

Senate Bill 792

Sponsored by Senator STEINER HAYWARD, Representative NOSSE

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 **as introduced**.

Requires manufacturer to disclose in any advertisement for prescription drug wholesale price for prescription drug in Oregon. Imposes civil penalty for violation of requirement.

A BILL FOR AN ACT

1
2 Relating to prescription drug advertising.

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

4 **SECTION 1. (1) As used in this section:**

5 (a) "Advertise" means to communicate within this state by newspaper, radio, television
6 or other print, broadcast or electronic medium information designed to create public interest
7 in a prescription drug.

8 (b) "Drug" has the meaning given that term in ORS 689.005.

9 (c) "Manufacture" means the production, preparation, propagation, compounding, con-
10 version or processing of a drug, either directly or indirectly by extraction from substances
11 of natural origin or independently by means of chemical synthesis, or by a combination of
12 extraction and chemical synthesis. "Manufacture" includes packaging or repackaging of the
13 substances or labeling or relabeling of the container, but does not include the preparation
14 or compounding of a drug by an individual for the individual's own use or the preparation,
15 compounding, packaging or labeling of a drug:

16 (A) By a health care practitioner incidental to administering or dispensing a drug in the
17 course of professional practice; or

18 (B) By a health care practitioner or under the practitioner's authorization and super-
19 vision for the purpose of or incidental to research, teaching or chemical analysis activities,
20 not for sale.

21 (d) "Manufacturer" means a person that manufactures prescription drugs that are sold
22 or distributed to Oregon residents.

23 (e) "Prescription drug" means a drug that must:

24 (A) Under federal law, be labeled "Caution: Federal law prohibits dispensing without
25 prescription" prior to being dispensed or delivered; or

26 (B) Under any applicable federal or state law or regulation, be dispensed only by pre-
27 scription or restricted to use only by health care practitioners.

28 (2) A manufacturer that advertises a prescription drug shall clearly and conspicuously
29 disclose in the advertisement the wholesale price for the prescription drug paid by pharma-
30 cies located in this state.

31 **SECTION 2. (1) In addition to any other liability or penalty provided by law, the Attorney**

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 **General may impose a civil penalty of up to \$5,000 on a manufacturer, as defined in section**
2 **1 of this 2017 Act, for each publication or broadcast of an advertisement that fails to disclose**
3 **the wholesale price of a prescription drug in accordance with section 1 of this 2017 Act.**

4 **(2) A civil penalty imposed under this section may be remitted or reduced upon such**
5 **terms and conditions as the Attorney General considers proper and consistent with public**
6 **health and safety.**

7 **(3) All penalties recovered under this section shall be paid into the State Treasury and**
8 **credited to the General Fund and are available for general governmental expenses.**

9 **SECTION 3. Section 1 of this 2017 Act applies to a prescription drug advertisement that**
10 **is published or broadcast on or after the effective date of this 2017 Act.**

11