

HOUSE BILL No. 6471

November 7, 2002, Introduced by Rep. Kolb and referred to the Committee on Health Policy.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
(MCL 208.1 to 208.145) by adding section 39f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 39F. (1) THE DEPARTMENT, IN CONJUNCTION WITH THE
2 DEPARTMENT OF COMMUNITY HEALTH, SHALL CONDUCT A COST BENEFIT
3 ANALYSIS OF ADVERTISING AND PROMOTIONAL ACTIVITIES ASSOCIATED
4 WITH THE PROVISION OF PRESCRIPTION DRUGS IN THIS STATE BY PHARMA-
5 CEUTICAL COMPANIES.

6 (2) THE DEPARTMENT SHALL ANALYZE THE IMPACT ON THE NECESSITY
7 FOR INPATIENT HOSPITAL CARE, MAJOR AMBULATORY SERVICES, INVASIVE
8 PROCEDURES, THE NUMBER OF VISITS TO HEALTH CARE PROFESSIONALS,
9 AND HEALTH INSURANCE PREMIUM RATES RELATIVE TO THE COSTS
10 ASSOCIATED WITH ADVERTISING AND PROMOTIONAL ACTIVITIES IN THIS
11 STATE BY PHARMACEUTICAL COMPANIES.

1 (3) AT REASONABLE INTERVALS, AS DETERMINED BY THE
2 DEPARTMENT, BUT NOT LESS FREQUENTLY THAN QUARTERLY, PHARMACEUTI-
3 CAL COMPANIES THAT PROVIDE PRESCRIPTION DRUGS IN THIS STATE SHALL
4 PROVIDE THE DEPARTMENT WITH INFORMATION NECESSARY TO CARRY OUT
5 ITS RESPONSIBILITIES UNDER THIS SECTION. PHARMACEUTICAL COM-
6 PANIES THAT PROVIDE PRESCRIPTION DRUGS IN THIS STATE SHALL DIS-
7 CLOSE IN THE AGGREGATE ALL ADVERTISING AND PROMOTIONAL COSTS TO
8 THE DEPARTMENT. PHARMACEUTICAL COMPANIES SHALL DISCLOSE, FOR
9 EVERY HEALTH CARE PROFESSIONAL WHO PRESCRIBES PRESCRIPTION DRUGS
10 AND FOR EVERY MANAGED CARE PLAN, PHARMACEUTICAL BENEFITS MANAGE-
11 MENT COMPANY, HOSPITAL, AND CLINIC THAT PROVIDES PRESCRIPTION
12 DRUGS, THE DOLLAR AMOUNTS SPENT ON THE PROFESSIONAL, THAT
13 PROFESSIONAL'S STAFF, THE PERSONNEL OF THE MANAGED CARE PLAN, AND
14 THE PHARMACEUTICAL BENEFITS MANAGEMENT COMPANY, HOSPITAL, AND
15 CLINIC, THE DOLLAR AMOUNT OF THE PHARMACEUTICAL COMPANY'S SALA-
16 RIES PAID, AND COSTS ATTRIBUTABLE TO THE FOLLOWING ACTIVITIES:

17 (A) EDUCATION AND EDUCATIONAL MATERIALS, REGARDLESS OF
18 WHETHER PROVIDED IN THE PLACE OF BUSINESS OF THE HEALTH CARE PRO-
19 FESSIONAL, THE MANAGED CARE PLAN, THE PHARMACEUTICAL BENEFITS
20 MANAGEMENT COMPANY, THE HOSPITAL, THE CLINIC, OR IN ANOTHER SET-
21 TING, AND REGARDLESS OF WHETHER THE PHARMACEUTICAL COMPANY
22 DIRECTLY OR INDIRECTLY PROVIDES THE EDUCATION AND EDUCATIONAL
23 MATERIALS.

24 (B) FOOD AND ENTERTAINMENT.

25 (C) GIFTS OR ANYTHING THAT IS RECEIVED WITHOUT CONSIDERATION
26 OF EQUAL OR GREATER VALUE.

1 (D) TRIPS.

2 (E) TRAVEL.

3 (F) FREE SAMPLES.

4 (G) SEMINARS.

5 (H) REDUCED PRICES ON PRESCRIPTION DRUGS.

6 (4) PHARMACEUTICAL COMPANIES THAT ADVERTISE IN MEDIA TO
7 REACH AN AUDIENCE IN THIS STATE AND PHARMACEUTICAL COMPANIES THAT
8 CORRESPOND DIRECTLY WITH CONSUMERS IN THIS STATE SHALL DISCLOSE
9 THE AGGREGATE COST OF THE ADVERTISING OF PRESCRIPTION DRUGS IN
10 THE MEDIA AND IN CORRESPONDENCE TO THE CONSUMER.

11 (5) PHARMACEUTICAL COMPANIES SHALL DISCLOSE THE PORTION OF
12 SALARIES OF THEIR DRUG REPRESENTATIVES AND SALESPERSONS WHOSE
13 EMPLOYMENT ACTIVITIES INCLUDE ADVERTISING AND PROMOTIONAL
14 ACTIVITIES.

15 (6) THE DEPARTMENT SHALL COLLECT AND COMPILE THE DATA FROM
16 PHARMACEUTICAL COMPANIES REQUIRED UNDER THIS SECTION.

17 (7) THE DEPARTMENT SHALL USE APPROPRIATE MEASURES TO ANALYZE
18 AND COMPARE DATA WITH DATA ON INPATIENT HOSPITAL STAYS, AMBULA-
19 TORY SERVICES, INVASIVE PROCEDURES, AND VISITS TO HEALTH CARE
20 PROFESSIONALS TO CONDUCT THE ANALYSIS REQUIRED BY THIS SECTION.

21 (8) BASED ON THE INFORMATION GATHERED UNDER THIS SECTION,
22 THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF COMMUNITY
23 HEALTH, SHALL RECOMMEND TAX INCENTIVES TO THE LEGISLATURE THAT
24 WILL LOWER THE COST OF PRESCRIPTION DRUGS FOR CITIZENS OF THIS
25 STATE.

26 (9) THE DEPARTMENT SHALL DISSEMINATE DATA COLLECTED UNDER
27 THIS SECTION AND SHALL, NO LATER THAN 2 YEARS AFTER THE EFFECTIVE

1 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, DISCLOSE THE
2 FINDINGS AND MAKE RECOMMENDATIONS TO THE GOVERNOR, THE SENATE,
3 AND THE HOUSE OF REPRESENTATIVES ON THE COSTS ASSOCIATED WITH
4 ADVERTISING AND PROMOTIONAL ACTIVITIES BY PHARMACEUTICAL COM-
5 PANIES; ON THE IMPACT OF ADVERTISING AND PROMOTIONAL ACTIVITIES
6 ON THE UTILIZATION OF PRESCRIPTION DRUGS, THE NECESSITY OF INPA-
7 TIENT HOSPITAL STAYS, AMBULATORY CARE, INVASIVE PROCEDURES,
8 VISITS TO HEALTH CARE PROFESSIONALS, AND HEALTH INSURANCE PREMIUM
9 RATES; AND ON RECOMMENDED TAX INCENTIVES.

10 (10) AS USED IN THIS SECTION:

11 (A) "CORRESPONDENCE" MEANS DIRECT MAIL, TELEPHONE COMMUNICA-
12 TIONS, AND ELECTRONIC MAIL DIRECTED TO SPECIFIC INDIVIDUALS OR
13 HOUSEHOLDS.

14 (B) "MEDIA" MEANS, BUT IS NOT LIMITED TO, RADIO, TELEVISION,
15 THE INTERNET, DAILY AND WEEKLY MAGAZINES AND NEWSPAPERS, AND
16 BILLBOARDS AND SIGNS.

17 (C) "PRESCRIPTION DRUGS" MEANS THAT TERM AS DEFINED IN SEC-
18 TION 17708 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
19 333.17708. IN ADDITION, PRESCRIPTION DRUG INCLUDES INSULIN,
20 SYRINGES, AND NEEDLES.