



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/5/2004, by Mattie Hunter

**SYNOPSIS AS INTRODUCED:**

New Act  
815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Creates the Profiteering in Prescription Drugs Act. Provides that a manufacturer, distributor, or labeler of prescription drugs engages in illegal profiteering if that manufacturer, distributor, or labeler (i) exacts or demands an unconscionable price, (ii) exacts or demands prices or terms that lead to an unjust or unreasonable profit, (iii) discriminates unreasonably against any person in the sale, exchange, distribution, or handling of prescription drugs dispensed or delivered in this State, or (iv) intentionally prevents, limits, lessens, or restricts the sale or distribution of prescription drugs in this State. Provides a right of action and a civil penalty for violation. Provides that violation is a violation of the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB093 20681 AMC 46550 b

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 Profiteering in Prescription Drugs Act.

6 Section 5. Definitions. As used in this Act:

7 "Labeler" means an entity or person that receives  
8 prescription drugs from a manufacturer or wholesaler and  
9 repackages those drugs for later retail sale and that has a  
10 labeler code from the federal Food and Drug Administration  
11 under 21 C.F.R. 207.20 (1999).

12 "Manufacturer" means a manufacturer of prescription drugs  
13 and includes a subsidiary or affiliate of a manufacturer.

14 Section 10. Profiteering. A manufacturer, distributor, or  
15 labeler of prescription drugs engages in illegal profiteering  
16 if that manufacturer, distributor, or labeler does any of the  
17 following:

18 (1) Exacts or demands an unconscionable price.

19 (2) Exacts or demands prices or terms that lead to an  
20 unjust or unreasonable profit.

21 (3) Discriminates unreasonably against any person in  
22 the sale, exchange, distribution, or handling of  
23 prescription drugs dispensed or delivered in this State.

24 (4) Intentionally prevents, limits, lessens, or  
25 restricts the sale or distribution of prescription drugs in  
26 this State in response to the enactment of this Act.

27 Section 15. Right of action and damages. The State may  
28 bring a civil action for a direct or indirect injury to any  
29 person, group of persons, the State or a political subdivision  
30 of the State caused by a violation of this Act. There is a

1 right to a jury trial in any action brought under this Act. If  
2 the State prevails, the defendant shall pay 3 times the amount  
3 of damages and the costs of suit, including necessary and  
4 reasonable investigative costs, reasonable expert fees, and  
5 reasonable attorney's fees. After deduction of the costs of  
6 distribution, the damages must be equitably distributed by the  
7 State to all injured parties.

8 Section 20. Civil violation. Each violation of this Act is  
9 a civil violation for which the Attorney General may obtain, in  
10 addition to other remedies, injunctive relief and a civil  
11 penalty in an amount not to exceed \$100,000, plus the costs of  
12 suit, including necessary and reasonable investigative costs,  
13 reasonable expert fees, and reasonable attorney's fees.

14 Section 25. Deceptive business practice. A violation of  
15 this Act is also a violation of the Consumer Fraud and  
16 Deceptive Business Practices Act.

17 Section 90. The Consumer Fraud and Deceptive Business  
18 Practices Act is amended by changing Section 2Z as follows:

19 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

20 Sec. 2Z. Violations of other Acts. Any person who knowingly  
21 violates the Automotive Repair Act, the Home Repair and  
22 Remodeling Act, the Dance Studio Act, the Physical Fitness  
23 Services Act, the Hearing Instrument Consumer Protection Act,  
24 the Illinois Union Label Act, the Job Referral and Job Listing  
25 Services Consumer Protection Act, the Travel Promotion  
26 Consumer Protection Act, the Credit Services Organizations  
27 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call  
28 Services Consumer Protection Act, the Telephone Solicitations  
29 Act, the Illinois Funeral or Burial Funds Act, the Cemetery  
30 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery  
31 Sales Act, the Profiteering in Prescription Drugs Act, the High  
32 Risk Home Loan Act, subsection (a) or (b) of Section 3-10 of

1 the Cigarette Tax Act, subsection (a) or (b) of Section 3-10 of  
2 the Cigarette Use Tax Act, the Electronic Mail Act, or  
3 paragraph (6) of subsection (k) of Section 6-305 of the  
4 Illinois Vehicle Code commits an unlawful practice within the  
5 meaning of this Act.

6 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.