



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4470

Introduced 1/20/2026, by Rep. Hoan Huynh

SYNOPSIS AS INTRODUCED:

New Act

Creates the Prohibition on Anticompetitive Pharmaceutical Practices Act. Provides that, except as specified, a court before which the Attorney General brings an action under the Act shall presume that a resolution agreement that ends a dispute over an alleged infringement of a patent, or a violation of other protection for a protected drug, has anticompetitive effects and is a violation of the Act if, as part of or in connection with the resolution agreement, an alleged infringer: (1) receives an item of value; or (2) agrees to limit or stop researching, developing, manufacturing, marketing, or selling a competing drug. Provides that a resolution agreement does not violate the Act and a party to the resolution agreement may overcome the presumption of anticompetition if the party, by a preponderance of evidence, can demonstrate that: (1) the item of value that the alleged infringer received is fair and reasonable compensation solely for other goods or services that the claimant promised to provide to the alleged infringer; or (2) the agreement has directly generated procompetitive benefits within the relevant market and the procompetitive benefits of the resolution agreement favor competition to the extent that the procompetitive benefits materially outweigh the anticompetitive effects of the resolution agreement. Sets forth provisions concerning penalties and enforcement of the Act by the Attorney General. Provides that the Act applies to resolution agreements: (1) that are negotiated, completed, or entered into within the State on or after the effective date of this Act; (2) where the dispute arose out of or was substantially related to pharmaceutical sales that were made within the State; or (3) where a party to the resolution agreement is an entity registered to conduct business within the State.

LRB104 13667 BAB 26326 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Prohibition on Anticompetitive Pharmaceutical Practices Act.

6 Section 5. Definitions. As used in this Act:

7 "Alleged infringer" means a person who receives or is
8 subject to an allegation, complaint, demand, service of
9 process, or other communication in connection with a claim
10 that the person's research, development, manufacture,
11 marketing, distribution, or sale of a competing drug infringes
12 a patent or other protection for a protected drug.

13 "Claimant" means a person who holds a patent for a
14 protected drug or is the beneficiary of other protection for a
15 protected drug.

16 "Competing drug" means a drug that has properties that are
17 similar enough to the properties of a protected drug to offer
18 market competition to the protected drug or that serve as a
19 basis for a claimant's claim that an alleged infringer that
20 manufactures, markets, distributes, or sells the drug has
21 infringed the patent or other protection for the protected
22 drug.

23 "Item of value" means any tangible or intangible item,

1 including:

2 (1) an exclusive license to manufacture, market,
3 distribute, or sell a protected drug; or

4 (2) an agreement that a claimant will not manufacture,
5 market, distribute, or sell a generic version of a
6 protected drug in competition with the other party to the
7 agreement.

8 "Item of value" does not include an agreement for which
9 there is no consideration in the form of:

10 (1) a right or license to manufacture, market,
11 distribute, or sell in the United States a competing drug
12 before the expiration of:

13 (A) the patent for or a right related to the patent
14 for the protected drug; or

15 (B) the period during which federal law prevents
16 approval of an application to manufacture, market,
17 distribute, or sell a competing drug;

18 (2) a covenant not to sue on a claim that an alleged
19 infringer's competing drug infringes a patent;

20 (3) a payment to the alleged infringer of a portion of
21 the litigation and other legal expenses a claimant avoided
22 as a result of the agreement, if the claimant identified
23 and documented the expenses at least 6 months before
24 executing the agreement and the payment does not exceed
25 the lesser of:

26 (A) \$7,500,000;

1 (B) 5% of the revenue that the alleged infringer
2 projected receiving in the first 3 years of sales of
3 the alleged infringer's competing drug, if the alleged
4 infringer made and documented the projected revenue at
5 least one year before executing the agreement; or

6 (C) \$250,000 if the alleged infringer did not make
7 and document the projected revenue as described in
8 subparagraph (B);

9 (4) permission for the alleged infringer to begin
10 manufacturing, marketing, distributing, offering for sale,
11 or selling a competing drug if, before the expiration of
12 the patent or other protection for the protected drug, the
13 claimant seeks or obtains approval to, or actually does,
14 manufacture, market, distribute, or sell a version other
15 than a licensed generic version of the protected drug that
16 has the same active ingredient but a different dosage,
17 strength, or physical form;

18 (5) a promise from the claimant to facilitate or not
19 to interfere with the alleged infringer's ability to
20 obtain regulatory approval to manufacture, market,
21 distribute, and sell a competing drug; or

22 (6) a renunciation or disclaimer of damages for an
23 alleged infringer's infringement of the patent or other
24 protection for the protected drug.

25 "Patent" means:

26 (1) a patent that has been issued;

1 (2) an extension, reissue, renewal, division,
2 continuation, continuation in part, reexamination, or term
3 restoration for a patent;

4 (3) an application for a patent that has been filed;
5 or

6 (4) a patent of addition or an extension to a patent of
7 addition.

8 "Protected drug" means a pharmaceutical drug that is
9 subject to and protected by:

10 (1) a patent; or

11 (2) a federal law under which approval of an
12 application to manufacture, market, distribute, or sell a
13 competing drug may not occur for a specified length of
14 time.

15 "Resolution agreement" means an agreement in any form that
16 accompanies, is part of, is consideration for, is contingent
17 upon, is substituted for, or is otherwise directly related to
18 and is entered into within 30 days before or after:

19 (1) a settlement in lieu of a trial or a dismissal
20 following the commencement of an action;

21 (2) a mediated compromise or other compromise;

22 (3) a decision in an arbitration proceeding;

23 (4) a judgment entered by a court;

24 (5) a withdrawal, retraction, or suspension of a claim
25 or a failure to prosecute a claim that leads to a
26 dismissal; or

1 (6) any other formal or informal resolution that ends
2 a dispute.

3 Section 10. Presumption of anticompetitive effects. Except
4 as provided in Section 15, a court before which the Attorney
5 General brings an action under this Act shall presume that a
6 resolution agreement that ends a dispute over an alleged
7 infringement of a patent, or a violation of other protection
8 for a protected drug, has anticompetitive effects and is a
9 violation of this Act if, as part of or in connection with the
10 resolution agreement, an alleged infringer:

11 (1) receives an item of value; or

12 (2) agrees to limit or stop researching, developing,
13 manufacturing, marketing, or selling a competing drug.

14 Section 15. Exemptions.

15 (a) A resolution agreement does not violate this Act and a
16 party to the resolution agreement may overcome the presumption
17 set forth in Section 10 if the party, by a preponderance of
18 evidence, can demonstrate that:

19 (1) the item of value that the alleged infringer
20 received is fair and reasonable compensation solely for
21 other goods or services that the claimant promised to
22 provide to the alleged infringer; or

23 (2) the agreement has directly generated
24 procompetitive benefits within the relevant market and the

1 procompetitive benefits of the resolution agreement favor
2 competition to the extent that the procompetitive benefits
3 materially outweigh the anticompetitive effects of the
4 resolution agreement.

5 (b) In determining whether a party has met the party's
6 burden under this Section, the court:

7 (1) shall presume that the relevant market for the
8 purposes of determining the effects of the resolution
9 agreement consists of the market within this State for the
10 protected drug, the competing drug, and any other
11 biological product that, as described in 42 U.S.C.
12 262(i)(2), as in effect on the effective date of this Act,
13 is interchangeable with or biosimilar to the protected
14 drug; and

15 (2) may not presume that:

16 (A) because the alleged infringer could not have
17 manufactured, marketed, distributed, or sold a
18 competing drug before the patent or other protection
19 for a protected drug had expired, or because the
20 resolution agreement gives permission or a license to
21 the alleged infringer to manufacture, market,
22 distribute, or sell a competing drug, the benefits of
23 the resolution agreement outweigh the anticompetitive
24 effects of the resolution agreement;

25 (B) the patent or other protection for the
26 protected drug was enforceable and the alleged

1 infringer did infringe the patent or violate another
2 available protection for the protected drug, unless a
3 final adjudication on the merits of the claimant's
4 claim or action determines that the patent or other
5 protection was enforceable and the infringement did
6 occur;

7 (C) the agreement did not delay the manufacturing,
8 marketing, distribution, or sale of a competing drug
9 because the alleged infringer lacked approval from the
10 federal Food and Drug Administration and the lack of
11 approval meant that the alleged infringer could not
12 have manufactured, marketed, distributed, or sold the
13 competing drug; or

14 (D) the agreement did not delay or cause harm
15 because the competing drug might have infringed a
16 patent or violated a protection for a protected drug
17 for which a claimant has not made a claim or for which
18 a final adjudication on the merits has not occurred
19 with respect to the scope, enforceability, or
20 infringement of the patent or other protection.

21 Section 20. Penalties and enforcement.

22 (a) A person who violates or assists in violating this
23 Act, in addition to and not in lieu of other remedies available
24 under other applicable laws, is liable for a civil penalty in
25 an amount that is equivalent to the greater of:

1 (1) 3 times the value of the item of value that the
2 alleged infringer received; or

3 (2) \$10,000,000 for each violation.

4 (b) The Attorney General, within 4 years after a violation
5 of this Act occurs or within 4 years after the Attorney General
6 discovers that a violation has occurred, whichever is later,
7 may bring an action in a circuit court of this State to punish
8 violations of this Act. The Attorney General shall deposit the
9 proceeds of any civil penalty the Attorney General recovers
10 from a violator into the General Revenue Fund.

11 Section 25. Applicability. This Act applies to resolution
12 agreements:

13 (1) that are negotiated, completed, or entered into
14 within this State on or after the effective date of this
15 Act;

16 (2) under which the dispute arose out of or was
17 substantially related to pharmaceutical sales that were
18 made within this State; or

19 (3) under which a party to the resolution agreement is
20 an entity registered to conduct business within this
21 State.