

Amendment No. 726

Assembly Amendment to Assembly Bill No. 128 First Reprint (BDR 54-108)

Proposed by: Assembly Committee on Ways and Means**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

JLW/BJE



Date: 5/17/2007

A.B. No. 128—Revises provisions relating to prescription drugs. (BDR 54-108)



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 ~~the certain economic benefits that the wholesalers and manufacturers have provided to certain persons;~~ **wholesalers' and manufacturers' compliance with a written marketing code of conduct**; 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~~ **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 Internet. Section 1 further authorizes the imposition of civil penalties for wholesalers and manufacturers who fail to comply with the reporting requirements;~~ **who employ a person to sell or market a drug, medicine, chemical, device or appliance in this State to adopt a written marketing code of conduct. This bill also requires a wholesaler or manufacturer to adopt a training program and policies and procedures, identify a compliance officer, conduct an annual audit and submit an annual report certifying the wholesaler's or manufacturer's compliance with the marketing code of conduct.**

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

Delete existing sections 1 and 2 of this bill and replace with the following new section 1:

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

1. A wholesaler or manufacturer who employs a person to sell or market a drug, medicine, chemical, device or appliance in this State shall:

(a) Adopt a written marketing code of conduct which establishes the practices and standards that govern the marketing and sale of its products. The marketing code of conduct must be based on applicable legal standards and incorporate principles of health care, including, without limitation, requirements that the activities of the wholesaler or manufacturer be intended to benefit patients, enhance the practice of medicine and not interfere with the independent judgment of health care professionals. Adoption of the most recent version of the Code on Interactions with Healthcare Professionals developed by the Pharmaceutical Research and Manufacturers of America satisfies the requirements of this paragraph.

(b) Adopt a training program to provide regular training to appropriate employees, including, without limitation, all sales and marketing staff, on the marketing code of conduct.

(c) Conduct annual audits to monitor compliance with the marketing code of conduct.

(d) Adopt policies and procedures for investigating instances of noncompliance with the marketing code of conduct, including, without limitation, the maintenance of effective lines of communication for employees to report noncompliance, the investigation of reports of noncompliance, the taking of corrective action in response to noncompliance and the reporting of instances of noncompliance to law enforcement authorities in appropriate circumstances.

(e) Identify a compliance officer responsible for developing, operating and monitoring the marketing code of conduct.

2. A wholesaler or manufacturer who employs a person to sell or market a drug, medicine, chemical, device or appliance in this State shall submit to the Board annually:

(a) A copy of its marketing code of conduct;

(b) A description of its training program;

(c) A description of its investigation policies;

(d) The name, title, address, telephone number and electronic mail address of its compliance officer; and

(e) Certification that it has conducted its annual audit and is in compliance with its marketing code of conduct.

3. On or before January 15 of each odd-numbered year, the Board shall prepare and submit to the Governor, and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, a compilation of the information submitted to the Board pursuant to this section, other than any information identified as a trade secret in the information submitted to the Board.

4. The Board:

1 (a) Shall adopt regulations providing for the time of the submission and the
2 form of the information required pursuant to this section and defining
3 “compliance” for the purposes of this section.

4 (b) May not require the disclosure of the results of an audit conducted
5 pursuant to this section.

6 (c) Shall post on its Internet website information concerning the compliance
7 of all wholesalers and manufacturers with the requirements of this section.

8 (d) Shall not disclose any proprietary or confidential business information
9 that it receives pursuant to this section.