

ASSEMBLY BILL NO. 128—ASSEMBLYMEN CONKLIN, BUCKLEY, ANDERSON, HORNE, PARKS, BOBZIEN, CLABORN, DENIS, GERHARDT, HOGAN, KIRKPATRICK, KOIVISTO, LESLIE, MANENDO, MORTENSON, MUNFORD, PIERCE, SEGERBLOM AND SMITH

FEBRUARY 20, 2007

JOINT SPONSORS: SENATORS TITUS AND CARLTON

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to prescription drugs. (BDR 54-108)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to prescription drugs; requiring certain wholesalers and manufacturers of prescription drugs to file annually with the State Board of Pharmacy a report disclosing certain economic benefits that the wholesalers and manufacturers have provided to certain persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from manufacturing or engaging in the wholesale distribution of certain drugs unless the person is licensed to do so by the State Board of Pharmacy. (NRS 639.100, 639.233) **Section 1** of this bill requires wholesalers and manufacturers who are licensed by the Board to file with the Board an annual report disclosing certain gifts and other economic benefits that the wholesaler or manufacturer has provided to certain persons. **Section 1** requires that the annual report identify information which is a trade secret and prohibits the Board from disclosing such information. **Section 1** requires a wholesaler or manufacturer to include in its annual report the name of each person to whom it provides economic benefits whose aggregate value exceeds \$1,000, but also requires that the wholesaler or manufacturer notify the person before the value of the economic benefits provided to him exceeds that amount. **Section 1** also requires the Board to prepare a compilation of the information contained in the annual reports, excluding trade secrets and to make the compilation available on the



15 Internet. **Section 1** further authorizes the imposition of civil penalties for
16 wholesalers and manufacturers who fail to comply with the reporting requirements.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 639 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. On or before December 31 of each year, each wholesaler*
4 *and manufacturer shall file with the Board, on a form prescribed*
5 *by the Board, a report that discloses the value, nature and purpose*
6 *of any economic benefit which:*

7 *(a) During the 12-month period ending on June 30 of the year*
8 *in which the report is due, the wholesaler or manufacturer or its*
9 *agent provided, directly or indirectly, to a practitioner, pharmacist,*
10 *administrator of a health care facility or plan or any other person*
11 *authorized to purchase wholesale, prescribe or dispense*
12 *prescription drugs in this State;*

13 *(b) Has no direct benefit to a patient; and*

14 *(c) Exceeds \$100.*

15 *2. The report:*

16 *(a) Must include:*

17 *(1) If the wholesaler or manufacturer or its agent has*
18 *provided one or more economic benefits in excess of an aggregate*
19 *value of \$1,000 during the period to which the report pertains to a*
20 *practitioner, pharmacist, administrator of a health care facility or*
21 *plan or any other person authorized to purchase wholesale,*
22 *prescribe or dispense prescription drugs in this State, the name of*
23 *the recipient and the value, nature and purpose of each such*
24 *economic benefit.*

25 *(2) The identification of any information contained in the*
26 *report that is a trade secret.*

27 *(b) Must not include the disclosure of:*

28 *(1) Any free sample of a product of the wholesaler or*
29 *manufacturer that is provided for distribution to patients;*

30 *(2) Any payment of reasonable compensation and*
31 *reimbursement of expenses in connection with a bona fide clinical*
32 *trial or study;*

33 *(3) Any scholarship or other support for a medical student,*
34 *resident or fellow to attend a significant educational, scientific or*
35 *policymaking conference of a national, regional or specialty*
36 *medical or other professional association, if the recipient of the*
37 *scholarship or other support is selected by the professional*
38 *association; or*



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1 (4) Any fees, honoraria or reimbursement for expenses paid
2 to a person providing a presentation at an educational or scientific
3 conference on behalf of the wholesaler or manufacturer.

4 3. A wholesaler or manufacturer is not required to file a
5 report pursuant to this section if the wholesaler, manufacturer or
6 its agent has not provided an economic benefit to a practitioner,
7 pharmacist, administrator of a health care facility or plan or any
8 other person authorized to purchase wholesale, prescribe or
9 dispense prescription drugs in this State during the 12-month
10 period ending on June 30 of the year in which the report would
11 otherwise be due.

12 4. A wholesaler or manufacturer or its agent shall, before
13 providing an economic benefit to a practitioner, pharmacist,
14 administrator of a health care facility or plan or any other person
15 authorized to purchase wholesale, prescribe or dispense
16 prescription drugs in this State that would, if accepted by the
17 person, result in his receiving economic benefits from the
18 wholesaler or manufacturer or its agent in excess of an aggregate
19 value of \$1,000 during the 12-month period ending on June 30 of
20 the year in which the benefit is provided, inform the person that if
21 he accepts the economic benefit:

22 (a) The economic benefits provided to him by the wholesaler or
23 manufacturer or its agent will be in excess of an aggregate value
24 of \$1,000 during the period; and

25 (b) The person's name and the value, nature and purpose of
26 each economic benefit provided to him by the wholesaler or
27 manufacturer or its agent during the period will be included in the
28 report for the period filed by the wholesaler or manufacturer
29 pursuant to this section.

30 5. Any information identified as a trade secret in a report
31 filed pursuant to this section is confidential and must not be
32 disclosed by the Board.

33 6. On or before October 1 of each year, each wholesaler and
34 manufacturer shall disclose in writing to the Board the name and
35 address of the person responsible for ensuring that the wholesaler
36 or manufacturer complies with the provisions of this section.

37 7. The Board shall, on or before January 15 of each year, or
38 on or before such other date each year as the Board prescribes by
39 regulation, prepare a compilation of the information contained in
40 the reports received by the Board pursuant to this section, other
41 than any information identified as a trade secret in such a report.
42 The Board shall:

43 (a) Make the compilation available on its website; or



(b) Provide the compilation to the Office for Consumer Health Assistance which shall make the compilation available on its website.

8. If a wholesaler or manufacturer fails to file a report required pursuant to this section in a timely manner or knowingly and willfully fails to disclose in such a report any information that is required pursuant to this section, the wholesaler or manufacturer is subject to a civil penalty of not more than \$500 for each day that such a violation persists. The Attorney General may bring a civil action in the name of the State of Nevada to enforce the provisions of this section. If a court finds the wholesaler or manufacturer liable for the civil penalty, the court shall also order the wholesaler or manufacturer to pay:

(a) Court costs; and

(b) Reasonable costs of the investigation and prosecution of the civil action, including, without limitation, attorney's fees.

9. The Board may adopt such regulations as are necessary and convenient:

(a) For the enforcement of the provisions of this section, including, without limitation, a schedule of civil penalties for violations of this section; and

(b) To otherwise carry out the provisions of this section.

10. As used in this section:

(a) "Administrator of a health care facility or plan" means a person who is authorized to direct, control or supervise the policies or practices of an entity providing health care or an entity operating or administering any type of facility, program or plan relating to the provision of health care, including, without limitation, a third-party administrator.

(b) "Economic benefit" includes, without limitation, a gift, fee, payment or subsidy. The term does not include a contract or other agreement between persons authorized to purchase wholesale, prescribe or dispense prescription drugs in this State.

(c) "Health care facility" has the meaning ascribed to it in NRS 449.800.

(d) "Trade secret" has the meaning ascribed to it in NRS 600A.030.

Sec. 2. (Deleted by amendment.)

