

SENATE FILE NO. SF0124

Prescription drug marketing.

Sponsored by: Senator(s) Scott, Decaria and Massie and
Representative(s) Buchanan, Cohee and
Hinckley

A BILL

for

1 AN ACT relating to marketing of prescription and
2 nonprescription medication, medical devices and medical
3 equipment; prohibiting payment in exchange for prescribing
4 or recommending prescription and nonprescription
5 medication, medical devices and medical equipment;
6 prohibiting receipt of gifts from sellers of prescription
7 and nonprescription medication, medical devices and medical
8 equipment; providing for penalties; providing exceptions;
9 providing for inclusion of price information with free
10 samples; and providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

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14 **Section 1.** W.S. 35-7-1601 through 35-7-1604 are
15 created to read:

16

1

ARTICLE 16

2

PRESCRIPTION DRUG MARKETING

3

4

35-7-1601. Sale of medications, equipment and devices; prohibition on payment; penalty.

5

6

(a) No person selling prescription medication, nonprescription medication, durable medical equipment, or medical devices shall offer or convey to any licensed health care professional, other than the one authorized to sell the medication, equipment or device, any payment, commission, gratuity, or anything of value in return for prescribing or recommending the medication, equipment or device.

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(b) Any person violating this section shall upon conviction be punished by a fine of not more than ten thousand dollars (\$10,000.00) plus, if the payment, commission, gratuity or thing of value is one thousand dollars (\$1,000.00) or more, twice the value of the payment, commission, gratuity or thing of value.

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35-7-1602. Gifts from sellers of medication, medical equipment and medical devices; limitation; penalty.

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2 (a) Except as provided in subsection (b) of this
3 section, no person selling any prescription medication,
4 nonprescription medication, durable medical equipment or
5 medical device shall offer or give to any health care
6 professional prescribing or recommending the medication,
7 equipment or device any gift, gratuity, or thing of value
8 in with a market or retail value in excess of fifty dollars
9 (\$50.00).

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11 (b) The prohibition in subsection (a) of this section
12 shall not apply to:

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14 (i) Pens, pencils, note pads, magnets and other
15 similar advertising and promotional items of nominal value;

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17 (ii) Anything with a retail value of less than
18 fifty dollars (\$50.00);

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20 (iii) Free samples, devices or equipment
21 intended for distribution to patients;

22

1 (iv) Articles, studies, books or other written
2 material or audio visual material relevant to the seller's
3 products or medical and health care issues;

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5 (v) Food and drink for immediate consumption by
6 the health care professional and their guests at any meal,
7 reception or meeting where information is imparted about
8 the seller's products or any medical and health care issue;

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10 (vi) Travel, meals, lodging, tuition or meeting
11 registration fees and related expenses for the health care
12 professional or any employee, spouse or guest to attend a
13 convention, meeting or presentation where information is
14 imparted about the seller's product or any medical and
15 health care issue, provided that out-of-state travel, meals
16 and lodging shall be reported on at least an annual basis
17 to the secretary of state. The report shall include the
18 amount spent, the date and place of the event, whether or
19 not continuing education credit was available, and a brief
20 summary of the nature of the information presented. The
21 report required under this paragraph shall be a public
22 document.

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1 (c) Any person violating this section shall upon
2 conviction be punished by a fine of not more than seven
3 hundred fifty dollars (\$750.00).

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5 **35-7-1603. Free samples of prescription drugs;**
6 **information required.**

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8 (a) Free samples of prescription drugs shall include
9 information regarding the retail price of the drug subject
10 to the following:

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12 (i) Written information on the price of the
13 prescription drug shall be included with each package or
14 container of samples given to the patient;

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16 (ii) The unit to which the price applies shall
17 be specified and may be either per dose, per pill or
18 capsule, per normal supply for a specified period or per
19 package;

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21 (iii) The information shall include the retail
22 price of the drug based on one (1) of the following sources
23 which shall be specified in the information:

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1 (A) The manufacturer's suggested retail
2 price;

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4 (B) The average retail price for either the
5 United States or for Wyoming; or

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7 (C) The actual retail price at a specified
8 pharmacy within the county or state.

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10 (iv) The information shall include the date as
11 of which the price is computed;

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13 (v) The information may be printed as follows:

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15 (A) On the packaging of the free sample;

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17 (B) On a sticker or label affixed to the
18 packaging of the free sample; or

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20 (C) On a separate card or paper inserted in
21 the packaging of the free sample.

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23 (vi) The person selling any prescription
24 medication, nonprescription medication, durable medical

1 equipment or medical device shall separately advise the
2 health care professional distributing the free sample of
3 the price information.

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5 **35-7-1604. Application.**

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7 (a) This act does not apply to:

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9 (i) Pharmacists as health care providers in the
10 normal course of their business except when acting as
11 sellers of prescription drugs, nonprescription drugs,
12 medical equipment or medical devices;

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14 (ii) Compensation paid to a health care provider
15 in his role as an employee or shareholder of a company
16 selling or leasing drugs or medical devices or equipment;

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18 (iii) Compensation paid to a health care
19 provider in return for professional services rendered
20 within the scope of his practice; or

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22 (iv) Gifts or transactions among family members
23 and social friends not related to their roles as either a
24 seller of prescription drugs, nonprescription drugs,

1 medical equipment or medical devices or as a health care
2 professional.

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4 **Section 2.** This act is effective July 1, 2005.

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(END)