

HB 2689-3
(LC 639)
4/11/19 (LHF/ps)

Requested by HOUSE COMMITTEE ON HEALTH CARE (at the request of Representative Andrea Salinas)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2689**

1 On page 1 of the printed bill, line 2, after “413.032” insert “and 414.312”.

2 After line 3, insert:

3 “Whereas United States citizens pay some of the highest prices for pre-
4 scription drugs in the world, and the Canadian government estimated that
5 U.S. consumers pay twice as much as Canadians for patented prescription
6 drugs and 20 percent more for generics; and

7 “Whereas under the discretion of the United States Food and Drug Ad-
8 ministration not to enforce the law, individual patients may import a 90-day
9 supply of prescription drugs from Canada that are less expensive than drugs
10 approved by the Food and Drug Administration; and

11 “Whereas individual importation via the Internet increases consumer
12 health and safety risks because many Internet pharmacies are not licensed
13 in Canada and it is difficult to verify the validity, reputation, actual identity
14 and pharmacy practices of foreign online pharmacies; and

15 “Whereas the United States allows patients to go to other countries for
16 surgeries and other high-risk medical treatments without regulating that
17 consumer purchasing activity and insurers sometimes facilitate and pay for
18 foreign treatments; and

19 “Whereas the Food and Drug Administration estimates that currently 40
20 percent of finished prescription drug products are produced outside the U.S.
21 and 80 percent of raw product for U.S. pharmaceutical manufacturing comes

1 from outside the U.S.; and

2 “Whereas the Food and Drug Administration has just signed reciprocity
3 agreements with European Union regulators to accept the results of
4 European Union inspections of pharmaceutical manufacturing plants, and
5 the Food and Drug Administration has had a Memorandum of Understanding
6 for regulatory cooperation around pharmaceuticals with the Canadian regu-
7 latory authorities since 1973; and

8 “Whereas Canada has a rigorous regulatory system to license prescription
9 drugs that is considered to be on par with the U.S. approval system; and

10 “Whereas Title II of the federal Drug Quality and Security Act (P.L.
11 113-54), Drug Supply Chain Security, has resulted in improvements in drug
12 security and safety through a system of pharmaceutical track and trace that
13 can be leveraged for safe importation; and

14 “Whereas the United States Secretary of Health and Human Services may
15 certify a prescription drug reimportation program that is safe and saves
16 consumers money; and

17 “Whereas Oregon can ensure that wholesale importation of prescription
18 drugs from Canada into Oregon will be safe and cost-saving for Oregon
19 consumers; and

20 “Whereas directing the State Board of Pharmacy to implement a whole-
21 sale drug importation program for the exclusive benefit of residents of
22 Oregon benefits all Oregonians; now, therefore,”.

23 In line 5, after “with” insert “the State Board of Pharmacy,”.

24 On page 3, line 5, delete the second comma and insert a colon and begin
25 a new paragraph and insert “(a)”.

26 In line 6, delete the period and insert “;

27 “(b) An estimate of the annual cost of the program; and

28 “(c) An estimate of the annual cost savings to Oregon consumers as a
29 result of the program.”.

30 Delete lines 7 and 8 and insert:

1 “(2) If the report described in subsection (1) of this section estimates cost
2 savings to Oregon consumers from the program, no later than six months
3 after submitting the report, the au-”.

4 On page 5, after line 13, insert:

5 **“SECTION 10.** ORS 414.312 is amended to read:

6 “414.312. (1) As used in ORS 414.312 to 414.318:

7 “(a) ‘Pharmacy benefit manager’ means an entity that negotiates and ex-
8 ecutes contracts with pharmacies, manages preferred drug lists, negotiates
9 rebates with prescription drug manufacturers and serves as an intermediary
10 between the Oregon Prescription Drug Program, prescription drug manufac-
11 turers and pharmacies.

12 “(b) ‘Prescription drug claims processor’ means an entity that processes
13 and pays prescription drug claims, adjudicates pharmacy claims, transmits
14 prescription drug prices and claims data between pharmacies and the Oregon
15 Prescription Drug Program and processes related payments to pharmacies.

16 “(c) ‘Program price’ means the reimbursement rates and prescription drug
17 prices established by the administrator of the Oregon Prescription Drug
18 Program.

19 “(2) The Oregon Prescription Drug Program is established in the Oregon
20 Health Authority. The purpose of the program is to:

21 “(a) Purchase prescription drugs, replenish prescription drugs dispensed
22 or reimburse pharmacies for prescription drugs in order to receive discounted
23 prices and rebates;

24 “(b) Make prescription drugs available at the lowest possible cost to
25 participants in the program as a means to promote health;

26 “(c) Maintain a list of prescription drugs recommended as the most ef-
27 fective prescription drugs available at the best possible prices; and

28 “(d) Promote health through the purchase and provision of discount pre-
29 scription drugs and coordination of comprehensive prescription benefit ser-
30 vices for eligible entities and members.

1 “(3) The Director of the Oregon Health Authority shall appoint an ad-
2 ministrator of the Oregon Prescription Drug Program. The administrator
3 may:

4 “(a) Negotiate price discounts and rebates on prescription drugs with
5 prescription drug manufacturers or group purchasing organizations;

6 “(b) Purchase prescription drugs on behalf of individuals and entities that
7 participate in the program;

8 “(c) Contract with a prescription drug claims processor to adjudicate
9 pharmacy claims and transmit program prices to pharmacies;

10 “(d) Determine program prices and reimburse or replenish pharmacies for
11 prescription drugs dispensed or transferred;

12 “(e) Adopt and implement a preferred drug list for the program;

13 “(f) Develop a system for allocating and distributing the operational costs
14 of the program and any rebates obtained to participants of the program; and

15 “(g) Cooperate with other states or regional consortia in the bulk pur-
16 chase of prescription drugs.

17 “(4) The following individuals or entities may participate in the program:

18 “(a) Public Employees’ Benefit Board, Oregon Educators Benefit Board
19 and Public Employees Retirement System;

20 “(b) Local governments as defined in ORS 174.116 and special government
21 bodies as defined in ORS 174.117 that directly or indirectly purchase pre-
22 scription drugs;

23 “(c) Oregon Health and Science University established under ORS 353.020;

24 “(d) State agencies that directly or indirectly purchase prescription drugs,
25 including agencies that dispense prescription drugs directly to persons in
26 state-operated facilities;

27 “(e) Residents of this state who lack or are underinsured for prescription
28 drug coverage;

29 “(f) Private entities; and

30 “(g) Labor organizations.

1 “(5) The administrator may establish different program prices for phar-
2 macies in rural areas to maintain statewide access to the program.

3 “(6) The administrator may establish the terms and conditions for a
4 pharmacy to enroll in the program. A licensed pharmacy that is willing to
5 accept the terms and conditions established by the administrator may apply
6 to enroll in the program.

7 “(7) [*Except as provided in subsection (8) of this section,*] The administrator
8 may not[:]

9 “[*(a) Contract with a pharmacy benefit manager;*]

10 “[*(b) Establish a state-managed wholesale or retail drug distribution or*
11 *dispensing system; or*]

12 “[*(c)*] require pharmacies to maintain or allocate separate inventories for
13 prescription drugs dispensed through the program, **except as necessary to**
14 **enter into or carry out an agreement for the bulk purchasing of pre-**
15 **scription drugs.**

16 “(8) The administrator shall contract with one or more entities to perform
17 any of the functions of the program, including but not limited to:

18 “(a) Contracting with a pharmacy benefit manager and directly or indi-
19 rectly with such pharmacy networks as the administrator considers necessary
20 to maintain statewide access to the program.

21 “(b) Negotiating with prescription drug manufacturers on behalf of the
22 administrator.

23 “(9) Notwithstanding subsection (4)(e) of this section, individuals who are
24 eligible for Medicare Part D prescription drug coverage may participate in
25 the program.

26 “(10) The program may contract with vendors as necessary to utilize dis-
27 count purchasing programs, including but not limited to group purchasing
28 organizations established to meet the criteria of the Nonprofit Institutions
29 Act, 15 U.S.C. 13c, or that are exempt under the Robinson-Patman Act, 15
30 U.S.C. 13.”.

1 In line 14, delete "10" and insert "11".

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