

House Bill 2817

Sponsored by Representatives TOMEI, GREENLICK; Representatives BARKER, BARNHART, BEYER, BOONE, BUCKLEY, DINGFELDER, GALIZIO, GARRARD, HANSEN, HASS, HOLVEY, HUNT, JENSON, KOMP, NOLAN, RILEY, ROBLAN, ROSENBAUM, SHIELDS, WITT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires pharmaceutical manufacturing companies to disclose certain economic benefits provided in conjunction with marketing of prescription drugs. Authorizes imposition of civil penalty for failure to disclose required information. Directs Department of Justice to report disclosures to Legislative Assembly and Governor.

Establishes Pharmaceutical Marketing Disclosure Fund. Appropriates moneys in fund to Department of Justice for administration of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to disclosure of economic benefits provided by pharmaceutical manufacturing companies;
3 appropriating money; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** (1) All pharmaceutical manufacturing companies shall disclose annually to
6 the Department of Justice the value, nature and purpose of any gift, fee, payment, subsidy
7 or other economic benefit that is provided to any physician, hospital, nursing home,
8 pharmacist, health benefit plan administrator or other person authorized to prescribe or
9 dispense prescription drugs in this state in connection with detailing, promotional or other
10 marketing activities by the company directly or through a pharmaceutical marketer acting
11 on behalf of the company.

12 (2) The disclosure required under subsection (1) of this section must:

13 (a) Be made annually by February 15;

14 (b) Cover the calendar year ending on December 31 preceding the reporting date;

15 (c) Include the name and address of the individual responsible for compliance by the
16 company with the requirements of subsection (1) of this section; and

17 (d) Be made in the manner established by the department by rule.

18 (3) The Department of Justice shall report annually by April 1 on the disclosures received
19 under this section to the Legislative Assembly in the manner provided in ORS 192.245 and
20 to the Governor.

21 (4) The Department of Justice shall keep confidential all information reported under
22 subsection (1) of this section that qualifies as a trade secret as that term is described in ORS
23 192.501.

24 (5) The following are exempt from disclosure under this section:

25 (a) Free samples of prescription drugs intended to be distributed to patients;

26 (b) Payment of reasonable compensation and reimbursement of expenses for bona fide
27 clinical trials;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) Any gift, fee, payment, subsidy or economic benefit with a value of less than \$25; and

2 (d) Scholarships or other support for medical students, residents or fellows to attend
3 educational, scientific or policy-making conferences of a national, regional, medical specialty
4 or other professional association if the recipients of the scholarships or other support are
5 selected by the association.

6 (6) The Department of Justice shall adopt rules necessary for the administration of this
7 section.

8 (7) As used in this section:

9 (a) "Pharmaceutical manufacturing company" means an entity engaged in the pro-
10 duction, preparation, propagation, compounding, conversion or processing of prescription
11 drugs, either directly or indirectly by extraction from substances of natural origin or inde-
12 pendently by means of chemical synthesis, or by a combination of extraction and chemical
13 synthesis, or an entity engaged in the packaging, repackaging, labeling or distribution of
14 prescription drugs. "Pharmaceutical manufacturing company" does not include a pharmacist
15 licensed under ORS chapter 689.

16 (b) "Pharmaceutical marketer" means a person who, while employed by or under con-
17 tract to represent a pharmaceutical manufacturing company, engages in detailing, promo-
18 tional or other marketing activities of prescription drugs in this state to any physician,
19 hospital, nursing home, pharmacist, health benefit plan administrator or other person au-
20 thorized to prescribe or dispense prescription drugs in this state.

21 **SECTION 2.** (1) The Department of Justice may impose a civil penalty of up to \$10,000 for
22 each violation of section 1 of this 2005 Act. Each gift, fee, payment, subsidy or other eco-
23 nomic benefit not disclosed as required by section 1 of this 2005 Act constitutes a separate
24 violation of section 1 of this 2005 Act.

25 (2) Civil penalties under this section shall be imposed in the manner provided by ORS
26 183.745.

27 **SECTION 3.** The Pharmaceutical Marketing Disclosure Fund is established, separate and
28 distinct from the General Fund. All moneys received under section 2 of this 2005 Act shall
29 be credited to the Pharmaceutical Marketing Disclosure Fund and are continuously appro-
30 priated to the Department of Justice for the purposes of administering section 1 of this 2005
31 Act.

32 **SECTION 4.** This 2005 Act being necessary for the immediate preservation of the public
33 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
34 on its passage.