

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 24-1123.01 Brita Darling x2241

HOUSE BILL 24-1438

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HOUSE SPONSORSHIP

Mabrey and Jodeh,

SENATE SPONSORSHIP

Roberts,

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House Committees  
Health & Human Services

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE IMPLEMENTATION OF CERTAIN AFFORDABLE  
102 PRESCRIPTION DRUG PROGRAMS.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill makes it a deceptive trade practice under the "Colorado Consumer Protection Act" for a manufacturer to fail to comply with:

- The insulin affordability program; and
- The requirements for the emergency supply of prescription insulin.

The bill authorizes the attorney general to enforce:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

- The insulin affordability program;
- The requirements for the emergency supply of prescription insulin; and
- The epinephrine auto-injector affordability program (epinephrine program).

The bill also increases the amount of a fine for a manufacturer's failure to comply with the requirements of the insulin affordability program, the requirements for the emergency supply of prescription insulin, and the epinephrine program to the amount and frequency that is permitted under the "Colorado Consumer Protection Act".

The bill requires the state board of pharmacy to provide flyers to be distributed to pharmacies about the epinephrine program that include a quick response (QR) code to allow individuals to access and complete the epinephrine program's application online. The completed, printed application will include a billing code or other method for the dispensing pharmacy to be reimbursed for the cost of the epinephrine auto-injector above any required cost sharing by the individual.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **add**  
 3 (1)(eeee) as follows:

4           **6-1-105. Unfair or deceptive trade practices.** (1) A person  
 5 engages in a deceptive trade practice when, in the course of the person's  
 6 business, vocation, or occupation, the person:

7           (eeee) FAILS TO COMPLY WITH THE INSULIN AFFORDABILITY  
 8 PROGRAM PURSUANT TO SECTION 12-280-139 OR THE REQUIREMENTS FOR  
 9 THE EMERGENCY SUPPLY OF PRESCRIPTION INSULIN PURSUANT TO SECTION  
 10 12-280-140.

11           **SECTION 2.** In Colorado Revised Statutes, 12-280-139, **amend**  
 12 (11) as follows:

13           **12-280-139. Insulin affordability program - record keeping -**  
 14 **reimbursement - definitions.** (11) (a) A manufacturer that fails to  
 15 comply with the requirements of this section:

16           (I) Is subject to a fine of ~~ten thousand dollars for each month of~~

1 ~~noncompliance~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE  
2 AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE  
3 "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE  
4 6; AND

5 (II) ENGAGES IN A DECEPTIVE TRADE PRACTICE UNDER SECTION  
6 6-1-105 (1)(eeee).

7 (b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS  
8 SECTION.

9 **SECTION 3.** In Colorado Revised Statutes, 12-280-140, **amend**  
10 (9) as follows:

11 **12-280-140. Emergency prescription insulin supply - eligibility**  
12 **- record keeping.** (9) (a) A manufacturer that fails to comply with the  
13 requirements of this section:

14 (I) Is subject to a fine of ~~ten thousand dollars for each month of~~  
15 ~~noncompliance~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE  
16 AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE  
17 "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE  
18 6; AND

19 (II) ENGAGES IN A DECEPTIVE TRADE PRACTICE UNDER SECTION  
20 6-1-105 (1)(eeee).

21 (b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS  
22 SECTION.

23 **SECTION 4.** In Colorado Revised Statutes, 12-280-142, **amend**  
24 (4)(a) introductory portion, (4)(b), (6)(b)(II), and (11) as follows:

25 **12-280-142. Epinephrine auto-injector affordability program**  
26 **- record keeping - reimbursement - definitions.** (4) (a) The division of  
27 insurance shall develop an application form THAT MAY BE ACCESSED AND

1 COMPLETED ONLINE to be used by an individual who is seeking  
2 epinephrine auto-injectors through the program. At a minimum, the  
3 application form must:

4 (b) (I) The division of insurance and the department of health care  
5 policy and financing shall make the application form available on each  
6 agency's website. The division of insurance shall also make the  
7 application form available to pharmacies, health-care providers, and  
8 health facilities that prescribe or dispense epinephrine auto-injectors.

9 (II) THE COMPLETED APPLICATION MUST INCLUDE A BILLING CODE  
10 OR OTHER INFORMATION FOR THE DISPENSING PHARMACY TO SUBMIT AN  
11 ELECTRONIC CLAIM TO THE MANUFACTURER, MANUFACTURER'S  
12 DELEGATED REPRESENTATIVE, OR OTHER VENDOR FOR REIMBURSEMENT  
13 PURSUANT TO SUBSECTION (6) OF THIS SECTION.

14 (III) THE BOARD SHALL SUPPLY INFORMATIONAL FLYERS ABOUT  
15 THE PROGRAM FOR DISTRIBUTION TO PHARMACIES TO PROVIDE TO  
16 INDIVIDUALS WHO ARE SEEKING ACCESS TO THE PROGRAM. THE FLYERS  
17 MUST INCLUDE A QUICK RESPONSE (QR) CODE OR OTHER  
18 MACHINE-READABLE CODE THAT ALLOWS AN INDIVIDUAL TO ACCESS AND  
19 COMPLETE THE APPLICATION ON THE DIVISION OF INSURANCE'S AND THE  
20 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING'S WEBSITES.

21 (6) (b) The pharmacist is encouraged to inform the individual:

22 (II) Of any manufacturer-sponsored programs that assist  
23 individuals who cannot afford their prescription epinephrine  
24 auto-injectors AND PROVIDE THE INDIVIDUAL WITH THE INFORMATIONAL  
25 FLYER DESCRIBED IN SUBSECTION (4)(b)(III) OF THIS SECTION, IF  
26 AVAILABLE, ABOUT THE PROGRAM CREATED IN SUBSECTION (2) OF THIS  
27 SECTION.

1           (11) (a) A manufacturer that fails to comply with the requirements  
2 of this section:

3           ~~(a) (I) Is subject to a fine of ten thousand dollars for each month~~  
4 ~~of noncompliance~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE  
5 AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE  
6 "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE  
7 6; and

8           ~~(b) (II) Engages in a deceptive trade practice under section~~  
9 6-1-105 (1)(zzz).

10          (b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS  
11 SECTION.

12          **SECTION 5. Safety clause.** The general assembly finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, or safety or for appropriations for  
15 the support and maintenance of the departments of the state and state  
16 institutions.