

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3454S.01I
Bill No.: SB 978
Subject: Civil Penalties; Department of Commerce and Insurance; Contracts and
Contractors; Federal - State Relations; Insurance - Health; Pharmacy; Hospitals
Type: Original
Date: February 11, 2024

Bill Summary: This proposal enacts provisions relating to payments for prescription drugs.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| | | | |
| | | | |
| Total Estimated Net Effect on General Revenue | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|-----------------------|-----------------------|-----------------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| | | | |
| Local Government | \$0 or Unknown | \$0 or Unknown | \$0 or Unknown |

FISCAL ANALYSIS

ASSUMPTION

Oversight notes per subsection 376.414.3, the Department of Commerce and Insurance is required to impose a civil penalty of not to exceed five thousand dollars per violation per day.

Since it is unknown how many violations may or may not occur, Oversight will range the fiscal impact as \$0 (no violations have occurred) to an unknown amount of revenue. Oversight assumes these penalties will be directed to local school districts as per Article IX, Section 7 of the Missouri Constitution.

Officials from the **Department of Commerce and Insurance**, the **Office of Administration - Administrative Hearing Commission**, the **Department of Social Services**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Oversight Division**, the **Missouri Consolidated Health Care Plan** and **Kansas City** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Officials from the **Department of Public Safety - Missouri Highway Patrol** defer to the Missouri Department of Transportation for the potential fiscal impact of this proposal.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

| <u>FISCAL IMPACT – State Government</u> | FY 2025 (10 Mo.) | FY 2026 | FY 2027 |
|---|---------------------|-------------------|-------------------|
| | | | |
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| | | | |

| <u>FISCAL IMPACT – Local Government</u> | FY 2025 (10 Mo.) | FY 2026 | FY 2027 |
|---|---------------------------------|---------------------------------|---------------------------------|
| LOCAL SCHOOL DISTRICTS | | | |
| <u>Revenue – Local School Districts</u> Civil Penalty revenue §376.414.3 | <u>\$0 to</u> <u>Unknown</u> | <u>\$0 to</u> <u>Unknown</u> | <u>\$0 to</u> <u>Unknown</u> |
| ESTIMATED NET EFFECT TO LOCAL SCHOOL DISTRICTS | <u>\$0 to</u> <u>Unknown</u> | <u>\$0 to</u> <u>Unknown</u> | <u>\$0 to</u> <u>Unknown</u> |

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Under this act, no health carrier or pharmacy benefits manager (PBM) shall discriminate against a federally-qualified health center (FQHC) or a specified pharmacy, as such term is defined in the act, by:

Reimbursing a FQHC or specified pharmacy for a quantity of a 340B drug, as defined in the act, in an amount less than the carrier or PBM would pay to any other similarly situated pharmacy for such quantity of the drug on the basis that the entity or pharmacy is a FQHC or specified pharmacy, or that the entity or pharmacy dispenses 340B drugs. (Section 376.414.2(1));

Imposing any terms or conditions on FQHCs or specified pharmacies which differ from the terms or conditions applicable to other similarly situated pharmacies on the basis that the entity or pharmacy is a FQHC or specified pharmacy or dispenses 340B drugs, including but not limited to certain terms and conditions described in the act. (Section 376.414.2(2));

Interfering with an individual's choice to receive a 340B drug from a FQHC or specified pharmacy. (Section 376.414.2(3));

Requiring a FQHC or specified pharmacy to identify 340B drugs, either directly or through a third party. (Section 376.414.2(4)); or

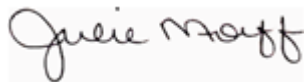
Refusing to contract with a FQHC or specified pharmacy for reasons other than those that apply equally to entities or pharmacies that are not FQHCs or specified pharmacies, or on the basis that the entity or pharmacy is a FQHC or specified pharmacy, or on the basis that the entity or pharmacy is described as a FQHC under provisions of federal law. (Section 376.414.2(5)).

The Director of the Department of Commerce and Insurance shall impose a civil penalty on any PBM violating certain provisions of the act, not to exceed \$5,000 per violation per day. (Section 376.414.3).

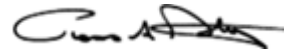
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Administrative Hearing Commission
Department of Commerce and Insurance
Department of Public Safety - Missouri Highway Patrol
Department of Social Services
Missouri Department of Conservation
Missouri Department of Transportation
Oversight Division
Missouri Consolidated Health Care Plan
Kansas City



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February 11, 2024



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