

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

CC

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0588.01 Kristen Forrestal x4217

HOUSE BILL 19-1131

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT TO SHARE THE WHOLESALE**
102 **ACQUISITION COST OF A DRUG WHEN SHARING INFORMATION**
103 **CONCERNING THE DRUG WITH ANOTHER PARTY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires a drug manufacturer or wholesaler, or an agent or an employee of the manufacturer or wholesaler, to provide, in writing, the wholesale acquisition cost of a prescription drug to an entity or individual with whom the manufacturer, wholesaler, agent, or employee is sharing information concerning the drug.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
March 4, 2019

HOUSE
Amended 2nd Reading
March 1, 2019

The bill also requires the drug manufacturer or wholesaler, or an agent or employee of the manufacturer or wholesaler, to provide educational materials about the acquisition costs of other prescription drugs in the same therapeutic class.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add 12-42.5-308** as
3 follows:

4 **12-42.5-308. Manufacturer, agent, representative, employee**
5 **- drug cost information - required - definitions.** (1) A MANUFACTURER,
6 OR A REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, WHO
7 WHILE EMPLOYED BY OR UNDER CONTRACT TO REPRESENT A
8 MANUFACTURER ENGAGES IN PRESCRIPTION DRUG MARKETING, SHALL
9 PROVIDE TO A PRESCRIBER, IN WRITING, THE WHOLESALE ACQUISITION
10 COST OF A PRESCRIPTION DRUG WHEN, IN THE COURSE OF CONDUCTING
11 BUSINESS, THE MANUFACTURER, REPRESENTATIVE, AGENT, OR EMPLOYEE
12 PROVIDES INFORMATION CONCERNING THE DRUG TO THE PRESCRIBER.

13 (2) (a) WHEN PROVIDING THE INFORMATION REQUIRED BY
14 SUBSECTION (1) OF THIS SECTION, A MANUFACTURER, OR A
15 REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, SHALL
16 ALSO DISSEMINATE THE NAMES OF AT LEAST THREE GENERIC
17 PRESCRIPTION DRUGS FROM THE SAME THERAPEUTIC CLASS, OR IF THREE
18 ARE NOT AVAILABLE, AS MANY AS ARE AVAILABLE FOR PRESCRIPTIVE USE.

19 (b) FOR THE PURPOSES OF THIS SECTION:

20 (I) "PRESCRIBER" MEANS A HEALTH CARE PROVIDER LICENSED
21 PURSUANT TO THIS TITLE 12 WHO IS AUTHORIZED TO PRESCRIBE
22 CONTROLLED SUBSTANCES OR PRESCRIPTION DRUGS.

23 (II) "PRESCRIPTION DRUG MARKETING" MEANS ANY ACTIVITY

1 THAT DOES NOT INCLUDE CONVERSATIONS AT SCIENTIFIC CONFERENCES
2 AND THAT MAY INCLUDE IN-PERSON MEETINGS, PHYSICAL MAILINGS,
3 TELEPHONIC CONVERSATIONS, VIDEO CONFERENCING, ELECTRONIC
4 MAILING OR TEXTING, OR FACSIMILE TRANSMISSIONS THAT PROVIDES
5 EDUCATIONAL OR MARKETING INFORMATION OR MATERIALS REGARDING
6 A PRESCRIPTION DRUG.

7 (III) "THERAPEUTIC CLASS" MEANS A GROUP OF SIMILAR DRUGS
8 THAT HAVE THE SAME OR SIMILAR MECHANISMS OF ACTION AND ARE USED
9 TO TREAT A SPECIFIC CONDITION.

10 **SECTION 2.** In Colorado Revised Statutes, **add to article 280**
11 **as relocated by House Bill 19-1172 12-280-308** as follows:

12 **12-280-308. Manufacturer, agent, representative, employee -**
13 **drug cost information - required - definitions.** (1) A MANUFACTURER,
14 OR A REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, WHO
15 WHILE EMPLOYED BY OR UNDER CONTRACT TO REPRESENT A
16 MANUFACTURER ENGAGES IN PRESCRIPTION DRUG MARKETING, SHALL
17 PROVIDE TO A PRESCRIBER, IN WRITING, THE WHOLESale ACQUISITION
18 COST OF A PRESCRIPTION DRUG WHEN, IN THE COURSE OF CONDUCTING
19 BUSINESS, THE MANUFACTURER, REPRESENTATIVE, AGENT, OR EMPLOYEE
20 PROVIDES INFORMATION CONCERNING THE DRUG TO THE PRESCRIBER.

21 (2) (a) WHEN PROVIDING THE INFORMATION REQUIRED BY
22 SUBSECTION (1) OF THIS SECTION, A MANUFACTURER, OR A
23 REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, SHALL
24 ALSO DISSEMINATE THE NAMES OF AT LEAST THREE GENERIC
25 PRESCRIPTION DRUGS FROM THE SAME THERAPEUTIC CLASS, OR IF THREE
26 ARE NOT AVAILABLE, AS MANY AS ARE AVAILABLE FOR PRESCRIPTIVE USE.

27 (b) FOR THE PURPOSES OF THIS SECTION:

1 (I) "PRESCRIBER" MEANS A HEALTH CARE PROVIDER LICENSED
2 PURSUANT TO THIS TITLE 12 WHO IS AUTHORIZED TO PRESCRIBE
3 CONTROLLED SUBSTANCES OR PRESCRIPTION DRUGS.

4 (II) "PRESCRIPTION DRUG MARKETING" MEANS ANY ACTIVITY
5 THAT DOES NOT INCLUDE CONVERSATIONS AT SCIENTIFIC CONFERENCES
6 AND THAT MAY INCLUDE IN-PERSON MEETINGS, PHYSICAL MAILINGS,
7 TELEPHONIC CONVERSATIONS, VIDEO CONFERENCING, ELECTRONIC
8 MAILING OR TEXTING, OR FACSIMILE TRANSMISSIONS THAT PROVIDES
9 EDUCATIONAL OR MARKETING INFORMATION OR MATERIALS REGARDING
10 A PRESCRIPTION DRUG.

11 (III) "THERAPEUTIC CLASS" MEANS A GROUP OF SIMILAR DRUGS
12 THAT HAVE THE SAME OR SIMILAR MECHANISMS OF ACTION AND ARE USED
13 TO TREAT A SPECIFIC CONDITION.

14 **SECTION 3. Act subject to petition - effective date.** (1) Except
15 as otherwise provided in subsection (2) of this section, this act takes
16 effect at 12:01 a.m. on the day following the expiration of the ninety-day
17 period after final adjournment of the general assembly (August 2, 2019,
18 if adjournment sine die is on May 3, 2019); except that, if a referendum
19 petition is filed pursuant to section 1 (3) of article V of the state
20 constitution against this act or an item, section, or part of this act within
21 such period, then the act, item, section, or part will not take effect unless
22 approved by the people at the general election to be held in November
23 2020 and, in such case, will take effect on the date of the official
24 declaration of the vote thereon by the governor.

25 (2) Section 2 of this act takes effect only if House Bill 19-1172
26 becomes law, in which case section 2 takes effect October 1, 2019.