



## **H.B. 89**

126th General Assembly  
(As Introduced)

**Rep. Blessing**

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### **BILL SUMMARY**

- Requires the State Board of Pharmacy to prepare and provide a list of the 100 dangerous drugs that may be legally prescribed and produce the highest dollar amount of sales in Ohio to each retail seller of dangerous drugs.
- Requires each retail seller of dangerous drugs to post a dangerous drug price information list.
- Imposes a penalty for failure to post a price information list.

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### **CONTENT AND OPERATION**

#### **Current law**

Under current law a retail seller<sup>1</sup> of dangerous drugs<sup>2</sup> is required to provide price information<sup>3</sup> regarding such drugs to any person requesting the information.

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<sup>1</sup> "Retail seller" means any person that sells any dangerous drug to consumers without assuming control over and responsibility for its administration. (R.C. 4729.01(M).)

<sup>2</sup> "Dangerous drug" means any drug that under the "Federal Food, Drug, and Cosmetic Act" (52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended) is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without a prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription; any drug that contains a schedule V substance and is exempt from Ohio's pure food and drug law (R.C. Chapter 3719.) or to which that law does not apply; and any drug intended by administration by injection into the human body other than through a natural orifice. (R.C. 4729.01(F).)

<sup>3</sup> "Price information" means the price charged for a prescription for a particular drug product and all of the following: (1) the proprietary name of the drug product, (2) the

The price information may be disclosed verbally on the retail premises, or over the telephone to any person with a valid prescription if the person can identify himself or herself. Price disclosure is not required for schedule II controlled substances<sup>4</sup> if lives or property could be endangered by the disclosure. (R.C. 4729.361.)

### **The bill**

The bill requires the State Board of Pharmacy to prepare a list of the 100 dangerous drugs that may be legally prescribed and produce the highest dollar amount of retail sales in Ohio. The list must include the proprietary name and generic name, if any, of each drug. The Board must update the list at least once every three months and must prepare the initial list not later than 30 days after the bill's effective date. The Director of the Board is to provide the list to each terminal distributor<sup>5</sup> that is a retail seller of dangerous drugs in Ohio. The Board may adopt rules governing the preparation and implementation of the list. Any rules must be adopted pursuant to the Administrative Procedure Act (R.C. Chapter 119.), which requires public hearings on proposed rules. (R.C. 4729.261.)

Each retail seller of dangerous drugs must post a list of the price information for each of the dangerous drugs on the list prepared by the Board in a conspicuous location accessible to consumers. The retail seller must update the

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*established (generic) name of the drug product, (3) the strength of the drug product if the product contains a single active ingredient or if the drug product contains more than one active ingredient and a relevant strength can be associated with the product without indicating each active ingredient (The established name and quantity of each active ingredient are required if such a relevant strength cannot be so associated with a drug product containing more than one ingredient.), (4) the dosage form, and (5) the price charged for a specific quantity of the drug product. The stated price must include all charges to the consumer, including, but not limited to, the cost of the drug product, professional fees, handling fees, if any, and a statement identifying the professional services routinely furnished by the pharmacy. Any mailing fees and delivery fees may be stated separately without repetition. (R.C. 4729.01(N).)*

<sup>4</sup> *Schedule II controlled substances include narcotics such as opium, opium derivatives, and opiates; depressants; hallucinogenic substances; and certain immediate precursors. (R.C. 3719.41.)*

<sup>5</sup> *"Terminal distributor of dangerous drugs" means a person who is engaged in the sale of dangerous drugs at retail, or any person, other than a wholesale distributor or a pharmacist, who has possession, custody, or control of dangerous drugs for any purpose other than for that person's own use and consumption, and includes pharmacies, hospitals, nursing homes, and laboratories and all other persons who procure dangerous drugs for sale or other distribution by or under the supervision of a pharmacist or licensed health professional authorized to prescribe drugs (R.C. 4729.01(Q)).*

price information list at least once every two weeks and must not present the information in a way that is false or misleading.

A retail seller of dangerous drugs that fails to post a price information list is guilty of a minor misdemeanor, unless the distributor has been previously convicted of such a violation, or any other violation under the Pharmacy Board law (R.C. Chapter 4729.). In that case, the seller is guilty of a misdemeanor of the third degree. (R.C. 4729.362 and 4729.99(I).)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-24-05	p. 232

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