

Fiscal Estimate Narratives

DATCP 3/15/2017

LRB Number	17-1683/1	Introduction Number	SB-050	Estimate Type	Original
Description the minimum sale price of prescription drugs					

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.