

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2840

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JUNE 13, 2022

SUMMARY

- Synopsis:** Establishes certain data reporting requirements for prescription drug supply chain; requires Division of Consumer Affairs to issue annual report on emerging trends in prescription drug pricing; appropriates \$900,000.
- Type of Impact:** Annual Increase in State Expenditures; Potential Increase in Annual State Revenues.
- Agencies Affected:** Department of Law and Public Safety; the Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2023</u>	<u>FY 2024 and Thereafter</u>
State Cost Increase	Up to \$900,000	Indeterminate
Potential State Revenue Increase	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill will increase State expenditures by up to \$900,000 in FY 2023 for salaries, benefits, and one-time start-up costs related to the new data reporting process and required annual report. Thereafter, the State will incur indeterminate annual operating costs for ongoing administrative expenses of the Division of Consumer Affairs in the Department of Law and Public Safety. The bill appropriates \$900,000 to support the activities of the division under the bill.
- The State also will incur an indeterminate amount of cost increases to prosecute, defend, and adjudicate individuals who commit the crime of the fourth degree established in the bill. A presumption of non-incarceration applies to first-time offenders of crimes of the fourth degree, and so it is unlikely that there will be any cost increases for the Department of Corrections or the State Parole Board associated with this bill.

- Indeterminate State revenue will accrue from criminal and civil penalties collected from entities and individuals violating the provisions of this bill. However, the State has had difficulty collecting such penalties historically.

BILL DESCRIPTION

This bill establishes data reporting requirements for pharmacy benefits managers, wholesale drug distributors, insurance issuers, and manufacturers so that the Division of Consumer Affairs can issue an annual report on emerging trends in prescription drug pricing at each stage of the supply chain. Every year, each of these reporting entities must register with the division and report on measures such as the volume, sales, revenue, and year-over-year change in prescription drug transactions. Once the division compiles this information and publishes its annual report on prescription drug pricing trends, it must hold a public hearing on the findings.

The bill establishes civil penalties for failing to report as determined by the Division of Consumer Affairs. Civil penalties may be imposed in the amount of \$20,000 for the first day that the reporting entity is found to be in violation and for subsequent days of non-compliance, an amount starting at \$21,000 and increasing by \$1,000 for each additional day of non-compliance, not to exceed \$100,000 per day. In addition, a person who is authorized to access information submitted by an individual reporting entity to the division who knowingly discloses such information to any person or entity who is not authorized to access the information is guilty of a crime of the fourth degree and subject to a civil penalty in an amount not to exceed \$10,000.

The bill appropriates from the General Fund to the Division of Consumer Affairs in the Department of Law and Public Safety \$900,000 to implement the provisions of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will increase State expenditures by up to \$900,000 in FY 2023 for salaries, benefits, and one-time start-up costs related to the new data reporting process and required annual report. Thereafter, the State will incur indeterminate annual operating costs for ongoing administrative expenses of the division. The bill appropriates \$900,000 to support the activities of the Division of Consumer Affairs.

Expenditure Increases: The Division of Consumer Affairs will experience recurring workload increases, as the bill requires: 1) establishment of data reporting intake; 2) analysis of the information and an issuance of an annual report; and 3) the hosting of a public hearing on the findings. The bill provides an appropriation of \$900,000 to support the additional administrative activities of the division.

The State also will incur an indeterminate amount of cost increases to prosecute, defend, and adjudicate individuals who commit the crime of the fourth degree established in the bill. The timing and magnitude of these increases are indeterminate because it is not known how frequently

the crime established by this bill will be prosecuted and tried in a given fiscal year. A crime of the fourth degree is adjudicated in State court and is punishable by a term of imprisonment of up to 18 months, a fine up to \$10,000, or both. A presumption of non-incarceration applies to first-time offenders of crimes of the fourth degree, and so it is unlikely that there will be any cost increases for the Department of Corrections or the State Parole Board associated with this bill.

Revenue Gains: Additional indeterminate annual State revenue may potentially accrue from criminal and civil penalties collected from violators of the bill's provisions. Civil penalties may be imposed in the amount of \$20,000 for the first day that the reporting entity is found to have violated and for subsequent days of non-compliance, an amount starting at \$21,000 and increasing by \$1,000 for each additional day of non-compliance, not to exceed \$100,000 per day.

In addition, unauthorized disclosure of certain confidential information may be subject to a civil penalty in an amount not to exceed \$10,000. The State has had difficulty collecting such penalties historically, however.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).