

SENATE BILL REPORT

SB 5917

As Reported By Senate Committee On:
Health & Long-Term Care, February 26, 2007

Title: An act relating to prescription drug marketing and disclosure.

Brief Description: Requiring the disclosure of gifts made by pharmaceutical manufacturers to persons who prescribe prescription drugs.

Sponsors: Senators Kohl-Welles, Keiser, Fairley, Kastama, Franklin, Marr and Kline.

Brief History:

Committee Activity: Health & Long-Term Care: 2/22/07, 2/26/07 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5917 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley, Kastama, Kohl-Welles and Marr.

Minority Report: Do not pass.

Signed by Senators Pflug, Ranking Minority Member and Carrell.

Minority Report: That it be referred without recommendation.

Signed by Senator Parlette.

Staff: Edith Rice (786-7444)

Background: As part of the advertising and promotion of their products, pharmaceutical manufacturers commit extensive resources to activities directed towards physicians and others authorized to prescribe drugs. According to the Kaiser Family Foundation, pharmaceutical manufacturers spent \$4.8 billion on physician expenses in 2000, roughly 31 percent of total expenditures on promotion, and close to \$8 billion on drug samples (51 percent of total promotion expenditures), in excess of the \$2.5 billion they spent on direct-to-consumer advertising. By some estimates, the pharmaceutical industry employs close to 90,000 sales representatives, up over 100 percent since 1996. According to a survey of physicians published by the Kaiser Family Foundation in April 2002, 61 percent of physicians reported that they have received meals, tickets to events, or free travel from a drug company representative, while 92 percent have received free drug samples.

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.

Summary of Bill: Pharmaceutical manufacturing companies must disclose to the Department of Health (DOH), information about any gifts made to health care professionals who prescribe or dispense prescription drugs. This includes hospitals, health benefit plan administrators, group purchasing organization or pharmacy benefit managers, or other entities authorized to purchase prescription drugs in Washington.

Reporting is to be done on or before January 1 of each year, beginning on or before January 1, 2009, for the twelve month period ending June 30, 2008.

DOH is to report these disclosures annually to the Legislature by March 1 of each year, and post its findings on the DOH internet site.

Exemptions are provided for: free patient samples, items with a total combined retail value in a calendar year of not more than \$100, payment for conferences or professional meetings, reasonable honoraria and expenses at a professional or educational conference, professional consulting fees, publications and educational materials or salaries and benefits paid to employees.

The attorney general can bring legal action against a pharmaceutical manufacturing company that fails to comply with this act and a civil penalty of as much as \$10,000 can be imposed for each violation.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Health & Long-Term Care): Payments for returned merchandise, overpayments and other financial dealings unrelated to promotional activities are not considered gifts.

Honoraria, expenses for faculty at professional conferences and compensation for consulting services must be disclosed.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We should require that pharmaceutical companies do what lobbyists and legislators must do. Drugs are the fastest growing component of health care, and marketing is a large part of that cost. This bill doesn't restrict gifts, it merely brings them to light. Its important to look at the effect of gifts on drug prescriptions. Gifts encourage brand loyalty.

CON: We already provide this information, it is already available in another form.

OTHER: We already have guidelines about accepting marketing payments and reporting.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Dr. Art Zoloth, citizen.

CON: Jeff Gombosky; Pharmaceutical Research and Manufacturers of America.

OTHER: Steve Duncan, Stephen Miller, Kaiser Foundation.