

ASSEMBLY BILL

No. 265

Introduced by Assembly Member Wood

January 31, 2017

An act to add Article 7 (commencing with Section 111657) to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 265, as introduced, Wood. Prescription drugs: prohibition on price discount.

(1) The Sherman Food, Drug, and Cosmetic Law regulates the packaging, labeling, and advertising of drugs and devices, and is administered by the State Department of Public Health. The law makes a violation of its provisions a crime.

This bill would expand the law to prohibit, except as provided, a person who manufactures a prescription drug from offering in California any discount, rebate, product voucher, or other reduction in an individual's out-of-pocket expenses, including, but not limited to, a copayment or deductible, for any prescription drug if a lower cost brand name or nonbrand name prescription drug is available that is designated by the United States Food and Drug Administration as therapeutically equivalent to, or interchangeable with, the prescription drug manufactured by that person.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7 (commencing with Section 111657) is
2 added to Chapter 6 of Part 5 of Division 104 of the Health and
3 Safety Code, to read:

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5 Article 7. Prescription Drug Discount Prohibition
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7 111657. Except as provided in Section 111657.5, a person who
8 manufactures a prescription drug shall not offer in the state any
9 discount, rebate, product voucher, or other reduction in an
10 individual’s out-of-pocket expenses, including, but not limited to,
11 a copayment or deductible, for any prescription drug if a lower
12 cost brand name or nonbrand name prescription drug is available
13 that is designated by the United States Food and Drug
14 Administration as therapeutically equivalent to, or interchangeable
15 with, the prescription drug manufactured by that person.

16 111657.5. The prohibition in Section 111657 shall not apply
17 to a discount, rebate, product voucher, or other payment to a patient
18 or another person on the patient’s behalf for a prescription drug
19 required under a United States Food and Drug Administration Risk
20 Evaluation and Mitigation Strategy for the purpose of monitoring
21 or facilitating the use of that prescription drug in a manner
22 consistent with the approved labeling of the prescription drug.

23 111657.10. This article shall not be deemed to affect how a
24 person distributes a prescription drug or a pharmacist’s ability to
25 substitute a therapeutically equivalent prescription drug.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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