SENATE BILL 824

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO PRESCRIPTION DRUGS; REQUIRING DISCLOSURE AND REPORTING OF CERTAIN INFORMATION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Prescription Drug Ethical Marketing Act".

Section 2. DEFINITIONS.--As Used in the Prescription Drug Ethical Marketing Act:

A. "manufacturer" means a person who manufactures prescription drugs for sale or consumption in New Mexico; and

B. "pharmaceutical marketing" means pharmaceutical detailing, promotional activities or other marketing activities provided to a physician, hospital, nursing home, pharmacist, health benefit plan administrator or other person authorized to prescribe, dispense or purchase prescription drugs in the state

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by a person employed by or under contract to a manufacturer or labeler of prescription drugs.

Section 3. PHARMACEUTICAL MANUFACTURERS--DISCLOSURE--EXEMPTIONS--ANNUAL REPORT.--

A. A manufacturer shall annually report to the office of the attorney general:

(1) the value, nature and purpose of any gift, fee, payment, subsidy or other economic benefit provided in connection with pharmaceutical marketing; and

(2) the name and address of the individual responsible for the manufacturer's compliance with the requirements of this section.

B. The office of the attorney general shall develop a form and manner in which to collect information required by Subsection A of this section, and may assess a filing fee to support the administrative cost of implementing the requirements of that subsection.

C. Exempt from the requirements of Subsection A of this section are:

(1) free samples of prescription drugs for distribution to patients;

(2) the payment of reasonable compensation and reimbursement of expenses associated with approved clinical research trials; and

(3) any gift, fee, payment, subsidy or other

economic benefit of no more than twenty-five dollars ($25.00) in value.

D. The office of the attorney general shall compile and report annually to the legislature, and make available to the public, the information provided pursuant to Subsection A of this section.

Section 4. CONFIDENTIALITY.--Trade secret information, as defined in the Uniform Trade Secrets Act, is confidential. The report required by Section 3 of the Prescription Drug Ethical Marketing Act is a public record, as long as it does not reveal trade secret information.

Section 5. ENFORCEMENT.--The office of the attorney general may take action to investigate and enforce the requirements of Section 3 of the Prescription Drug Ethical Marketing Act.

Section 6. APPROPRIATION.--Twenty-five thousand dollars ($25,000) is appropriated from the general fund to the office of the attorney general for expenditure in fiscal year 2006 to develop and implement the provisions of the Prescription Drug Ethical Marketing Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2006 shall revert to the general fund.

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