

Fiscal Estimate - 2021 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 21-3186/1	Introduction Number AB-0358	
Description regulating the sale of items that are qualified medical expenses below cost		
Fiscal Effect State: <input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <u>0</u> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
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Fiscal Estimate Narratives

DATCP 7/28/2021

LRB Number	21-3186/1	Introduction Number	AB-0358	Estimate Type	Original
Description regulating the sale of items that are qualified medical expenses below cost					

Assumptions Used in Arriving at Fiscal Estimate

This bill exempts qualified medical expenses from the Unfair Sales Act. Under current law, the Unfair Sales Act, also known as the "minimum markup law," prohibits retailers and wholesalers from selling merchandise for less than the cost of the merchandise to the seller. Under the bill, the prohibition on below-cost sales does not apply to vaccines, prescription drugs, or physical items whose costs are qualified medical expenses under federal law.

For certain products, the statutory definition of cost includes a minimum markup to represent the cost of doing business. However, for most products, 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 qualified medical device.

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 sales of qualified medical devices 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.