Oppose Senate Bill 223

Don't Harm Patient Access to Affordable Generic Medicines by Chilling Generic Drug Competition

aam
Association for Accessible Medicines

Everyone supports containing skyrocketing prescription drug prices **but S.B. 223, sponsored by Sen. John Edwards (D), would actually just make the problem worse for Virginia patients and our economy.** The same bill is currently being litigated in Maryland and could be unconstitutional.

S.B. 223 ignores the realities of the prescription drug marketplace.

Inexplicably, the bill applies only to generic drugs — products that save the state, taxpayers and patients billions per year. It does not reduce prices for much more expensive brand-name and specialty drugs that cost Virginia patients and taxpayers billions of dollars per year.

Generic drugs are a true success story. Generic medicines account for 89% of all prescriptions, but they only account for 26% of drug costs.

Medicaid:
$506 Million

Medicare:
$1.6 Billion

Cash (Non-Insured):
$280 Million

Commercial Insured:
$3.5 Billion

TOTAL 2016 GENERIC SAVINGS
$5.9 Billion
in Virginia

S.B. 223 has no meaningful standard to allow companies to know when they are in compliance with the law.

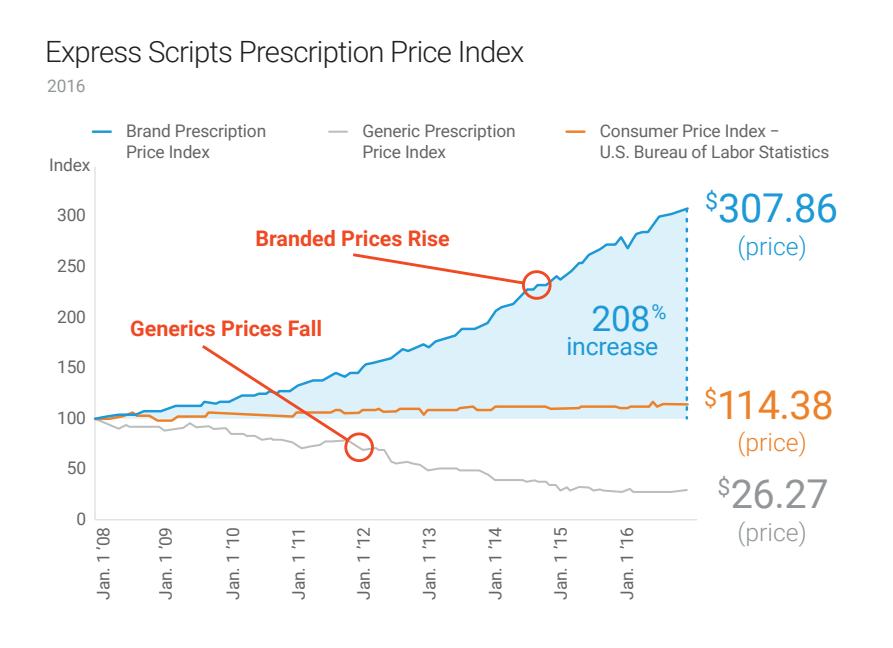
The bill does not define when a price is "not justified" or "excessive."

- Given the vague standards set forth in the bill, companies would perpetually be at risk of facing prosecution for price fluctuation of just pennies that can normally occur during the course of business within the competitive free market.
- Without a true standard dictating when a free market price is "justified," S.B. 223 would provide no notice for companies to know whether they are in compliance with the new law.
- Without clear guidance under the law, companies will need to find ways to mitigate the risk of costly litigation with the attorney general, putting patient access to affordable generics at risk.
- The bill currently creates an "unconscionable" standard that allows for changes in price only when a manufacturer has changes in the direct cost of production or expands marketing costs for its product. There is no allowance for a manufacturer to make reasonable business decisions based on existing market dynamics.

S.B. 223 would chill competition among generic drug manufacturers and allow government bureaucrats to influence the health care marketplace, ultimately driving up costs.

The bill allows the government to impose costs and regulatory burdens whenever bureaucrats believe that pricing of a medicine is "not justified."

- Year over year, generic drug prices fall, while brand-name drug prices rise. The overall price of generics fell over 8% in 2016, and prices are down more than 70% since 2008. Rather than allow market competition to continue working, Virginia would reject generic competition in favor of more government regulation – of generic drugs, the only segment of health care costs that is declining.
- Generic drug prices can fluctuate up and down in the drug marketplace over the course of days or months while still declining on average. But this bill does not account for market realities and instead puts elected officials in the role of the marketplace.
- By subjecting manufacturers of generic drugs to draconian penalties – while ignoring the substantial costs of brand-name prescription drugs – the policy in S.B. 223 would provide an incentive for generic drug companies to avoid doing business in or selling their products in Virginia.
- If fewer affordable generic drugs are available in Virginia, we all lose.



Market Dynamics

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