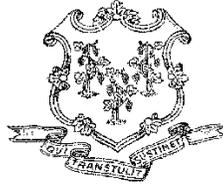


SENATOR MARTIN M. LOONEY  
PRESIDENT PRO TEMPORE

Eleventh District  
*New Haven, Hamden & North Haven*



State of Connecticut  
SENATE

State Capitol  
Hartford, Connecticut 06106-1591  
132 Fort Hale Road  
New Haven, Connecticut 06512  
Home: 203-468-8829  
Capitol: 860-240-8600  
Toll-free: 1-800-842-1420  
[www.SenatorLooney.cga.ct.gov](http://www.SenatorLooney.cga.ct.gov)

January 28, 2021

Good afternoon Senator Maroney, Representative D'Agostino and members of the General Law Committee, I would like to express my support for SB 262 AN ACT REQUIRING MANUFACTURERS OF BRAND NAME PRESCRIPTION DRUGS TO PROVIDE SAMPLES OF SUCH DRUGS TO MANUFACTURERS OF GENERIC PRESCRIPTION DRUGS and SB 269 AN ACT CONCERNING THE AVAILABILITY OF GENERIC PHARMACEUTICALS.

SB 262 is similar to Maine's LD 1280<sup>1</sup> which passed there in 2018. It would require that brand name pharmaceutical manufacturers that are present in the state comply with federal law and make available, **at a fair market price**, samples of their drugs to generic manufacturers. It would require that drugs distributed in Connecticut be made available for sale to an FDA-approved generic drug manufacturer who is seeking to develop a more affordable alternative. In addition, the bill would authorize the Attorney General to bring legal action against pharmaceutical manufacturers who do not comply with this law. In past years there appeared to be some inaccurate

---

<sup>1</sup> <http://www.mainesenate.org/maine-senate-passes-jacksons-bill-lower-drug-costs/>

information that was spread regarding similar legislation. Under this legislation the name brand manufacturer must **SELL** the drug at a **fair market price**; it does NOT require that the name brand manufacturer provide the samples at no cost to the potential generic maker. Currently the federal government posts a list of companies that deny this access to generic makers<sup>2</sup>.

Denying generic drug manufacturers access to samples appears to be a fairly common strategy used by name brand drug manufacturers to delay generic entry into the market.<sup>3</sup> This bill is one step toward increasing access to affordable prescription drugs.

SB 269 would ban "pay for delay" agreements between name brand pharmaceutical companies and potential generic makers. Under these contracts, the potential generic manufacturer receives a benefit for not producing a generic product. Often this process begins with the name brand company filing a patent infringement suit against the generic company and the suit then produces a settlement that includes a pay for delay contract under which the branded pharmaceutical company pays the generic company to keep its generic pharmaceutical off the market for a period of time. Thus, under this scheme, the generic maker whose business is supposed to be manufacturing lower cost generic alternatives instead receives a profit for not manufacturing anything. The branded company retains its status as the sole manufacturer and can continue to charge an inflated price.

---

<sup>2</sup> <https://www.wepclinical.com/fda-publishes-list-of-branded-drug-companies-blocking-generic-competition/>

<sup>3</sup> <https://www.commonwealthfund.org/publications/journal-article/2017/sep/strategies-delay-market-entry-generic-drugs>

This practice would seem anti-competitive on its face and this bill would create a presumption that such contracts are anti-competitive (and thus illegal) unless the parties can prove otherwise. According to a 2010 Federal Trade Commission study, pay for delay contracts were estimated to cost patients \$3.5 billion every year.<sup>4</sup> Last year California became the first state in the nation to ban these pay for delay contracts<sup>5</sup> and SB 269 is based on the California law. Rep. Jim Wood, a sponsor of the California measure, noted that the pay for delay contracts result "in a loss for patients who deserve access to less expensive drugs and for all of us who end up paying more for health care and, in turn, health care premiums." As our constituents continue to face hardships caused by the high price of prescriptions drugs and the unaffordability of health insurance premiums we must do all we can to address these issues. This legislation would be a meaningful step toward lowering prescription drug prices in our state.

Thank you for hearing these important bills.

---

<sup>4</sup> <https://www.ftc.gov/sites/default/files/documents/reports/pay-delay-how-drug-company-pay-offs-cost-consumers-billions-federal-trade-commission-staff-study/100112payfordelayrpt.pdf>

<sup>5</sup> <https://yubanet.com/california/ca-enacts-first-in-the-nation-law-to-combat-pay-for-delay-agreements-that-inflate-drug-prices/>

