

Subject Excessive Drug Price Increases

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## Overview

This bill prohibits a manufacturer from imposing or causing to be imposed an excessive price increase on the sale of any generic or off-patent drug. The bill requires state agencies that provide or purchase a pharmacy benefit, and entities under contract with the state to provide a pharmacy benefit, to notify the manufacturer, attorney general, and Board of Pharmacy of any violation of the prohibition on excessive price increases. The bill requires manufacturers that receive a notice to provide specified information on drug costs to the attorney general, and allows the attorney general to investigate a possible violation and petition the court to issue orders for various remedies. The bill also prohibits a manufacturer from withdrawing a drug from sale in the state in order to avoid the prohibition on excessive price increases. The bill also makes a violation by a manufacturer of the prohibition on excessive price increases, and related requirements, as grounds for disciplinary action by the Board of Pharmacy.

## Summary

Section	Description
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1	<b>Definitions.</b>
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Adds § 62J.841. Defines the following terms: Consumer Price Index, generic or off-patent drug, manufacturer, prescription drug, wholesale acquisition cost, and wholesale distributor.

2	<b>Excessive price increases prohibited.</b>
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Adds § 62J.842.

**Subd. 1. Prohibition.** Prohibits a manufacturer from imposing, or causing to be imposed, an excessive price increase, whether directly or through a wholesale distributor, pharmacy, or similar intermediary, on the sale of any generic or off-patent drug sold, dispensed, or delivered to consumers in the state.

**Section Description**

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**Subd. 2. Excessive price increase.** Provides that a price increase is excessive when:

- 1) the price increase, adjusted by the CPI, exceeds: (i) 15 percent of the WAC over the immediately preceding calendar year; or (ii) 40 percent of the WAC over the three immediately preceding calendar years; and
- 2) the price increase, adjusted by the CPI, exceeds \$30 for a 30-day supply, or course of treatment lasting less than 30 days.

**Subd. 3. Exemption.** States that it is not a violation of this section for a wholesale distributor or pharmacy to increase the price of a generic or off-patent drug if the increase is directly attributable to additional costs imposed by the manufacturer.

**3 Registered agent and office within the state.**

Adds § 62J.843. Requires manufacturers of generic or off-patent drugs made available in the state to maintain a registered agent and office within the state.

**4 Enforcement.**

Adds § 62J.844.

**Subd. 1. Notification.** Requires the commissioner of management and budget and any other state agency that provides or purchases a pharmacy benefit, and any entity under contract with a state agency to provide a pharmacy benefit, other than an entity under contract with the Department of Human Services, to notify the manufacturer of the drug, the attorney general, and the Board of Pharmacy of any price increase of a generic or off-patent drug that violates section 62J.842.

**Subd. 2. Submission of drug cost statement and other information by manufacturer; investigation by attorney general.** (a) Requires the manufacturer, within 45 days of receiving notice under subdivision 1, to submit a drug cost statement to the attorney general. Requires the statement to:

- 1) itemize the cost components related to drug production;
- 2) identify the circumstances and timing of any increase in materials or manufacturing costs that caused any price increase, in the preceding calendar year or preceding three calendar years as applicable; and
- 3) provide any other information the manufacturer believes to be relevant.

(b) Allows the attorney general to investigate whether a violation has occurred, is occurring, or is about to occur, in accordance with section 8.31, subdivision 2 (general investigative powers of the attorney general).

**Section Description**

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**Subd. 3. Petition to court.** (a) Allows a court, on petition of the attorney general, to issue an order:

- 1) compelling the manufacturer to provide the drug cost statement, and answer interrogatories, produce records or documents, or be examined under oath, as required by the attorney general;
- 2) restraining or enjoining a violation of sections 62J.841 to 62J.845, including restoring drug prices to levels that comply with section 62J.842;
- 3) requiring the manufacturer to account for all revenues resulting from a violation of section 62J.842;
- 4) repaying all consumers, including third-party payers, any money acquired as a result of a price increase that violates section 62J.842;
- 5) requiring that all revenues generated from a violation of section 62J.842 be remitted to the state and deposited into a special fund, to be used to reduce consumer drug costs, if the manufacturer is unable to determine the individual transactions necessary to make repayments under clause (4);
- 6) imposing a civil penalty of up to \$10,000 per day for each violation of section 62J.842;
- 7) providing for the recovery of costs and disbursements incurred by the attorney general in bringing an action; and
- 8) providing any other appropriate relief, including any other equitable relief as determined by the court.

(b) Provides that for purposes of paragraph (a), clause (6), requires every individual transaction in violation of section 62J.842 to be considered a separate violation.

**Subd. 4. Private right of action.** States that any action brought by a person injured by a violation of this section is for the benefit of the public.

**5 Prohibition on withdrawal of generic or off-patent drugs for sale.**

Adds § 62J.845.

**Subd. 1. Prohibition.** Prohibits a manufacturer of a generic or off-patent drug from withdrawing that drug from sale or distribution in the state for purposes of avoiding the prohibition on excessive price increases.

**Subd. 2. Notice to board and attorney general.** Requires any manufacturer that intends to withdraw a generic or off-patent drug from sale or distribution in the state to provide 180 days' written notice of withdrawal to the Board of Pharmacy and the attorney general.

Section	Description
	<b>Subd. 3. Financial penalty.</b> Allows the attorney general to assess a \$500,000 penalty on any manufacturer that it determines has failed to comply with the requirements of this section.
6	<b>Severability.</b> Adds § 62J.846. Provides that the provisions of sections 62J.841 to 62J.845 are severable.
7	<b>Forms of disciplinary action.</b> Amends § 151.071, subd. 1. Allows the Board of Pharmacy to impose a civil penalty not exceeding \$25,000 for each separate violation of section 62J.842.
8	<b>Grounds for disciplinary action.</b> Amends § 151.071, subd. 2. Provides that a violation of section 62J.842 or section 62J.845 by a manufacturer is grounds for the Board of Pharmacy to take disciplinary action.



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