

# MAINE STATE LEGISLATURE

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Date: 6/21/2017

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**STATE OF MAINE**  
**SENATE**  
**128TH LEGISLATURE**  
**FIRST REGULAR SESSION**

SENATE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to S.P. 432,  
L.D. 1280, Bill, "An Act Regarding Generic Drug Pricing"

Amend the amendment in section 5 in §13800 in the 2nd paragraph in the 2nd line  
(page 1, line 27 in amendment) by striking out the following: "fair market price" and  
inserting the following: 'a price no greater than the wholesale acquisition cost'

Amend the amendment in section 5 in §13800 by inserting after the 2nd paragraph a  
new paragraph to read:

'As used in this section, "wholesale acquisition cost" means the manufacturer's list  
price for a brand-name drug or a generic drug per person per year or course of treatment  
when sold to wholesalers or direct purchasers in the United States, not including  
discounts or rebates, for the most recent month for which information is available.'

Amend the amendment by inserting after section 5 the following:

**'Sec. 6. Intent.** The costs of health care in this State are making health care  
coverage unaffordable for many consumers, increasing health care costs for the State and  
contributing to a health care crisis in this State. Increased competition in the market for  
drugs and biological products lowers prescription drug costs for patients and taxpayers.  
In order for there to be competition in the prescription drug market, developers of generic  
drugs and biosimilar biological products must be able to obtain quantities of the reference  
listed drug or biological product with which the generic drug or biosimilar biological  
product is intended to compete, referred to in this section as "reference samples," for  
purposes of supporting an application for approval by the United States Food and Drug  
Administration. Closed distribution systems are impeding generic and biosimilar product  
developers from obtaining reference samples to conduct necessary testing and otherwise  
meet requirements for approval of generic and biosimilar drugs and subjecting residents  
of this State to monopoly drug prices. This Act promotes competition in the market for  
drugs and biological products by facilitating access to reference samples. Developers of  
generic drugs and biosimilar biological products are required to act in accordance with  
applicable federal law and regulations in the testing of reference samples. The increased  
sales of reference samples in this State will generate revenue for the State.'

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**SUMMARY**

This amendment requires a drug manufacturer or wholesaler to make a drug available for sale at a price no greater than the wholesale acquisition cost rather than at the fair market price as provided in Committee Amendment "A" and adds an intent section.

**SPONSORED BY:** 

(Senator JACKSON)

**COUNTY: Aroostook**

**FISCAL NOTE REQUIRED**  
(See attached)



# 128th MAINE LEGISLATURE

LD 1280

LR 1232(04)

An Act Regarding Generic Drug Pricing

Fiscal Note for Senate Amendment "C" to Committee Amendment "A"

Sponsor: Sen. Jackson of Aroostook

Fiscal Note Required: Yes

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## Fiscal Note

Potential current biennium cost increase - General Fund

### Fiscal Detail and Notes

This amendment increases the potential risk of constitutionality concerns and may result in increased litigation costs to the Department of the Attorney General by an undeterminable amount.