



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Barack Obama

SYNOPSIS AS INTRODUCED:

New Act

Creates the Prescription Drug Ethical Marketing Act. Requires every manufacturer and labeler that sells prescription drugs in the State to disclose to the Director the value, nature, and purpose of any gift, fee, payment, subsidy, or other economic benefit provided in connection with detailing or promotional or other marketing activities by the company, directly or through its pharmaceutical marketers, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, or any other person in Illinois authorized to prescribe or dispense prescription drugs. Requires the Director to report to the Governor and the General Assembly on the disclosures. Provides exceptions to the disclosures. Provides for injunctive relief and civil penalties for failure to disclose.

LRB093 20845 AMC 46777 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning prescription drugs.

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

4 Section 1. Short title. This Act may be cited as the
5 Prescription Drug Ethical Marketing Act.

6 Section 5. Findings and purpose.

7 (a) The General Assembly finds that:

8 (1) Prescription drug spending is the fastest growing
9 component of health care spending in the United States.

10 (2) Drug manufacturers' marketing to doctors, called
11 "detailing", is affecting the way that doctors prescribe
12 medications so that they too often prescribe the most
13 expensive medicines when less expensive drugs are as
14 effective or safer.

15 (3) Gifts from prescription drug detailers can
16 influence the decisions of doctors in terms of the
17 medicines that they prescribe.

18 (b) The purpose of this Act is to lower prescription drug
19 costs for individuals, businesses, and the State and to protect
20 the health of residents by deterring the practice of unethical
21 gift-giving by drug manufacturers.

22 Section 10. Definitions. As used in this Act:

23 "Director" means the Director of Public Health.

24 "Labeler" means an entity or person that receives
25 prescription drugs from a manufacturer or wholesaler and
26 repackages those drugs for later retail sale and that has a
27 labeler code from the Food and Drug Administration under 21
28 C.F. R. 207.20.

29 "Manufacturer" means a manufacturer of prescription drugs
30 as defined in 42 U.S.C. 1396r-8 (k) (5), including a subsidiary
31 or affiliate of a manufacturer.

1 "Pharmaceutical marketer" means a person who, while
2 employed by or under contract to represent a manufacturer or
3 labeler, engages in pharmaceutical detailing, promotional
4 activities, or other marketing of prescription drugs in this
5 State to any physician, hospital, nursing home, pharmacist,
6 health benefit plan administrator, or any other person
7 authorized to prescribe or dispense prescription drugs.

8 Section 15. Disclosure of marketing practices.

9 (a) On or before January 1 of each year, every manufacturer
10 and labeler that sells prescription drugs in the State shall
11 disclose to the Director the name and address of the individual
12 responsible for the company's compliance with the provisions of
13 this Section.

14 (b) On or before February 1 of each year, every
15 manufacturer and labeler that sells prescription drugs in the
16 State shall disclose to the Director the value, nature, and
17 purpose of any gift, fee, payment, subsidy, or other economic
18 benefit provided in connection with detailing or promotional or
19 other marketing activities by the company, directly or through
20 its pharmaceutical marketers, to any physician, hospital,
21 nursing home, pharmacist, health benefit plan administrator,
22 or any other person in Illinois authorized to prescribe or
23 dispense prescription drugs. Disclosure shall cover the prior
24 year and disclosure shall be made on a form and in a manner
25 prescribed by the Director.

26 (c) On or before March 1 of each year, the Director shall
27 report to the Governor and the General Assembly on the
28 disclosures made under this Section.

29 (d) The following shall be exempt from disclosure:

30 (1) Any gift, fee, payment, subsidy or other economic
31 benefit the value of which is less than 25 dollars.

32 (2) Free samples of prescription drugs to be
33 distributed to patients.

34 (3) The payment of reasonable compensation and
35 reimbursement of expenses in connection with a bona fide

1 clinical trial conducted in connection with a research
2 study designed to answer specific questions about
3 vaccines, new therapies, or new ways of using known
4 treatments.

5 (4) Scholarship or other support for medical students,
6 residents, and fellows to attend a bona fide educational,
7 scientific, or policy-making conference of an established
8 professional association if the recipient of the
9 scholarship or other support is selected by the
10 association.

11 Section 20. Administration and enforcement.

12 (a) This Act shall be enforced by the Director, who shall
13 adopt any rules that are necessary to implement and administer
14 compliance, including rules describing bona fide clinical
15 trials in item (3) of subsection (d) of Section 15 and bona
16 fide conferences in item (4) of subsection (d) of Section 15.

17 (b) If a manufacturer or labeler violates this Act, the
18 Director may bring an action in court for injunctive relief,
19 costs, attorneys fees, and a civil penalty of up to \$10,000 per
20 violation. Each unlawful failure to disclose shall constitute a
21 separate violation.