STATE OF NEW YORK

398

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. BIAGGI, BENJAMIN, GAUGHRAN, HARCKHAM, HOYLMAN, JACKSON, KENNEDY, MAY, MYRIE, PARKER, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to requiring prescription drug manufacturers to notify the attorney general of arrangements between pharmaceutical manufacturers resulting in the delay of the introduction of generic drugs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "manufacturer disclosure and transparency act".

§ 2. The general business law is amended by adding a new section 396-rrr to read as follows:

§ 396-rrr. Delay of introduction of generic medications. 1. (a) Each pharmaceutical manufacturer doing business in this state that manufactures a brand name prescription drug and enters into an arrangement, through agreement or otherwise, with another pharmaceutical manufacturer that has the purpose or effect of delaying or preventing such other manufacturer from introducing a generic substitute for such drug into the marketplace shall, not later than thirty days after entering into such arrangement, send notice to the attorney general, in a form and manner prescribed by the attorney general, disclosing the name of such drug, the wholesale price, the disease such drug is commonly prescribed to treat, the manufacturer of such drug, the name of the generic manufacturer, and the length of the delay.

(b) The attorney general shall, no later than thirty days after receiving a notice pursuant to paragraph (a) of this subdivision, share the information with the drug utilization review board established under section three hundred sixty-nine-bb of the social services law, all

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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medicaid managed care plans, health carriers and pharmacy benefits managers doing business in the state in a format and manner prescribed by the attorney general.

2. The office of the attorney general shall post on its website all the notices required pursuant to paragraph (a) of subdivision one of this section in a format and manner developed by the attorney general that is searchable by drug, cost, disease, and manufacturer both for the brand and generic drug for public review.

3. For a violation by a manufacturer of a brand name drug who knowingly or negligently fails to notify the attorney general as required in paragraph (a) of subdivision one of this section, the attorney general shall fine such manufacturer no less than five thousand dollars for the first violation for each day such manufacturer fails to properly notify the attorney general pursuant to the requirements of this section and no less than ten thousand dollars for each violation thereafter for each day such manufacturer fails to properly notify the attorney general pursuant to the requirements of this section.

4. The attorney general is authorized to promulgate rules and regulations necessary for the implementation of this section.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.