
SENATE BILL 5371

State of Washington

66th Legislature

2019 Regular Session

By Senators Keiser, Kuderer, Bailey, Cleveland, Rivers, Rolfes, Saldaña, Darneille, Van De Wege, Frockt, Mullet, Nguyen, Conway, Das, and Hasegawa

Read first time 01/18/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to protecting consumers and purchasers from
2 excessive increases in insulin drug prices; and adding a new chapter
3 to Title 69 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that excessive
6 price increases not justified by market forces for insulin products
7 used to manage diabetes create a public health risk to Washington
8 consumers who rely on those drugs.

9 (2) In order to prevent a manufacturer from taking unfair
10 advantage of Washington consumers who rely upon and may lose access
11 to these drugs if the medication has a sudden and excessive price
12 increase, the legislature finds that a price increase instituted by a
13 drug manufacturer that is determined to be excessive under this act
14 is an unfair method of competition and an unfair or deceptive act or
15 practice in the conduct of any trade or commerce, and vitally affects
16 the public interest for the purpose of the attorney general's
17 application of the consumer protection act, chapter 19.86 RCW.

18 NEW SECTION. **Sec. 2.** The definitions in this section apply
19 throughout this chapter unless the context clearly requires
20 otherwise.

1 (1) "Drug manufacturer" means a facility licensed by the pharmacy
2 quality assurance commission under chapter 18.64 RCW that engages in
3 the manufacture of insulin drugs for sale in Washington state.

4 (2) "Excessive" means an increase to the wholesale acquisition
5 cost of an insulin drug by a percent equal to or greater than ten
6 percent at any one time or in the aggregate in any twelve-month
7 period that the prescription drug program determines is not justified
8 based on their review under section 5 of this act.

9 (3) "Price increase notification form" or "form" means the price
10 increase notification form produced and distributed by the
11 prescription drug program under section 4 of this act.

12 (4) "Wholesale acquisition cost" means the price for each dosage,
13 size, or concentration of the insulin drug offered or sold by the
14 manufacturer.

15 NEW SECTION. **Sec. 3.** (1) If a drug manufacturer increases the
16 wholesale acquisition cost of an insulin drug by ten percent at any
17 one time or in the aggregate in any twelve-month period, the drug
18 manufacturer must use the price increase notification form
19 established under section 4 of this act to notify the office of the
20 insurance commissioner and the health care authority prescription
21 drug program of the increase. This notice must be provided to the
22 insurance commissioner and the prescription drug program at least
23 thirty days before the increase takes effect.

24 (2) Failure to provide the notice required under this section may
25 result in the attorney general taking action under section 5 of this
26 act.

27 NEW SECTION. **Sec. 4.** The prescription drug program must produce
28 and make available to drug manufacturers a price increase
29 notification form. The form must require drug manufacturers to
30 disclose:

31 (1) The most recent wholesale acquisition cost of the drug before
32 an increase equal to or greater than ten percent at any one time or
33 in the aggregate in any twelve-month period in either pricing
34 measure;

35 (2) The wholesale acquisition cost of the drug when exceeding the
36 ten percent threshold;

37 (3) Any material change in ingredient, production, or
38 manufacturing costs resulting in the price increase;

1 (4) Changes to the drug manufacturer's corporate structure within
2 the last two years including, but not limited to, whether the drug
3 manufacturer has been or is in the process of merging with or
4 acquiring another company; and

5 (5) Any other information the drug manufacturer deems relevant to
6 the prescription drug program's review.

7 NEW SECTION. **Sec. 5.** (1) Upon receipt of a price notification
8 form, the prescription drug program must review the price increase
9 and make a determination as to whether the price increase is
10 excessive. In making a determination, the board must consider:

11 (a) The wholesale acquisition cost of the drug in comparison to
12 any other insulin drug currently on the market;

13 (b) The United States food and drug administration's approved or
14 compendium supported use of the drug and critical need to the
15 patient;

16 (c) Any known market factors justifying the price increase
17 including, but not limited to:

18 (i) Whether the drug has been absent from the market for any
19 period of time; and

20 (ii) Changes in manufacturing or regulatory requirements or
21 costs;

22 (d) Any material change in the prevalence or severity of the
23 disease or medical condition or conditions that the drug is approved
24 to treat; and

25 (e) Any changes to the corporate structure of the drug
26 manufacturer in the last two years including, but not limited to,
27 whether the drug manufacturer has been or is in the process of
28 merging with or acquiring another company.

29 (2) If the prescription drug program finds that the price
30 increase instituted by the drug manufacturer is not excessive, the
31 inquiry ends.

32 (3) If the prescription drug program finds that the price
33 increase instituted by the drug manufacturer is excessive, the drug
34 manufacturer may appeal the decision by filing with the office of
35 administrative hearings a notice of appeal within thirty days of
36 receiving the program's decision. Appeals must be conducted in
37 accordance with chapter 34.05 RCW.

38 (4) If the drug manufacturer does not file an appeal or does not
39 prevail upon appeal, the prescription drug program must refer the

1 matter to the attorney general to take action under chapter 19.86
2 RCW.

3 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act
4 constitute a new chapter in Title 69 RCW.

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