**§2697. Profiteering in prescription drugs**

Prescription drugs are a necessity of life. Profiteering in prescription drugs is unlawful and is subject to the provisions of this section. The provisions of this section apply to manufacturers, distributors and labelers of prescription drugs. [PL 1999, c. 786, Pt. A, §3 (NEW).]

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

A. "Labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 Code of Federal Regulations, 207.20 (1999). [PL 1999, c. 786, Pt. A, §3 (NEW).]

B. "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer. [PL 1999, c. 786, Pt. A, §3 (NEW).]

[PL 1999, c. 786, Pt. A, §3 (NEW).]

**2. Profiteering.**  A manufacturer, distributor or labeler of prescription drugs engages in illegal profiteering if that manufacturer, distributor or labeler:

A. Exacts or demands an unconscionable price; [PL 1999, c. 786, Pt. A, §3 (NEW).]

B. Exacts or demands prices or terms that lead to any unjust or unreasonable profit; [PL 1999, c. 786, Pt. A, §3 (NEW).]

C. Discriminates unreasonably against any person in the sale, exchange, distribution or handling of prescription drugs dispensed or delivered in the State; or [PL 1999, c. 786, Pt. A, §3 (NEW).]

D. Intentionally prevents, limits, lessens or restricts the sale or distribution of prescription drugs in this State in retaliation for the provisions of this chapter. [PL 1999, c. 786, Pt. A, §3 (NEW).]

[PL 1999, c. 786, Pt. A, §3 (NEW).]

**3. Right of action and damages.**  The State may bring a civil action in District Court or Superior Court for a direct or indirect injury to any person, group of persons, the State or a political subdivision of the State caused by a violation of this subchapter. There is a right to a jury trial in any action brought in Superior Court under this section. If the State prevails, the defendant shall pay 3 times the amount of damages and the costs of suit, including necessary and reasonable investigative costs, reasonable expert fees and reasonable attorney's fees. For a willful or repeated violation of this section, punitive damages may be awarded. After deduction of the costs of distribution, the damages must be equitably distributed by the State to all injured parties.

[PL 1999, c. 786, Pt. A, §3 (NEW).]

**4. Civil violation.**  Each violation of this section is a civil violation for which the Attorney General may obtain, in addition to other remedies, injunctive relief and a civil penalty in an amount not to exceed $100,000, plus the costs of suit, including necessary and reasonable investigative costs, reasonable expert fees and reasonable attorney's fees.

[PL 1999, c. 786, Pt. A, §3 (NEW).]

**5. Unfair trade practice.**  A violation of this section is also a violation of the Maine Unfair Trade Practices Act.

[PL 1999, c. 786, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 786, §A3 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023
 . The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.