

Committee Action:  
Do Pass \_\_\_\_\_  
Amend & Do Pass \_\_\_\_\_  
Other \_\_\_\_\_

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**Assembly Committee on Commerce and Labor**

This measure may be considered for action during today's work session.

**ASSEMBLY BILL 250**

**Establishes provisions governing prescription drugs. (BDR 40-782)**

**Sponsored By:** Assembly Members Considine and Anderson  
**Date Heard:** April 3, 2023  
**Fiscal Notes:** Effect on Local Government: No.  
Effect on the State: Yes.

Assembly Bill 250 prohibits a person or entity that: (1) purchases a drug that is subject to a maximum fair price in this State from paying a price that is higher than the maximum fair price; or (2) seeks reimbursement for a drug subject to a maximum fair price that is delivered, dispensed, or administered to a person in this State, from keeping reimbursement at a higher rate than the maximum fair price. The measure also requires any such person or entity to maintain a registered agent and an office or base of operations in this State.

The bill makes it a deceptive trade practice for any person to violate the prohibition on purchasing or seeking reimbursement for a drug price higher than the maximum fair price or the requirement to maintain a registered agency and an office or base of operations in this State when engaging in certain activity relating to drugs subject to a maximum fair price. A victim of such a violation may bring a civil action.

**Amendments:** Assemblywoman Considine proposes the following amendments (attached):

1. Amend the effective date of the bill to January 1, 2026.
2. Amend the bill to specify that each maximum fair price for each specific drug will be in effect in this State for the same time period it is in effect nationally for Medicare, based on the provisions of the federal Inflation Reduction Act of 2022.
3. Amend subsections 1 and 2 of Section 1 of the bill to add "during the price applicability period."
4. Amend the bill to provide the provisions do not apply to a private health plan that is subject to a collective bargaining agreement, unless such a plan elects to participate. Any such plan that desires its purchase of prescription drugs to be subject to the provisions in Section 3 of the bill must notify the Director of the Department of Health and Human Services in writing by January 1 each year.
5. Amend subsection 4 of Section 1 of the bill to delete "a claim that a manufacturer or wholesaler has refused to negotiate in good faith is an affirmative defense in any proceeding seeking enforcement of the provisions of subsections 1 or 2 of Section 1."
6. Amend the bill to define "health plan subject to collective bargaining," "participating health plan subject to collective bargaining," and "price applicability period."

**Conceptual Amendments to AB 250**  
**Submitted by: Assemblymember Venicia Considine**

**Proposed Amendments:**

- Revise the effective date of this bill to January 1, 2026.

**Section 1:**

- Please add a line to specify that each Maximum Fair Price for each specific drug will be in effect statewide in Nevada for the same time period it is in effect nationally for Medicare based on the provisions of the Inflation Reduction Act.

## 2<sup>nd</sup> Conceptual Amendments to AB 250

### Submitted by: Assemblymember Venicia Considine

**EXPLANATION:** Matter in (1) *blue bold italics* is new language (2) variations of **green bold underlining** is language proposed to be added by amendment; (3) ~~red-strikethrough~~ is deleted language; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) **orange double underlining** is deleted language in the original bill proposed to be retained in this amendment.

#### Proposed Amendments:

##### Section 1(1):

1. *A person or entity that purchases a referenced drug in this State shall not pay a price for the referenced drug that, excluding any fee paid to a pharmacy for dispensing the referenced drug, is higher than the maximum fair price for that referenced drug **during the Price Applicability Period.***

2. *A person or entity that seeks reimbursement for a referenced drug which is delivered, dispensed or administered to a person in this State shall not seek reimbursement for the referenced drug at a rate which, excluding any fee paid to a pharmacy for dispensing the referenced drug, is higher than the maximum fair price for that referenced drug **during the Price Applicability Period.***

3. *Any person or entity that sells, offers for sale, distributes or delivers any referenced drug to a person or entity in this State or seeks reimbursement for a referenced drug which is delivered, dispensed or administered to a person in this State shall maintain in this State a registered agent and an office or base of operations.*

4. **Health Plan subject to collective bargaining Opt-In**  
**The provisions of this Chapter shall not apply to A Private Health Plan that is subject to a collective bargaining agreement unless such Private Health Plan elects to participate in the provisions of this chapter. Any such Private Health Plan that is subject to collective bargaining and desires its purchase of Prescription Drugs to be subject to the provisions described in Section 3 shall notify the Director of Health and Human Services in writing by January 1st of each year.**

~~4. 5. Except as otherwise provided in subsection 5, a violation of subsection 1, 2, 3 or 4 by any person constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive. Each such violation of subsection 1 or 2 or sale, offer for sale or distribution or delivery of a quantity of a referenced drug in violation of subsection 3 constitutes a separate deceptive trade practice. ~~A claim that a manufacturer or wholesaler has refused to negotiate in good faith is an affirmative defense in any proceeding seeking enforcement of the provisions of subsection 1 or 2.~~~~

~~5. 6. A person who violates the provisions of subsection 1, 2 or 3 is not subject to any criminal penalty set forth in subsection 3 of NRS 598.0999.~~

~~6. 7. A person aggrieved by a violation of subsection 1, 2 or 3 may bring an action~~

*for consumer fraud pursuant to NRS 41.600.*

~~7-~~ 8. *The Department may adopt any regulations necessary to carry out the provisions of this section.*

~~8-~~ 9. *As used in this section:*

(a) “Health Plan subject to collective bargaining” means a plan qualified under the Employee Retirement Income Security Act of 1974 which is the result of a collective bargaining agreement

~~(a)~~ (b) *“Manufacturer” has the meaning ascribed to it in NRS 639.009.*

~~(b)~~ (c) *“Maximum fair price” means the maximum fair price for a drug published by the United States Secretary of Health and Human Services pursuant to 42 U.S.C. § 1320f-4.*

~~(c)~~ (d) “Participating Health Plan subject to collective bargaining” means a Private employee Health Plan that has elected to participate in the requirements and restrictions of this subchapter as described in Section 4 below.

~~(d)~~ (e) *“Referenced drug” means a drug subject to a maximum fair price.*

~~(e)~~ (f) *“Wholesaler” has the meaning ascribed to it in NRS 639.016.*

(g) “Price Applicability Period” means the period of time defined in Section 1191 of P.L.117-169 (2022)

Sec. 5. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 4, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2024, for all other purposes.