

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 307
92ND GENERAL ASSEMBLY

Reported from the Committee on Aging, Families, Mental and Public Health, April 28, 2003, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 307, adopted May 5, 2003.

Taken up for Perfection May 5, 2003. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

1114S.02P

AN ACT

To repeal section 208.565, RSMo, and to enact in lieu thereof one new section relating to the senior Rx program, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 208.565, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.565, to read as follows:

208.565. 1. The division shall negotiate with manufacturers for participation in the program. The division shall issue a certificate of participation to pharmaceutical manufacturers participating in the Missouri Senior Rx program. A pharmaceutical manufacturer may apply for participation in the program with an application form prescribed by the commission. A certificate of participation shall remain in effect for an initial period of not less than one year and shall be automatically renewed unless terminated by either the manufacturer or the state with sixty days' notification.

2. **For all transactions occurring prior to July 1, 2003, the rebate amount for each drug shall be fifteen percent of the average manufacturers' price as defined pursuant to 42 U.S.C. 1396r-8(k)(1). For all transactions occurring on or after July 1, 2003, the rebate amount for [each drug] name brand prescription drugs shall be fifteen percent and the rebate amount for generic prescription drugs shall be eleven percent** of the average manufacturers' price as

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 defined pursuant to 42 U.S.C. 1396r-8(k)(1). No other discounts shall apply. In order
17 to receive a certificate of participation a manufacturer or distributor participating in the
18 Missouri Senior Rx program shall provide the division of aging the average
19 manufacturers' price for their contracted products. The following shall apply to the
20 providing of average manufacturers' price information to the division of aging:

21 (1) Any manufacturer or distributor with an agreement under this section that
22 knowingly provides false information is subject to a civil penalty in an amount not to
23 exceed one hundred thousand dollars for each provision of false information. Such
24 penalties shall be in addition to other penalties as prescribed by law;

25 (2) Notwithstanding any other provision of law, information disclosed by
26 manufacturers or wholesalers pursuant to this subsection or under an agreement with
27 the division pursuant to this section is confidential and shall not be disclosed by the
28 division or any other state agency or contractor therein in any form which discloses the
29 identity of a specific manufacturer or wholesaler or prices charged for drugs by such
30 manufacturer or wholesaler, except to permit the state auditor to review the information
31 provided and the division of medical services for rebate administration.

32 3. All rebates received through the program shall be used toward refunding the
33 program. If a pharmaceutical manufacturer refuses to participate in the rebate program,
34 such refusal shall not affect the manufacturer's status under the current Medicaid
35 program. There shall be no drug formulary, prior approval system, or any similar
36 restriction imposed on the coverage of outpatient drugs made by pharmaceutical
37 manufacturers who have agreements to pay rebates for drugs utilized in the Missouri
38 Senior Rx program, provided that such outpatient drugs were approved by the Food and
39 Drug Administration.

40 4. Any prescription drug of a manufacturer that does not participate in the
41 program shall not be reimbursable.

Section B. Because immediate action is necessary to ensure the fiscal stability
2 of the Senior Rx program, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to
4 be an emergency act within the meaning of the constitution, and section A of this act
5 shall be in full force and effect upon its passage and approval.