

1 AN ACT

2 relating to wholesale importation of prescription drugs in this
3 state; authorizing a fee.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. This Act may be cited as the Wholesale
6 Prescription Drug Importation Act.

7 SECTION 2. Subtitle A, Title 6, Health and Safety Code, is
8 amended by adding Chapter 444 to read as follows:

9 CHAPTER 444. WHOLESALE PRESCRIPTION DRUG IMPORTATION PROGRAM

10 Sec. 444.001. DEFINITIONS. In this chapter:

11 (1) "Canadian supplier" means a manufacturer,
12 wholesale distributor, or pharmacy that is appropriately licensed
13 or permitted under Canadian federal or provincial laws and rules to
14 manufacture, distribute, or dispense prescription drugs.

15 (2) "Commission" means the Health and Human Services
16 Commission.

17 (3) "Prescription drug wholesaler" means a person
18 licensed as a wholesale distributor under Subchapter N, Chapter
19 431, that contracts with this state to import prescription drugs
20 under the program.

21 (4) "Program" means the wholesale prescription drug
22 importation program established under this chapter.

23 Sec. 444.002. ESTABLISHMENT OF WHOLESALE PRESCRIPTION DRUG
24 IMPORTATION PROGRAM. (a) The commission shall establish the

1 wholesale prescription drug importation program to provide lower
2 cost prescription drugs available outside of the United States to
3 consumers in this state at the lower cost.

4 (b) The commission shall implement the program by:

5 (1) contracting with one or more prescription drug
6 wholesalers and Canadian suppliers to import prescription drugs and
7 provide prescription drug cost savings to consumers in this state;

8 (2) developing a registration process for health
9 benefit plan issuers, health care providers, and pharmacies to
10 obtain and dispense prescription drugs imported under the program;

11 (3) developing a list of prescription drugs, including
12 the prices of those drugs, that meet the requirements of Section
13 444.003 and publishing the list on the commission's Internet
14 website;

15 (4) establishing an outreach and marketing plan to
16 generate program awareness;

17 (5) establishing and administering a telephone call
18 center or electronic portal to provide information about the
19 program;

20 (6) ensuring the program and the prescription drug
21 wholesalers that contract with this state under Subdivision (1)
22 comply with the tracking, tracing, verification, and
23 identification requirements of 21 U.S.C. Section 360eee-1;

24 (7) prohibiting the distribution, dispensing, or sale
25 of prescription drugs imported under this chapter outside the
26 boundaries of this state; and

27 (8) performing any other duties the executive

1 commissioner determines necessary to implement the program.

2 (c) The commission shall ensure that the program meets the
3 requirements of 21 U.S.C. Section 384.

4 (d) In developing the program, the commission may consult
5 with interested parties.

6 Sec. 444.003. ELIGIBLE PRESCRIPTION DRUGS. A prescription
7 drug may be imported into this state under the program only if the
8 drug:

9 (1) meets the United States Food and Drug
10 Administration's standards related to prescription drug safety,
11 effectiveness, misbranding, and adulteration;

12 (2) does not violate any federal patent laws through
13 its importation;

14 (3) is expected to generate cost savings for
15 consumers; and

16 (4) is not:

17 (A) listed as a controlled substance under state
18 or federal law;

19 (B) a biological product;

20 (C) an infused drug;

21 (D) an intravenously injected drug;

22 (E) a drug that is inhaled during surgery; or

23 (F) a parenteral drug.

24 Sec. 444.004. ANTICOMPETITIVE BEHAVIOR MONITORING. The
25 commission, in consultation with the attorney general, shall
26 identify and monitor any potential anticompetitive activities in
27 industries affected by the program.

1 Sec. 444.005. PROGRAM FUNDING. In addition to money
2 appropriated by the legislature, the commission may impose a fee on
3 each prescription drug sold under the program or establish another
4 funding method to administer the program.

5 Sec. 444.006. AUDIT PROCEDURES. The executive commissioner
6 by rule shall develop procedures to effectively audit a
7 prescription drug wholesaler participating in the program.

8 Sec. 444.007. ANNUAL REPORTING. Not later than December 1
9 of each year, the commission shall submit a report to the governor
10 and the legislature regarding the operation of the program during
11 the preceding state fiscal year, including:

12 (1) which prescription drugs and Canadian suppliers
13 are included in the program;

14 (2) the number of health benefit plan issuers, health
15 care providers, and pharmacies participating in the program;

16 (3) the number of prescriptions dispensed through the
17 program;

18 (4) the estimated cost savings to consumers, health
19 plans, employers, and this state since the establishment of the
20 program and during the preceding state fiscal year;

21 (5) information regarding the implementation of the
22 audit procedures under Section 444.006; and

23 (6) any other information:

24 (A) the governor or the legislature requests; or

25 (B) the commission considers necessary.

26 SECTION 3. As soon as practicable after the effective date
27 of this Act, the executive commissioner of the Health and Human

1 Services Commission shall adopt any rules necessary to implement
2 Chapter 444, Health and Safety Code, as added by this Act.

3 SECTION 4. If before implementing any provision of this Act
4 a state agency determines that a waiver or authorization from a
5 federal agency is necessary for implementation of that provision,
6 the agency affected by the provision shall request the waiver or
7 authorization and may delay implementing that provision until the
8 waiver or authorization is granted.

9 SECTION 5. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 25 was passed by the House on April 12, 2023, by the following vote: Yeas 144, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 25 was passed by the Senate on May 22, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor