



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0656

Introduced 1/28/2005, by Rep. Jack D. Franks

#### 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 the State 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.

LRB094 04107 RXD 34127 b

FISCAL NOTE ACT  
MAY APPLY

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 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 it shall be made on a form and in a manner prescribed  
25 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 the bona fide clinical  
15 trials provided under paragraph (3) of subsection (d) of  
16 Section 15 and the bona fide conferences provided under  
17 paragraph (4) of subsection (d) of Section 15.

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