FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document **No. 1438**

S. P. 516 In Senate, March 23, 1981

Referred to the Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Wood of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Maine Generic Drug Statute.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 32 MRSA § 2806, as amended by PL 1977, c. 611, is repealed.

Sec. 2. 32 MRSA § 2808 is enacted to read:

§ 2808. Substitution of drugs

1. Definitions. As used in this section unless the context otherwise indicates, the following terms have the following meanings.

A. "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

B. "Generically equivalent drug product" means a drug product with the same active ingredient, finished dosage form and strength.

2. Substitution permitted. A pharmacist who receives a prescription issued by a physician, osteopath or dentist in this State for a brand name drug may, unless requested otherwise by the purchaser, substitute an equally or less expensive generically or chemically equivalent drug product that is distributed by a business entity doing business in the United States and is subject to suit and service of legal process in the United States for the brand name drug prescribed, unless the prescriber writes the words "brand name medically necessary" in his

own handwriting on the face of a written prescription or unless, in the case of an oral prescription, the prescriber expressly indicates to the pharmacist that the brand name drug prescribed is medically necessary.

3. Information. Any pharmacist who substitutes a generic or chemically equivalent drug under the provisions of this section shall inform the person to whom the drug is dispensed of the substitution. When any substitution is made under this section, the pharmacist shall cause the name of the drug manufacturer or distributor to appear on the container label of the drug dispensed.

4. Application. This section does not apply to prescriptions ordered by physicians or osteopaths for patients in hospitals when those prescriptions are filled by a hospital pharmacy.

STATEMENT OF FACT

This bill rewrites the generic drug law by requiring that the practitioner write "brand name medically necessary" on the face of the written prescription rather than having a check-off box on the label.