

Fiscal Estimate Narratives

DATCP 1/11/2012

LRB Number 11-1303/1	Introduction Number SB-360	Estimate Type Original
Description The minimum sale price of prescription drugs		

Assumptions Used in Arriving at Fiscal Estimate

The Unfair Sales Act prohibits retailers and wholesalers from selling merchandise at a price that is less than the seller's "cost" as the term is defined in the act. (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. We have not received any complaints relating to allegedly selling prescription drugs at a price that is less than cost since 2001. Therefore, we estimate that this bill would not have any material fiscal effect on DATCP.

Long-Range Fiscal Implications