



Fiscal Note  
Legislative Council Staff  
Nonpartisan Services for Colorado’s Legislature

SB 25-071: PROHIBIT RESTRICTIONS ON 340B DRUGS

**Prime Sponsors:**  
Sen. Michaelson Jenet; Rich  
Rep. Martinez; Taggart

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**Fiscal note status:** This revised fiscal note reflects the reengrossed bill.

Summary Information

**Overview.** The bill prohibits manufacturers from imposing restrictions on 340B Drug Pricing Program facilities and requires covered hospitals to include certain information in their annual reports.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
  - State Revenue
- Local Government

**Appropriations.** For FY 2025-26, the bill requires an appropriation of \$49,500 to the Department of Health Care Policy and Financing.

Table 1  
State Fiscal Impacts

Type of Impact <sup>1</sup>	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$0	\$0
State Expenditures	\$49,500	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

<sup>1</sup> Fund sources for these impacts are shown in the tables below.

**Table 1A**  
**State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
General Fund	\$0	\$0
Cash Funds	\$24,750	\$0
Federal Funds	\$24,750	\$0
Centrally Appropriated	\$0	\$0
<b>Total Expenditures</b>	<b>\$49,500</b>	<b>\$0</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>

## Summary of Legislation

The bill prohibits pharmaceutical manufacturers and other related entities from imposing limitations or restrictions on covered hospitals, contract pharmacies, federally qualified health centers, or other facilities participating in the federal 340B Drug Pricing Program. Manufacturers may not require covered entities or pharmacies to submit health information unless it is directly related to a claim under a federal health care program.

Additionally, covered hospitals are required to report the following information to the Department of Health Care Policy Financing (HCPF):

- annual 340B savings from participating in the program;
- how these savings are utilized;
- market rate costs to acquire 340B drugs; and
- the total operating costs related to providing charitable care.

The bill also prohibits the use of 340B savings for certain expenses, including administrative compensation, penalties and fines, advertising, and lobbying, among others.

Noncompliance with these provisions is a deceptive trade practice. Individuals regulated by the State Board of Pharmacy who violate these provisions may also face disciplinary action.

## Background

The 340B Drug Pricing Program is a federal program that requires drug manufacturers participating in Medicaid to provide outpatient drugs to covered entities at a discount. To participate in the 340B program, covered entities comply with all program requirements administered by the federal Health Resources & Services Administration. In Colorado, an estimated 68 hospitals and 20 federally qualified health centers participate in the 340B program.

## **State Revenue**

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Starting in FY 2025-26, the bill may increase state revenue from civil penalties and court filing fees by a minimal amount.

### **Civil Penalties**

Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

### **Filing Fees**

The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

## **State Expenditures**

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The bill increases state expenditures in the Department of Health Care Policy and Financing by about \$50,000 in FY 2025-26 only, split between the Health Care Affordability and Sustainability (HAS) Cash Fund and federal funds. Workload will also minimally increase in several other agencies, as described below.

### **Department of Health Care Policy and Financing**

In FY 2025-26, expenditures in HCPF will increase by \$49,500 to contract with a vendor to update the current hospital report template, data system, and metrics with information required under the bill. Based on the scope of new reporting requirements, the fiscal note estimates that a contractor will perform 225 hours of work at a rate of \$220 per hour. Actual costs will be determined through the contracting process. Workload will also minimally increase to review these hospital reports for the financial benefit of the 340B program, which can be absorbed within existing appropriations.

### **Department of Public Health and Environment**

Workload in the Department of Public Health and Environment may increase if hospitals fail to publish certain information and the department investigates complaints about noncompliance. This workload is expected to be minimal and no change in appropriations is required.

## **Department of Regulatory Agencies**

The bill minimally increases workload in the Department of Regulatory Agencies to conduct outreach to individuals regulated by the State Board of Pharmacy. This workload is expected to be minimal and no change in appropriations is required.

## **Department of Law**

Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

## **Judicial Department**

The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that pharmaceutical manufacturers and covered hospitals will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

## **Department of Personnel and Administration**

In future years, expenditures in the Department of Personnel and Administration may increase if employees on the state insurance plan access more 340B drugs, state insurers receive fewer rebates from pharmaceutical manufacturers, and increased costs are passed down to the state. This impact is dependent on actions taken by state employees, 340B hospitals, contract pharmacies, and the state insurers. Therefore, costs cannot be estimated but are expected to be minimal.

## **Local Government**

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Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

## **Effective Date**

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The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State Appropriations

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For FY 2025-26, the bill requires the following appropriations to the Department of Health Care Policy and Financing:

- \$24,750 from the HAS Cash Fund; and
- \$24,750 from federal funds.

## State and Local Government Contacts

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Health Care Policy and Financing

Human Services

Judicial

Law

Public Health and Environment

Regulatory Agencies