



2005 ASSEMBLY BILL 1067

February 27, 2006 - Introduced by Representatives DAVIS, KERKMAN, BIES, MOLEPSKE and GUNDRUM, cosponsored by Senator ERPENBACH. Referred to Committee on Health.

1 **AN ACT to create** 450.087 of the statutes; **relating to:** regulating payments and
2 gifts by drug manufacturers and distributors and consulting agreements
3 between certain health care providers and drug manufacturers and
4 distributors and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, no person may engage in the manufacture or the sale or distribution at wholesale of prescription drugs unless that person is licensed by the Pharmacy Examining Board. This bill regulates certain conduct of licensed drug manufacturers and distributors.

Under this bill, with certain exceptions, a drug manufacturer or distributor may not, in connection with a scientific, medical, or professional conference or meeting (conference), provide free entertainment or recreation to a health care provider or the provider's spouse or guest, pay the health care provider's attendance, lodging, or incidental costs, other than meals furnished at the conference, or provide reimbursement for professional time expended while attending the conference. Under the bill's exceptions, a drug manufacturer or distributor may pay all or part of the cost of the fee for attendance at an educational meeting or presentation by a person who is enrolled in a medical or dental school. The manufacturer or distributor may also pay the sponsor of a conference an amount for the purpose of reducing the cost of attendance for all attendees of the conference.

The bill also prohibits a drug manufacturer or distributor from giving anything of value to a health care provider, other than product samples, unless the value of the

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item is less than \$100 and the item is primarily for the benefit of the health care provider's patients or the provider's practice. Additionally, the bill prohibits a drug manufacturer or distributor from giving anything of value to a health care provider or from entering into a consulting contract with a health care provider if the purpose of the gift or contract is to encourage the health care provider to issue prescription orders for a drug manufactured or distributed by the manufacturer or distributor. Finally, the bill prohibits a drug manufacturer or distributor from entering into a consulting agreement with a health care provider unless the manufacturer or distributor identifies the need for the agreement before entering into the agreement and unless the agreement is in writing.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 450.087 of the statutes is created to read:

2 **450.087 Sales practices of manufacturers and distributors.** (1) In this
3 section:

4 (a) "Conference" means a scientific, medical, educational, or professional
5 conference or meeting.

6 (b) "Health care provider" means a practitioner or a person enrolled in a
7 medical or dental school.

8 **(2)** (a) No manufacturer or distributor may, in connection with a conference,
9 do any of the following:

10 1. Provide free entertainment or recreation for any health care provider or for
11 the spouse or guest of any health care provider.

12 2. Except as provided under sub. (4) (a) and (b), directly or indirectly, pay a
13 health care provider's cost to attend the conference.

14 3. Directly or indirectly, pay any of a health care provider's travel, lodging, or
15 incidental costs, other than meals furnished at the conference.

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1 4. Directly or indirectly, reimburse a health care provider for professional time
2 expended while attending the conference.

3 **(3)** No manufacturer or distributor may do any of the following:

4 (a) Except as provided under sub. (4) (c), give anything of value to a health care
5 provider unless than value of the item is less than \$100 and the item is primarily for
6 the benefit of the health care provider's patients or the health care provider's
7 practice.

8 (b) Give anything of value to a health care provider or enter into a consulting
9 agreement with a health care provider if the gift is given or the agreement is entered
10 into for the purpose of encouraging the health care provider to issue prescription
11 orders for a drug manufactured or distributed by the manufacturer or distributor.

12 **(4)** A manufacturer or distributor may do any of the following:

13 (a) Pay all or part of the cost of the fee for the attendance at an educational
14 meeting or presentation by a person enrolled in a medical or dental school.

15 (b) Pay the sponsor of a conference an amount for the purpose of reducing the
16 cost of attendance for all attendees of the conference.

17 (c) Give product samples to a health care provider if the samples are exclusively
18 for the use of the health care provider's patients.

19 **(5)** No manufacturer or distributor may enter into an agreement with a
20 practitioner for the purpose of retaining the practitioner as a consultant unless the
21 manufacturer or distributor, before entering into the agreement, identifies the need
22 for the agreement. The agreement shall be in writing and shall specify the services
23 that the practitioner is required to provide and the method of payment for those
24 services.

