

SENATE BILL NO. 203—SENATOR DONATE

MARCH 2, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits certain gifts by a manufacturer or wholesaler of drugs or medical devices to a practitioner. (BDR 54-50)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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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 pharmacy; prohibiting a wholesaler or manufacturer of drugs, medicines, chemicals or medical devices or appliances from offering or giving a gift to a practitioner; requiring such a wholesaler or manufacturer to submit a report concerning certain compensation and items provided to a practitioner; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines the term “practitioner” to refer to persons who are authorized to prescribe and dispense prescription drugs in this State. (NRS 639.0125) **Section 2** of this bill prohibits a wholesaler or manufacturer of certain drugs, medicines, chemicals, devices or appliances or an agent of such a wholesaler or manufacturer from offering or giving a gift to a practitioner or otherwise directly or indirectly arranging, facilitating or serving as a conduit for such a gift. **Section 2** provides that certain items and expenditures, including certain expenditures for education, medical or scientific purposes or purposes relating to policy, do not constitute gifts for that purpose. A person who violates the provisions of **section 2** is subject to disciplinary action and guilty of a misdemeanor. (NRS 639.210, 639.310) **Section 3** of this bill requires a wholesaler or manufacturer to submit an annual report to the State Board of Pharmacy about certain compensation or items given to a practitioner that do not constitute gifts for the purposes of **section 2**. **Sections 3 and 4** of this bill prohibit the public disclosure of proprietary or confidential business information in such a report.



* S B 2 0 3 *

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A wholesaler or manufacturer or any agent of a wholesaler or manufacturer shall not offer or give any gift to a practitioner or otherwise directly or indirectly arrange, facilitate or serve as a conduit for such a gift.*

2. *As used in this section, "gift" means any payment, conveyance, transfer, distribution, deposit, advance, loan, forbearance, subscription, pledge or rendering of money, services or anything else of value, unless consideration of equal or greater value is received. The term does not include:*

(a) A sample of a drug, medical device or appliance, medical food or infant formula provided to a practitioner for distribution to a patient at no cost;

(b) A medical device or appliance loaned to a practitioner for a trial period of less than 120 days for the purpose of allowing the practitioner to evaluate the medical device or appliance;

(c) Where the evaluation of a medical device or appliance pursuant to paragraph (b) requires the use or administration of a drug, a sample of such a drug provided to a practitioner who is evaluating the medical device or appliance;

(d) A payment to the sponsor of an educational, medical, scientific or policy conference or seminar, if the payment is:

(1) Not made directly to a practitioner; and

(2) Used solely for a bona fide educational purpose;

(e) A reasonable honorarium and payment of the reasonable expenses of a practitioner who serves on the faculty at an educational, medical, scientific or policy conference or seminar;

(f) A scholarship or grant for a practitioner who is a resident or fellow to attend an educational, medical, scientific or policy conference or seminar if the recipient of the scholarship or grant is selected by the person organizing the conference or seminar;

(g) A salary paid to a practitioner who is participating in a fellowship that is funded by a grant from a manufacturer or wholesaler if:

(1) The grant is applied for by the entity that employs the fellow;

(2) The entity selects the fellow without considering the interests of the wholesaler or manufacturer; and

(3) The name of the manufacturer or wholesaler is not included or referenced in the title of the fellowship or grant;



(h) The provision of coffee, snacks, refreshments or other items with a combined retail value in any calendar year of less than \$50;

(i) Compensation for the professional or consulting services of a practitioner in connection with a bona fide clinical trial or research project;

(j) The provision, distribution or dissemination to a practitioner of peer-reviewed academic, scientific or clinical articles or journals or other items that serve an educational function;

(k) A royalty or licensing fee paid to a practitioner by a wholesaler or manufacturer for the right to use or purchase a patent or other intellectual property owned by the practitioner;

(l) A rebate or discount for a product provided in the normal course of business;

(m) A drug or medical device or appliance distributed free of charge or at a discounted price as part of a patient assistance program that is sponsored or funded by a manufacturer or wholesaler;

(n) Anything of value received as part of bona fide employment by or service as an independent contractor of a manufacturer or wholesaler or otherwise paid for or reimbursed as part of bona fide employment by or service as an independent contractor of a manufacturer or wholesaler; or

(o) Anything of value received from a person who is:

(1) Related to the practitioner, or to the spouse or domestic partner of the practitioner, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity; or

(2) A member of the household of the practitioner.

Sec. 3. 1. On or before March 1 of each year, a wholesaler and manufacturer shall submit to the Board on the form prescribed by the Board a report concerning each payment, honorarium, reimbursement or other compensation or item described in paragraphs (d) to (k), inclusive, of section 2 of this act given by the manufacturer or wholesaler to a practitioner in this State during the immediately preceding calendar year. Such a report must provide, for each payment, honorarium, reimbursement or other compensation or item:

(a) The value of the payment, honorarium, reimbursement or other compensation or item;

(b) A description of the purpose of the payment, honorarium, reimbursement or other compensation or item;



(c) *The name and business address of the practitioner that received the payment, honorarium, reimbursement or other compensation or item; and*

(d) *The name of any business entity with which the practitioner is associated.*

2. The Board:

(a) *Shall post on its Internet website information concerning each payment, honorarium, reimbursement or other compensation or item described in a report submitted pursuant to subsection 1; and*

(b) *Shall not disclose any proprietary or confidential business information of a wholesaler, manufacturer or practitioner contained in such a report.*

Sec. 4. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,



1 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
2 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242,
3 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080,
4 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,
5 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
6 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035,
7 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271,
8 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045,
9 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
10 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525,
11 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888,
12 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305,
13 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028,
14 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,
15 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534,
16 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116,
17 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170,
18 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
19 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,
20 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805,
21 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555,
22 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
23 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940,
24 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,
25 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830,
26 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040,
27 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098,
28 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303,
29 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
30 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110,
31 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
32 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672,
33 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332,
34 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283,
35 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055,
36 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158,
37 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087,
38 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185,
39 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620,
40 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340,
41 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217,
42 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760,
43 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180,
44 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
45 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,



1 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,
2 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130,
3 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480,
4 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,
5 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190,
6 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,
7 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,
8 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,
9 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536,
10 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,
11 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159,
12 711.600, *and section 3 of this act*, sections 35, 38 and 41 of chapter
13 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes
14 of Nevada 2013 and unless otherwise declared by law to be
15 confidential, all public books and public records of a governmental
16 entity must be open at all times during office hours to inspection by
17 any person, and may be fully copied or an abstract or memorandum
18 may be prepared from those public books and public records. Any
19 such copies, abstracts or memoranda may be used to supply the
20 general public with copies, abstracts or memoranda of the records or
21 may be used in any other way to the advantage of the governmental
22 entity or of the general public. This section does not supersede or in
23 any manner affect the federal laws governing copyrights or enlarge,
24 diminish or affect in any other manner the rights of a person in any
25 written book or record which is copyrighted pursuant to federal law.

26 2. A governmental entity may not reject a book or record
27 which is copyrighted solely because it is copyrighted.

28 3. A governmental entity that has legal custody or control of a
29 public book or record shall not deny a request made pursuant to
30 subsection 1 to inspect or copy or receive a copy of a public book or
31 record on the basis that the requested public book or record contains
32 information that is confidential if the governmental entity can
33 redact, delete, conceal or separate, including, without limitation,
34 electronically, the confidential information from the information
35 included in the public book or record that is not otherwise
36 confidential.

37 4. If requested, a governmental entity shall provide a copy of a
38 public record in an electronic format by means of an electronic
39 medium. Nothing in this subsection requires a governmental entity
40 to provide a copy of a public record in an electronic format or by
41 means of an electronic medium if:

42 (a) The public record:

- 43 (1) Was not created or prepared in an electronic format; and
44 (2) Is not available in an electronic format; or



(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 5. This act becomes effective on July 1, 2023.

