SENATE, No. 977

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JANUARY 16, 2018

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Prohibits excessive charges for drugs developed by publicly funded research.

CURRENT VERSION OF TEXT

As introduced.

AN ACT requiring reasonable pricing of drugs developed by publicly funded research and supplementing Title 24 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. If a drug, biologic, or other health care technology approved by the federal Food and Drug Administration was developed, partially or entirely, through research and development that is directly or indirectly supported by the federal or State government, it shall be unlawful for any person to sell, offer to sell, or advertise for sale the drug, biologic, or technology to any purchaser in this State at a unit price that is greater than the benchmark unit price established pursuant to subsection b. of this section, or that constitutes discriminatory pricing as set forth in subsection c. of this section.

b. The benchmark unit price for a drug, biologic, or other health care technology is the lowest price charged to countries in the Organization for Economic Co-Operation and Development for the same drug, biologic, or technology, that have the largest gross domestic product with a per capita income that is not less than half of the per capita income of the United States.

c. For the purposes of this section, a cost-based reasonable pricing formula that is utilized shall be considered to result in discriminatory pricing if the contract for sale of the drug, biologic, or other health care technology places a limit on supply, or employs any other measure that has the effect of providing access to such drug, biologic, or technology on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser, other than a charitable or humanitarian organization, of the drug, biologic, or technology.

d. If the Commissioner of Health finds that it is in the public interest to waive the price requirements of this section for a specific drug, biologic, or other health care technology, the commissioner may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), issue a waiver of the price requirements under this section for the specific drug, biologic, or technology.

2. This act shall take effect on the first day of the 13th month next following the date of enactment.

STATEMENT

This bill prohibits any person from charging excessive prices for drugs developed by publicly funded research.

Under the bill, if a drug, biologic, or other health care technology approved by the federal Food and Drug Administration was developed, partially or entirely, through research and development that is directly or indirectly supported by the federal or State government, it is unlawful for any person to sell, offer to sell, or advertise for sale the drug, biologic, or technology to any purchaser in this State at a unit price that is greater than a benchmark unit price or that constitutes discriminatory pricing.

The benchmark unit price for a drug, biologic, or other health care technology is the lowest price charged to countries in the Organization for Economic Co-Operation and Development for the same drug, biologic, or technology, that have the largest gross domestic product with a per capita income that is not less than half of the per capita income of the United States.

The bill provides that a cost-based reasonable pricing formula constitutes discriminatory pricing if the contract for sale of the drug, biologic, or other health care technology places a limit on supply, or employs any other measure that has the effect of providing access to such drug, biologic, or technology on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization).

If the Commissioner of Health finds that it is in the public interest to waive the price requirements established under the bill for a specific drug, biologic, or other health care technology, the commissioner may, pursuant to the "Administrative Procedure Act," issue a waiver of the price requirements for the specific drug, biologic, or technology.