

§2697. Profiteering in prescription drugs

Prescription drugs are a necessity of life. Profiteering in prescription drugs is unlawful and is subject to the provisions of this section. The provisions of this section apply to manufacturers, distributors and labelers of prescription drugs. [PL 1999, c. 786, Pt. A, §3 (NEW).]

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 Code of Federal Regulations, 207.20 (1999). [PL 1999, c. 786, Pt. A, §3 (NEW).]

B. "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer. [PL 1999, c. 786, Pt. A, §3 (NEW).]
[PL 1999, c. 786, Pt. A, §3 (NEW).]

2. Profiteering. A manufacturer, distributor or labeler of prescription drugs engages in illegal profiteering if that manufacturer, distributor or labeler:

A. Exacts or demands an unconscionable price; [PL 1999, c. 786, Pt. A, §3 (NEW).]

B. Exacts or demands prices or terms that lead to any unjust or unreasonable profit; [PL 1999, c. 786, Pt. A, §3 (NEW).]

C. Discriminates unreasonably against any person in the sale, exchange, distribution or handling of prescription drugs dispensed or delivered in the State; or [PL 1999, c. 786, Pt. A, §3 (NEW).]

D. Intentionally prevents, limits, lessens or restricts the sale or distribution of prescription drugs in this State in retaliation for the provisions of this chapter. [PL 1999, c. 786, Pt. A, §3 (NEW).]
[PL 1999, c. 786, Pt. A, §3 (NEW).]

3. Right of action and damages. The State may bring a civil action in District Court or Superior Court for a direct or indirect injury to any person, group of persons, the State or a political subdivision of the State caused by a violation of this subchapter. There is a right to a jury trial in any action brought in Superior Court under this section. If the State prevails, the defendant shall pay 3 times the amount of damages and the costs of suit, including necessary and reasonable investigative costs, reasonable expert fees and reasonable attorney's fees. For a willful or repeated violation of this section, punitive damages may be awarded. After deduction of the costs of distribution, the damages must be equitably distributed by the State to all injured parties.

[PL 1999, c. 786, Pt. A, §3 (NEW).]

4. Civil violation. Each violation of this section is a civil violation for which the Attorney General may obtain, in addition to other remedies, injunctive relief and a civil penalty in an amount not to exceed \$100,000, plus the costs of suit, including necessary and reasonable investigative costs, reasonable expert fees and reasonable attorney's fees.

[PL 1999, c. 786, Pt. A, §3 (NEW).]

5. Unfair trade practice. A violation of this section is also a violation of the Maine Unfair Trade Practices Act.

[PL 1999, c. 786, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 786, §A3 (NEW).

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