

ASSEMBLY, No. 2791

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

SYNOPSIS

Requires pharmaceutical manufacturers and wholesale distributors accept and provide a rebate for certain returned drugs.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning pharmaceutical manufacturers and wholesale
2 distributors and amending P.L.2005, c.206.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 16 of P.L.2005, c.206 (C.24:6B-25) is amended to
8 read as follows:

9 16. a. (1) A pharmacy, chain pharmacy distribution center or
10 pharmacy member of an affiliated group shall return to a wholesale
11 distributor any prescription drug that is on the specified list of
12 susceptible products if the prescription drug:

13 (a) was ordered by a pharmacy or delivered to a pharmacy by a
14 wholesale distributor in error or in excess of need;

15 (b) is identified by the pharmacy as such within 30 business
16 days of receipt or pursuant to the retail agreement in place between
17 the pharmacy and wholesale distributor; and

18 (c) **【has been maintained in its original packaging;】** (deleted by
19 amendment, P.L. c.) (pending before the Legislature as this
20 bill)

21 (d) **【has had its integrity maintained; and】** (deleted by
22 amendment, P.L. c.) (pending before the Legislature as this
23 bill)

24 (e) is accompanied by appropriate and complete documentation
25 and, where applicable, any necessary notations made to the
26 certification, invoice or packing slip.

27 (2) A pharmacy, chain pharmacy distribution center, or
28 pharmacy member of an affiliated group may return to a wholesale
29 distributor any prescription drug that is on the specified list of
30 susceptible products if the prescription drug is no more than six
31 months past its expiration date.

32 (3) The prescription drug shall be physically returned **【within**
33 **30 business days of notification】** to the wholesale distributor **【or as**
34 **consistent with the wholesale distributor's return policy】**. If the
35 prescription drug cannot be returned to the wholesale distributor, it
36 shall be returned to the manufacturer.

37 b. A prescription drug manufacturer shall accept return of
38 prescription drugs on the specified list of susceptible products that
39 have not been returned to a wholesale distributor **【in accordance**
40 **with the time frame specified in paragraph (2) of subsection a. of**
41 **this section】**.

42 c. A wholesale distributor shall quarantine a prescription drug,
43 container or labeling that is received outdated, damaged,
44 deteriorated, misbranded, counterfeited, suspected of being

EXPLANATION – Matter enclosed in bold-faced brackets 【thus】 in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 counterfeited, adulterated, or otherwise deemed unfit for human
2 consumption until it is returned.

3 d. A manufacturer or wholesale distributor who receives
4 returned prescription drugs shall notify the department of the return.

5 e. A wholesale distributor shall identify a prescription drug that
6 becomes outdated after receipt and has been opened or used, but is
7 not adulterated, misbranded, counterfeited, or suspected of being
8 counterfeit, and quarantine the drug until it is destroyed or returned.

9 f. A prescription drug that becomes outdated after receipt and
10 has been unopened or unused, but is not adulterated, misbranded,
11 counterfeit or suspected of being counterfeit shall be so identified
12 and quarantined until it is destroyed or returned.

13 g. A wholesale distributor shall return or destroy, within 30
14 business days after discovery, a prescription drug that has been
15 returned, if any condition under which it has been returned casts
16 doubt on its safety, identity, strength, quality or purity.

17 h. A wholesale distributor:

18 (1) shall retain discovered contraband, counterfeit, or suspected
19 counterfeit prescription drugs, evidence of criminal activity and
20 accompanying documentation until its disposition is authorized by
21 the department;

22 (2) shall not destroy the shipping container, immediate or sealed
23 outer or secondary container or labeling, and accompanying
24 documentation, which is suspected of or determined to be
25 counterfeit or fraudulent, until its disposition is authorized by the
26 department.

27 i. A manufacturer or wholesale distributor shall permit a
28 pharmacy, chain pharmacy distribution center, or pharmacy member
29 of an affiliated group to return outdated drugs in both full and
30 partial containers for up to six months after the labeled expiration
31 date.

32 j. A manufacturer or wholesale distributor shall provide a
33 pharmacy, chain pharmacy distribution center, or pharmacy member
34 of an affiliated group a full credit or replacement for any returned
35 outdated drugs in both full and partial containers, provided the drug
36 is not adulterated, misbranded, or counterfeit.

37 (cf: P.L.2005, c.206, s.16)

38
39 2. This act shall take effect immediately.
40
41

42 STATEMENT

43
44 This bill permits a pharmacy, chain pharmacy distribution center,
45 or pharmacy member of an affiliated group to return to a wholesale
46 distributor or the pharmaceutical manufacturer certain prescription
47 drugs if the drug is no more than six months past its expiration date.
48 The bill requires pharmaceutical manufacturers and wholesale

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1 distributors to accept the return of the outdated drugs in both full
2 and partial containers. Furthermore, the bill provides that the
3 manufacturer or distributor is required to provide a pharmacy, chain
4 pharmacy distribution center, or pharmacy member of an affiliated
5 group with full credit or replacement for those drugs, provided the
6 drug is not adulterated, misbranded or counterfeit.