relief from the enforcement of the Act against sales outside Connecticut, and based explicitly upon the adoption and maintenance of that interpretation, AAM is willing to withdraw this action,

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned parties that:

1. Defendants agree that sections 345 through 347 of Connecticut Public Act No. 25-168 do not apply to sales of “identified prescription drugs” (as defined in Act § 345(6)) in which title transfers outside of Connecticut, because such sales do not occur “in this state” as that term is used in Act §§ 346(a) and (b) and 347(a) and (b), and neither Defendants nor any of their officers,

agents, employees, attorneys, or persons in active concert or participation with them shall advance or apply a contrary interpretation of the Act in any federal or state judicial, administrative, or rulemaking action or proceeding.

2. Neither Defendants nor their officers, agents, employees, attorneys, or persons in active concert or participation with them will implement or enforce sections 345 through 347 of Connecticut Public Act No. 25-168 against AAM, its member entities, or their agents or licensees, based on sales of “identified prescription drugs” (as defined in Act § 345(6)) in which title transfers outside Connecticut, because such sales do not occur “in this state” as that term is used in Act §§ 346(a) and (b) and 347(a) and (b).

3. The parties agree that their entry into this stipulation regarding Defendants’ interpretation of the Act and planned enforcement of the Act in no way restricts, limits, prohibits, or bars Defendants from implementing or enforcing sections 345 through 347 of Connecticut Public Act No. 25-168 against AAM’s members, or their agents or licensees, based solely on sales of “identified prescription drugs” (as defined in Act § 345(6)) in which that entity transfers title within Connecticut. Similarly, the parties agree that their entry into this stipulation in no way restricts, limits, prohibits, or bars AAM, its members, or their agents or licensees, from challenging or defending against such implementation or enforcement on any basis.

4. In express reliance upon Defendants’ representations and entry into this stipulation regarding Defendants’ interpretation of the Act and planned enforcement of the Act, AAM will and hereby does withdraw the motion for preliminary injunction and the action is hereby dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2).

5. The parties recognize that any future change of position on this issue by Defendants, their officers, agents, servants, employees, or persons in active concert or participation with them, would cause unfair detriment to AAM and AAM’s members, such as by depriving AAM of the

ability to litigate its challenge to the Act before the date on which the price control provisions become operative. In the event of such a change of position, in addition to AAM's and its members' right to rely on the estoppel effect of Defendants' representations to this Court, AAM shall retain the right to move to reopen this litigation and to re-assert its motion for preliminary injunction and/or to seek relief from this Court to effectuate its judgment.

6. Defendants shall keep the sealed (unredacted) versions of the declarations submitted in support of AAM's motion for preliminary injunction, ECF Nos. 22-23, sealed and confidential, disclosing those declarations only to Defendants' counsel of record and their regularly employed paralegals and office staff for use solely related to this litigation.

7. Each party shall bear its own costs and fees.

IT IS SO ORDERED.

Dated: _____

The Honorable Omar A. Williams
United States District Judge

Respectfully submitted,

Mark D. Boughton, Comm'r of Revenue Servs.
William M. Tong, Attorney General

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Respectfully submitted,

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