



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB0239

by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

410 ILCS 620/16.2 new  
410 ILCS 620/16.3 new

Amends the Illinois Food, Drug and Cosmetic Act. Requires manufacturers of brand name or generic prescription drugs to notify State purchasers, health insurers, health care service plan providers, pharmacy benefit managers, and the General Assembly of specified increases in drug prices at least 60 days before such increase and the cost of specified new prescription drugs within 3 days after approval by the U.S. Food and Drug Administration. Provides that within 30 days after such notifications, prescription drug manufacturers shall report specified information to State purchasers, health insurers, health care service plan providers, pharmacy benefit managers, and the General Assembly. Provides that failure to report such information shall result in a specified civil penalty. Requires the General Assembly to conduct an annual public hearing on aggregate trends in prescription drug pricing. Provides that if the manufacturer of a prescription drug or its agent meets or otherwise communicates with a prescriber for the purpose of marketing a drug, then the manufacturer or its agent shall disclose to the prescriber if any ingredient in the drug it is marketing is known to pose a risk of dependency in humans. Makes other changes.

LRB100 00004 MJP 10004 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Food, Drug and Cosmetic Act is  
5 amended by adding Sections 16.2 and 16.3 as follows:

6 (410 ILCS 620/16.2 new)

7 Sec. 16.2. Prescription drug price increases.

8 (a) This Section shall apply to any manufacturer of a  
9 prescription drug that is purchased or reimbursed by any of the  
10 following:

11 (1) A State purchaser, including, but not limited to,  
12 State retirement systems, the Department of Corrections,  
13 the Department of Healthcare and Family Services, the  
14 Department of Public Health, or any entity acting on behalf  
15 of a State purchaser.

16 (2) A health insurer.

17 (3) A health care service plan provider.

18 (4) A pharmacy benefit manager.

19 (b) A manufacturer of a brand name prescription drug shall  
20 provide written notice to State purchasers, health insurers,  
21 health care service plan providers, pharmacy benefit managers,  
22 and the General Assembly if the manufacturer is increasing the  
23 wholesale price of the brand name prescription drug by more

1 than 10% during a 12-month period or by more than \$10,000  
2 during a 12-month period. A manufacturer of a generic  
3 prescription drug with a wholesale price of \$100 or more per  
4 30-day month shall provide written notice to State purchasers,  
5 health insurers, health care service plan providers, pharmacy  
6 benefit managers, and the General Assembly if the manufacturer  
7 is increasing the wholesale price of the generic prescription  
8 drug by more than 25% during a 12-month period. The notice  
9 shall be provided in writing at least 60 days prior to the  
10 planned effective date of the increase. Within 30 days after  
11 notification of a price increase as provided in this  
12 subsection, a manufacturer shall report the following  
13 information to State purchasers, health insurers, health care  
14 service plan providers, pharmacy benefit managers, and the  
15 General Assembly:

16 (1) a justification for the proposed price increase;  
17 the manufacturer may limit the information in the  
18 justification to that which is publicly available;

19 (2) the previous year's marketing budget for the drug;

20 (3) the date and price of acquisition if the drug was  
21 not developed by the manufacturer; and

22 (4) a schedule of price increases for the drug for the  
23 previous 5 years.

24 (c) A manufacturer of a prescription drug shall provide  
25 written notice to State purchasers, health insurers, health  
26 care service plan providers, pharmacy benefit managers, and the

1 General Assembly if the manufacturer is introducing a new  
2 prescription drug to market at a wholesale cost of \$10,000 or  
3 more annually or per course of treatment. The notice shall be  
4 provided in writing within 3 days after approval by the U.S.  
5 Food and Drug Administration. Within 30 days after notification  
6 of approval for a new drug as provided in this subsection, a  
7 manufacturer shall report the following information to State  
8 purchasers, health insurers, health care service plan  
9 providers, pharmacy benefit managers, and the General  
10 Assembly:

11 (1) a justification for the introductory price; the  
12 manufacturer may limit the contents of the justification to  
13 publicly available information;

14 (2) the expected marketing budget for the drug; and

15 (3) the date and price of acquisition if the drug was  
16 not developed by the manufacturer.

17 (d) Failure to report the information required pursuant to  
18 subsection (b) or subsection (c) to State purchasers, health  
19 insurers, health care service plan providers, pharmacy benefit  
20 managers, or the General Assembly shall result in a civil  
21 penalty of \$1,000 per day for every day after the 30-day  
22 notification period.

23 (e) The General Assembly shall conduct an annual public  
24 hearing on aggregate trends in prescription drug pricing. The  
25 hearing shall provide for public discussion of overall price  
26 increases, emerging trends, decreases in drug spending, and the

1 impact of prescription drug spending on health care  
2 affordability and premiums.

3 (f) Except for the hearing required pursuant to subsection  
4 (e), the General Assembly shall keep confidential all of the  
5 information provided to the General Assembly pursuant to this  
6 Section, and that information shall be exempt from disclosure  
7 under the Freedom of Information Act.

8 (g) This Section shall not restrict the legal ability of a  
9 pharmaceutical manufacturer to change prices as permitted  
10 under federal law.

11 (410 ILCS 620/16.3 new)

12 Sec. 16.3. Prescription drug manufacturer disclosure of  
13 dependency risk. If the manufacturer of a prescription drug or  
14 its agent meets or otherwise communicates with a prescriber for  
15 the purpose of marketing a drug, then the manufacturer or its  
16 agent shall disclose to the prescriber if any ingredient in the  
17 drug it is marketing is known to pose a risk of dependency in  
18 humans. For the purposes of this subsection, "prescriber" shall  
19 have the same meaning as provided in the Illinois Controlled  
20 Substances Act.