

### Fiscal Estimate - 2019 Session

Original     
  Updated     
  Corrected     
  Supplemental

LRB Number <b>19-1629/1</b>	Introduction Number <b>AB-0156</b>
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**Description**  
 regulating the sale of prescription drugs below cost

**Fiscal Effect**

**State:**

- No State Fiscal Effect
- Indeterminate
  - Increase Existing Appropriations
  - Decrease Existing Appropriations
  - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
  - Yes
  - No
- Decrease Costs

**Local:**

- No Local Government Costs
- Indeterminate
  - 1.  Increase Costs
  - 2.  Decrease Costs
  - 3.  Increase Revenue
  - 4.  Decrease Revenue
- Permissive  Mandatory
  - Permissive  Mandatory
  - Permissive  Mandatory
  - Permissive  Mandatory
- 5. Types of Local Government Units Affected
  - Towns
  - Counties
  - School Districts
  - Village
  - Others
  - WTCS Districts
  - Cities 0

<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

<b>Agency/Prepared By</b>	<b>Authorized Signature</b>	<b>Date</b>
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**Fiscal Estimate Narratives**  
**DATCP 4/11/2019**

LRB Number	<b>19-1629/1</b>	Introduction Number	<b>AB-0156</b>	Estimate Type	<b>Original</b>
<b>Description</b> regulating the sale of prescription drugs below cost					

**Assumptions Used in Arriving at Fiscal Estimate**

This bill exempts prescription drugs from the Unfair Sales Act. Under current law, the Unfair Sales Act or "minimum markup law" prohibits loss leaders or wholesale and retail sales of merchandise at a price below the cost of the merchandise to the seller. Under the bill, that prohibition would not apply to prescription drugs.

For certain products, the statutory definition of cost includes a minimum markup to represent the cost of doing business. However, for most products, including prescription drugs, cost is defined, generally, as the price paid by the seller.

Current law contains a list of exceptions to the prohibition of selling merchandise below cost. For example, current exceptions include: meeting the price of a competitor, seasonal clearance sales, going out of business sales, etc. This proposed bill would add an additional exception allowing for sales below cost as long as the merchandise sold is a prescription drug.

DATCP is the agency primarily responsible for state enforcement of the Unfair Sales Act. Generally, DATCP conducts investigations of alleged Unfair Sales Act violations based on complaints. DATCP has not discovered any violation of the Unfair Sales Act for selling prescription drugs below cost in more than 25 years. Therefore, DATCP believes this bill would not have any material fiscal effect on the agency.

**Long-Range Fiscal Implications**

Unknown.