

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-1123.01 Brita Darling x2241

HOUSE BILL 24-1438

HOUSE SPONSORSHIP

Mabrey and Jodeh,

SENATE SPONSORSHIP

Roberts,

House Committees

Health & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF CERTAIN AFFORDABLE**
102 **PRESCRIPTION DRUG PROGRAMS, AND, IN CONNECTION**
103 **THEREWITH, MAKING AN APPROPRIATION.**

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.

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 bill authorizes the attorney general to enforce:

- 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.

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 (4), (9), and (11); and **repeal** (1)(b) as follows:

13 **12-280-139. Insulin affordability program - record keeping -**
14 **reimbursement - definitions.** (1) As used in this section and section
15 12-280-140, unless the context otherwise requires:

1 (b) ~~"Division of insurance" means the division of insurance in the~~
2 ~~department of regulatory agencies, created in section 10-1-103.~~

3 (4) (a) ~~The division of insurance~~ BOARD shall develop an
4 application form to be used by an individual who is seeking insulin under
5 the program. The application form must require the individual to show
6 proof that the individual meets the requirements of subsection (3) of this
7 section.

8 (b) ~~The division of insurance and the department of health care~~
9 ~~policy and financing~~ BOARD shall make the application form available on
10 ~~each agency's~~ ITS website. ~~The division of insurance~~ BOARD shall also
11 make the application form available to pharmacies, health-care providers,
12 and health facilities that prescribe or dispense insulin.

13 (9) ~~The division of insurance and the department of health care~~
14 ~~policy and financing~~ BOARD shall promote the availability of the program
15 to Coloradans. The promotional material must include information about
16 each manufacturer's consumer insulin programs. ~~Each agency~~ THE BOARD
17 may seek and accept gifts, grants, and donations to fulfill the
18 requirements of this subsection (9).

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

21 (I) ~~Is subject to a fine of ten thousand dollars for each month of~~
22 ~~noncompliance.~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE
23 AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE
24 "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE
25 6; AND

26 (II) ENGAGES IN A DECEPTIVE TRADE PRACTICE UNDER SECTION
27 6-1-105 (1)(eeee).

1 (b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS
2 SECTION.

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

5 **12-280-140. Emergency prescription insulin supply - eligibility**
6 **- record keeping.** (9) (a) A manufacturer that fails to comply with the
7 requirements of this section:

8 (I) Is subject to a fine of ~~ten thousand dollars for each month of~~
9 ~~noncompliance.~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE
10 AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE
11 "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE
12 6; AND

13 (II) ENGAGES IN A DECEPTIVE TRADE PRACTICE UNDER SECTION
14 6-1-105 (1)(eeee).

15 (b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS
16 SECTION.

17 **SECTION 4.** In Colorado Revised Statutes, 12-280-142, **amend**
18 (4), (6)(b)(II), (9), and (11); and **repeal** (1)(b) as follows:

19 **12-280-142. Epinephrine auto-injector affordability program**
20 **- record keeping - reimbursement - definitions.** (1) As used in this
21 section:

22 (b) ~~"Division of insurance" means the division of insurance in the~~
23 ~~department of regulatory agencies created in section 10-1-103.~~

24 (4) (a) ~~The division of insurance~~ BOARD shall develop an
25 EPINEPHRINE AUTO-INJECTOR AFFORDABILITY PROGRAM application form
26 to be used by an individual who is seeking epinephrine auto-injectors
27 through the program. ~~THE APPLICATION FORM MUST BE ACCEPTED BY ALL~~

1 MANUFACTURERS SUBJECT TO THIS SECTION. THE APPLICATION FORM
2 MUST BE AVAILABLE TO INDIVIDUALS, PHARMACIES, HEALTH-CARE
3 PROVIDERS, AND HEALTH FACILITIES THROUGH THE DIVISION'S WEBSITE
4 AND MANUFACTURERS' WEBSITES AND MUST BE ACCESSIBLE THROUGH A
5 QUICK RESPONSE (QR) CODE OR OTHER MACHINE-READABLE CODE. At a
6 minimum, the application form must:

7 (I) Provide information related to program eligibility and coverage
8 in English, Spanish, and in each language spoken by at least two and
9 one-half percent of the population of any county in which such population
10 speaks English less than very well, as defined by the United States bureau
11 of the census American community survey or comparable census data,
12 and speaks a shared minority language at home; and

13 (II) Require the individual to ~~show proof~~ ATTEST that the
14 individual meets the requirements of subsection (3) of this section; AND

15 (III) INCLUDE THE INFORMATION REQUIRED FOR A PHARMACY TO
16 SUCCESSFULLY SUBMIT, PURSUANT TO SUBSECTION (8) OF THIS SECTION,
17 AN ELECTRONIC CLAIM FOR REIMBURSEMENT THAT IS MADE IN
18 ACCORDANCE WITH THE NATIONAL COUNCIL FOR PRESCRIPTION DRUG
19 PROGRAMS' STANDARDS FOR ELECTRONIC CLAIMS PROCESSING FOR THE
20 COST TO DISPENSE THE EPINEPHRINE AUTO-INJECTORS, ABOVE ANY
21 REQUIRED COST SHARING BY THE INDIVIDUAL AND ADJUDICATED AT THE
22 POINT OF SALE.

23 ~~(b) The division of insurance and the department of health care~~
24 ~~policy and financing shall make the application form available on each~~
25 ~~agency's website. The division of insurance shall also make the~~
26 ~~application form available to pharmacies, health-care providers, and~~
27 ~~health facilities that prescribe or dispense epinephrine auto-injectors~~

1 BOARD SHALL SUPPLY PHARMACIES WITH INFORMATION ABOUT THE
2 PROGRAM TO PROVIDE TO INDIVIDUALS WHO ARE SEEKING ACCESS TO THE
3 PROGRAM. THE INFORMATION MUST CONTAIN A QUICK RESPONSE (QR)
4 CODE OR OTHER MACHINE-READABLE CODE THAT AN INDIVIDUAL MAY USE
5 TO ACCESS THE PROGRAM APPLICATION AND INCLUDE INFORMATION ON
6 HOW TO SUBMIT A PROGRAM APPLICATION.

7 (6) (b) The pharmacist is encouraged to inform the individual:
8 (II) Of any manufacturer-sponsored programs that assist
9 individuals who cannot afford their prescription epinephrine
10 auto-injectors AND PROVIDE THE INDIVIDUAL WITH THE INFORMATION
11 DESCRIBED IN SUBSECTION (4)(b) OF THIS SECTION ABOUT THE
12 PROGRAM.

13 (9) ~~The division of insurance and the department of health care~~
14 ~~policy and financing~~ BOARD shall promote the availability of the program
15 to Coloradans. The promotional material must include information about
16 each manufacturer's consumer epinephrine auto-injector program, as
17 applicable. ~~Each agency~~ THE BOARD may seek and accept gifts, grants,
18 and donations to fulfill the requirements of this subsection (9).

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

21 (a) (I) ~~Is subject to a fine of ten thousand dollars for each month~~
22 ~~of noncompliance.~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE
23 AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE
24 "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE
25 6; and

26 (b) (II) Engages in a deceptive trade practice under section
27 6-1-105 (1)(zzz).

1 (b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS
2 SECTION.

3 **SECTION 5. Appropriation.** For the 2024-25 state fiscal year,
4 \$8,874 is appropriated to the department of regulatory agencies for use by
5 the division of professions and occupations. This appropriation is from
6 the division of professions and occupations cash fund created in section
7 12-20-105 (3), C.R.S., and is based on an assumption that the division
8 will require an additional 0.2 FTE. To implement this act, the division
9 may use this appropriation for personal services.

10 **SECTION 6. Safety clause.** The general assembly finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety or for appropriations for
13 the support and maintenance of the departments of the state and state
14 institutions.