SENATE BILL REPORT
SB 6302

As Reported By Senate Committee On:
Health & Long-Term Care, January 24, 2008
Ways & Means, February 12, 2008

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

Brief Description: Establishing standards for prescription drug marketing and disclosure.

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

Brief History:
Committee Activity: Health & Long-Term Care: 1/17/08, 1/24/08 [DPS-WM, DNP]. Ways & Means: 2/11/08, 2/12/08 [DP2S, w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 6302 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

Minority Report: Do not pass.

Signed by Senators Pflug, Ranking Minority Member; Carrell, Marr and Parlette.

Staff: Edith Rice (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6302 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Brandland, Hatfield, Hewitt, Hobbs, Keiser, Kohl-Welles, Rasmussen, Regala, Rockefeller and Tom.

Minority Report: That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Carrell, Honeyford, Parlette, Roach and Schoesler.

Staff: Maria Hovde (786-7710)

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.

Background: Pharmaceutical companies commit extensive resources to advertising and promotion of their products to physicians and others authorized to prescribe drugs. In 2001, according to the Kaiser Family Foundation, pharmaceutical manufacturers spent 4.8 billion dollars on sales activities directed toward physicians, 10.5 billion dollars on drug samples, and greater than 267 million dollars on direct-to-consumer advertising.

In 2002, the Pharmaceutical Research and Manufacturers of America (PhRMA) adopted a voluntary marketing code to govern the pharmaceutical industry's relationships with physicians and other healthcare professionals. The code addresses topics such as informational presentations, meals, educational and professional meetings, conferences, consultants, speaker training, scholarships, educational items, and practice-related items. Each PhRMA member company is strongly encouraged to adopt procedures to assure adherence to the code.

Summary of Bill (Recommended Second Substitute): The prescription drug marketing and disclosure act will require pharmaceutical manufacturers to submit information annually to the pharmacy board about gifts, fees or payments to health care professionals, hospitals, health benefit plan administrators, or entities authorized to purchase prescription drugs in Washington. This submission of information is to begin January 1, 2009. The pharmacy board is given authority to develop rules to implement this requirement and set a fee to support its work.

The pharmacy board will report this information to the Legislature and the Governor annually and post the following information on its public internet site: amount of the gift, date, purpose, pharmaceutical manufacturer, and the recipient.

Failure to disclose such information can result in a civil penalty of not more than 10,000 dollars per each violation.

Definitions are provided for a variety of terms including: gift, fee, or payment; marketing; pharmaceutical manufacturer; and recipient.

A pharmaceutical manufacturer is exempt from the requirement to report gifts made to health care providers if the manufacturer can provide the Board of Pharmacy with a written report showing compliance with practices and standards governing marketing and sales of its products.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): Exempts pharmaceutical manufacturers from the requirement to report gifts made to health care providers if the manufacturer can provide the Board of Pharmacy with a written report showing compliance with practices and standards governing marketing and sales of its products.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended First Substitute): The title of the bill is changed from "prescription drug marketing and disclosure" to "reporting of gifts, fees, or payments by pharmaceutical marketers." This reflects more specifically the focus of the bill.

The definition for pharmaceutical manufacturer no longer includes entities that package, label, or distribute biologics or medical devices. This part of the definition now pertains only to those entities that package, label, or distribute prescription drugs.

Appropriation: None.

Fiscal Note: Available.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill (Health & Long-Term Care): PRO: We need this bill to level the playing field. This bill provides transparency regarding gifts. If legislators have to report gifts, so should pharmaceutical manufacturers. Marketing should not trump science.

CON: PhRMA has its own code of conduct which addresses these issues.

Persons Testifying (Health & Long-Term Care): PRO: Senator Kohl-Welles, prime sponsor; Dr. Art Zoloth, Natural Physicians Alliance of Puget Sound.

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

Staff Summary of Public Testimony on Recommended First Substitute Bill (Ways & Means): PRO: This bill does not ban gifts from the pharmaceutical industry to health care professionals. Rather, it provides transparency. In 1993, a study conducted in Minnesota found a direct correlation between gifts providers receive and the number of prescriptions written for a particular drug. The Pharmaceutical Research and Manufacturers of America (PhRMA) has a voluntary code of ethics but it does not provide any information to the consumers about the prescribing patterns involved.

CON: It would be better to adopt the model that is in place in California that requires companies to annually attest to following the PhRMA code. Doing so will reduce the fiscal note and Initiative 960 implications.

Persons Testifying (Ways & Means): PRO: Senator Kohl-Welles, prime sponsor.

CON: Jeff Gombosky, PhRMA.