

A-Engrossed
House Bill 2648

Ordered by the House May 3
Including House Amendments dated May 3

Sponsored by Representatives GREENLICK, TOMEI, Senator BATES; Representatives BARNHART, BONAMICI, BUCKLEY, CANNON, DINGFELDER, GELSER, NATHANSON, NOLAN, RILEY, SHIELDS, Senator MONNES ANDERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits pharmaceutical manufacturing companies from providing certain gifts in conjunction with marketing of prescription drugs. Authorizes imposition of civil penalty for violation.

Establishes Pharmaceutical Marketing Penalty Fund. Continuously appropriates moneys in fund to Department of Justice for administration and enforcement of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to gifts provided by pharmaceutical manufacturing companies; appropriating money; and
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) A pharmaceutical manufacturing company or pharmaceutical marketer**
6 **may not offer or provide any gift to a physician or other person authorized to prescribe**
7 **prescription drugs in this state.**

8 **(2) The prohibition under subsection (1) of this section does not apply to:**

9 **(a) Free samples of prescription drugs intended to be distributed to patients;**

10 **(b) Payment of reasonable compensation and reimbursement of expenses for bona fide**
11 **research activities;**

12 **(c) Any gift with a value of less than \$100;**

13 **(d) Scholarships or other support for medical students, residents, fellows or employees**
14 **of the Oregon Health and Science University, as allowed by the conflict of interest policy of**
15 **the university, to attend educational, scientific or policy-making conferences of a national,**
16 **regional, medical specialty or other professional association, including but not limited to**
17 **conferences that satisfy continuing medical education requirements, if the recipients of the**
18 **scholarships or other support are selected by the association or by the university;**

19 **(e) Any gift that has the primary purpose of providing an educational benefit to patients;**

20 **(f) Items that directly convey information about health care products, educational bene-**
21 **fits or supporting medical research; and**

22 **(g) A meal with a value of not more than \$100 provided to a physician or other person**
23 **authorized to prescribe prescription drugs in this state.**

24 **(3) Beginning July 1, 2008, the dollar amounts specified in subsection (2) of this section**
25 **shall be adjusted annually by the Department of Justice based upon the change in the**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **Portland Consumer Price Index for All Urban Consumers for All Items as prepared by the**
2 **Bureau of Labor Statistics of the United States Department of Labor or its successor during**
3 **the preceding 12-month period. The amounts determined under this subsection shall be**
4 **rounded to the nearest dollar.**

5 **(4) The Department of Justice shall adopt rules necessary for the administration of this**
6 **section.**

7 **(5) As used in this section:**

8 **(a) "Pharmaceutical manufacturing company" means an entity engaged in the pro-**
9 **duction, preparation, propagation, compounding, conversion or processing of prescription**
10 **drugs, either directly or indirectly by extraction from substances of natural origin or inde-**
11 **pendently by means of chemical synthesis, or by a combination of extraction and chemical**
12 **synthesis, or an entity engaged in the packaging, repackaging, labeling or distribution of**
13 **prescription drugs. "Pharmaceutical manufacturing company" does not include a pharmacist**
14 **licensed under ORS chapter 689.**

15 **(b) "Pharmaceutical marketer" means a person who, while employed by or under con-**
16 **tract to represent a pharmaceutical manufacturing company, engages in detailing, promo-**
17 **tional or other marketing activities of prescription drugs in this state to any physician,**
18 **hospital, nursing home, pharmacist, health benefit plan administrator or other person au-**
19 **thorized to prescribe or dispense prescription drugs in this state.**

20 **SECTION 2. (1) The Department of Justice may impose a civil penalty of up to \$10,000 for**
21 **each calendar day during which a willful violation of section 1 of this 2007 Act occurs.**

22 **(2) Civil penalties under this section shall be imposed in the manner provided by ORS**
23 **183.745.**

24 **SECTION 3. The Pharmaceutical Marketing Penalty Fund is established, separate and**
25 **distinct from the General Fund. All moneys received by the Department of Justice under**
26 **section 2 of this 2007 Act shall be credited to the Pharmaceutical Marketing Penalty Fund**
27 **and are continuously appropriated to the department for the purposes of administration and**
28 **enforcement of section 1 of this 2007 Act.**

29 **SECTION 4. This 2007 Act being necessary for the immediate preservation of the public**
30 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
31 **on its passage.**

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