

# SENATE BILL REPORT

## SB 5371

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As of February 4, 2019

**Title:** An act relating to protecting consumers and purchasers from excessive increases in insulin drug prices.

**Brief Description:** Protecting consumers and purchasers from excessive increases in insulin drug prices.

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

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/28/19, 2/04/19.

**Brief Summary of Bill**

- Requires insulin drug manufacturers to notify the Health Care Authority's Washington Prescription Drug Program (WPDP) when increasing the price of insulin by ten percent or more.
- Requires the WPDP to determine if the price increase is excessive.
- Allows the Attorney General's Office to take action against excessive price increases.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** Greg Attanasio (786-7410)

**Background:** The WPDP produces a preferred drug list which is used by state agencies that purchase prescription drugs directly or through reimbursement to pharmacies. The prescription drugs and drug classes listed have undergone an evidence-based review of their safety, efficacy, and effectiveness. WPDP also facilitates pooled purchasing and discounts on prescriptions drugs for Washington State consumers through the Northwest Prescription Drug Consortium.

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*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 Consumer Protection Act authorizes the Attorney General's Office to take action against unfair methods of competition and unfair or deceptive practices when conducting any trade or commerce.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** The WPDP must produce a price increase notification form for drug manufacturers to use when the price of their insulin drug increases by ten percent or more. Drug manufacturers must submit the form to the WPDP at least 30 days before the price increase takes effect, including the current price of the drug, the price after the increase, and any material changes to ingredient, production, or manufacturing costs that necessitated the price increase.

The WPDP must determine, based on information provided by the manufacturer and any known market factors, if the price increase is excessive. An excessive price increase of an insulin drug is deemed to be a violation of the Consumer Protection Act. If the WPDP determines the price is excessive, and the manufacturer fails to appeal the ruling or loses on appeal, the WPDP must refer the matter to the Attorney General's Office to take appropriate action under the Consumer Protection Act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2019.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Proposed Substitute:** PRO: Insulin prices have tripled in recent years leading to patients rationing the drug, which has led to death in some cases. The prices for all patients, regardless of insurance coverage, need to be affordable.

OTHER: The Office of the Insurance Commissioner is unsure what their role in the bill is or should be.

CON: The bill requires manufacturers to disclose sensitive trade secrets. It does not account for the rebates and discounts that are given by manufacturers, which are often not passed on to the consumer. This leads the consumers to pay high out-of-pocket amounts for a drug the carrier receives at a low price. The current approach to the bill violates the Commerce Clause.

**Persons Testifying:** PRO: Senator Karen Keiser, Prime Sponsor; Michael Moran, Washington State School Retirees Association.

CON: Eric Lohnes, Pharmaceutical Research and Manufacturers of America.

OTHER: Lonnie Johns-Brown, Office of the Insurance Commissioner.

**Persons Signed In To Testify But Not Testifying:** No one.