

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5203

67th Legislature
2021 Regular Session

Passed by the Senate April 21, 2021
Yeas 28 Nays 21

President of the Senate

Passed by the House April 7, 2021
Yeas 66 Nays 31

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5203** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5203

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Van De Wege, Carlyle, Frockt, Hasegawa, Keiser, Lias, Nguyen, Randall, Robinson, Salomon, Stanford, and Wilson, C.)

READ FIRST TIME 02/08/21.

1 AN ACT Relating to the production, distribution, and purchase of
2 generic prescription drugs and distribution or purchase of insulin;
3 amending RCW 70.14.060; and adding a new section to chapter 70.14
4 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.14
7 RCW to read as follows:

8 (1)(a) The authority may enter into partnership agreements with
9 another state, a group of states, a state agency, a nonprofit
10 organization, or any other entity to produce, distribute, or purchase
11 generic prescription drugs and distribute and purchase insulin.
12 Partnership agreements with governmental entities are exempt from
13 competitive solicitation requirements in accordance with RCW
14 39.26.125(10). However, the authority must comply with state
15 procurement laws related to competitive procurement when purchasing
16 or entering into purchasing agreements with nongovernmental entities.

17 (b) The generic prescription drugs and insulin must be produced
18 or distributed by a drug company or generic drug manufacturer that is
19 registered with the United States food and drug administration.

20 (2) The authority shall only enter into partnerships, in
21 consultation with other state agencies as necessary, to produce,

1 distribute, or purchase a generic prescription drug or insulin at a
2 price that results in savings to public and private purchasers and
3 consumers.

4 (3) For generic prescription drugs and insulin that the authority
5 has entered into a partnership under this section:

6 (a) State purchased health care programs must purchase the
7 generic prescription drugs and insulin through the partnership,
8 unless the state purchased health care program can obtain the generic
9 prescription drug or insulin at a cost savings through another
10 purchasing mechanism; and

11 (b) Local governments, private entities, health carriers, and
12 others may choose to voluntarily purchase the generic prescription
13 drugs and insulin from the authority as available quantities allow.

14 (4) All information and documents obtained or created under this
15 section is exempt from disclosure under chapter 42.56 RCW.

16 (5) For purposes of this section, the following definitions
17 apply:

18 (a) "Authority" means the health care authority.

19 (b) "Eligible prescription drug" means a prescription drug or
20 biological product, as defined in 42 U.S.C. Sec. 262(i), that is not
21 under patent.

22 (c) "Generic drug" means a drug that is approved pursuant to an
23 application referencing an eligible prescription drug that is
24 submitted under section 505(j) of the federal food, drug, and
25 cosmetic act (21 U.S.C. Sec. 301 et seq.), or section 351(k) of the
26 federal public health service act (42 U.S.C. Sec. 262).

27 (d) "Purchase" means the acquisition of generic drugs and
28 insulin. "Purchase" includes, but is not limited to, entering into
29 contracts with manufacturers on behalf of those dispensing drugs and
30 other innovative purchasing strategies to help increase access for
31 Washington citizens to the best price available for insulin and
32 generic prescription drugs. This subsection should be interpreted
33 broadly to provide the authority flexibility in how it procures
34 generic drugs and insulin in order to obtain the best price.

35 (e) "State purchased health care" means medical and health care,
36 pharmaceuticals, and medical equipment purchased with state and
37 federal funds by the department of social and health services,
38 department of health, state health care authority, department of
39 labor and industries, department of corrections, and department of
40 veterans affairs. State purchased health care does not include

1 prescription drugs purchased for medical assistance program clients
2 under chapter 74.09 RCW.

3 **Sec. 2.** RCW 70.14.060 and 2020 c 346 s 4 are each amended to
4 read as follows:

5 (1) (a) The (~~administrator~~[~~director~~]) director of the state
6 health care authority shall, directly or by contract, adopt policies
7 necessary for establishment of a prescription drug purchasing
8 consortium. The consortium's purchasing activities shall be based
9 upon the evidence-based prescription drug program established under
10 RCW 70.14.050. (~~State~~) Except as provided in section 1 of this act
11 or exempted under (b) of this subsection, state purchased health care
12 programs as defined in RCW 41.05.011 shall purchase prescription
13 drugs through the consortium for those prescription drugs that are
14 purchased directly by the state and those that are purchased through
15 reimbursement of pharmacies(~~(, unless exempted under (b) of this~~
16 ~~subsection))~~). The (~~administrator~~[~~director~~]) director shall not
17 require any supplemental rebate offered to the health care authority
18 by a pharmaceutical manufacturer for prescription drugs purchased for
19 medical assistance program clients under chapter 74.09 RCW be
20 extended to any other state purchased health care program, or to any
21 other individuals or entities participating in the consortium. The
22 (~~administrator~~[~~director~~]) director shall explore joint purchasing
23 opportunities with other states.

24 (b) State purchased health care programs are exempt from the
25 requirements of this section if they can demonstrate to the
26 (~~administrator~~[~~director~~]) director of the state health care
27 authority that, as a result of the availability of federal programs
28 or other purchasing arrangements, their other purchasing mechanisms
29 will result in greater discounts and aggregate cost savings than
30 would be realized through participation in the consortium.

31 (2) Participation in the purchasing consortium shall be offered
32 as an option beginning January 1, 2006. Participation in the
33 consortium is purely voluntary for units of local government, private
34 entities, labor organizations, health carriers as provided in RCW
35 48.43.005, state purchased health care services from or through
36 health carriers as provided in RCW 48.43.005, and for individuals who
37 lack or are underinsured for prescription drug coverage. The
38 (~~administrator~~[~~director~~]) director may set reasonable fees,

1 including enrollment fees, to cover administrative costs attributable
2 to participation in the prescription drug consortium.

3 (3) The state health care authority is authorized to adopt rules
4 implementing chapter 129, Laws of 2005.

5 NEW SECTION. **Sec. 3.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

--- END ---