

FINAL BILL REPORT

SSB 5601

C 297 L 13
Synopsis as Enacted

Brief Description: Concerning interpretation of state law regarding rebating practices by health care entities.

Sponsors: Senate Committee on Health Care (originally sponsored by Senators Becker, Cleveland, Dammeier and Schlicher).

Senate Committee on Health Care
House Committee on Health Care & Wellness

Background: Federal law known as the anti-kickback statute, provides criminal penalties for individuals or entities that knowingly and willingly offer, pay, solicit, or receive remuneration in order to induce or reward the referral of business reimbursable under any federal health care programs. The types of remuneration specifically prohibited include kickbacks, bribes, and rebates made in cash or in kind. Subsequent legislation established safe-harbor protections for certain arrangements involving the donation of electronic prescribing and electronic health records software and training services.

The state law on rebating or kick-backs for health professions does not allow the rebate, refund, commission or profit by any means in connection with the following: the referral of patients; in connection with the furnishing of medical, surgical, or dental care, diagnosis, treatment or service; on the sale, rental, furnishing, or supplying of clinical laboratory supplies of any kind; or any goods, services, or supplies prescribed for medical diagnosis, care, or treatment. The state law on rebating has not been updated in a decade, and it does not reflect the federal safe harbors that have been developed in recent years.

Summary: The state rebating law is amended to indicate that the law may not be construed to limit or prohibit the donation of electronic health record technology or other activity by any entity, including a hospital that operates a clinical laboratory, when the donation or other activity is allowed by federal law or does not otherwise violate federal law. The provisions do not apply to an entity that operates principally as a clinical laboratory.

Electronic health record technology is defined to mean items and services, in the form of software or information technology and training services, used to create, maintain, transmit, or receive electronic health records.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The act applies retroactively to June 1, 2006, as well as prospectively, to mirror the timeframe of the federal protections.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 28, 2013.