

REFERENCE TITLE: essential drugs; price increases; limits.

State of Arizona  
Senate  
Fifty-seventh Legislature  
Second Regular Session  
2026

## **SB 1797**

Introduced by  
Senators Sears: Bravo, Fernandez, Miranda, Ortiz, Sundareshan

### **AN ACT**

**AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 43;  
RELATING TO PRESCRIPTION DRUGS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, Arizona Revised Statutes, is amended by adding  
3 chapter 42, to read:

4 CHAPTER 42  
5 PRESCRIPTION DRUGS  
6 ARTICLE 1. PRICING

7 36-4301. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ESSENTIAL OFF-PATENT OR GENERIC DRUG":

10 (a) MEANS ANY PRESCRIPTION DRUG THAT MEETS ALL OF THE FOLLOWING:

11 (i) ALL EXCLUSIVE MARKETING RIGHTS, IF ANY, GRANTED UNDER THE  
12 FEDERAL FOOD, DRUG, AND COSMETIC ACT, SECTION 351 OF THE FEDERAL PUBLIC  
13 HEALTH SERVICE ACT, AND FEDERAL PATENT LAW HAVE EXPIRED.

14 (ii) EITHER APPEARS ON THE MODEL LIST OF ESSENTIAL MEDICINES MOST  
15 RECENTLY ADOPTED BY THE WORLD HEALTH ORGANIZATION OR HAS BEEN DESIGNATED  
16 BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN  
17 SERVICES AS AN ESSENTIAL MEDICINE DUE TO ITS EFFICACY IN TREATING A  
18 LIFE-THREATENING HEALTH CONDITION OR A CHRONIC HEALTH CONDITION THAT  
19 SUBSTANTIALLY IMPAIRS AN INDIVIDUAL'S ABILITY TO ENGAGE IN ACTIVITIES OF  
20 DAILY LIVING.

21 (iii) IS ACTIVELY MANUFACTURED AND MARKETING FOR SALE IN THE UNITED  
22 STATES BY THREE OR FEWER MANUFACTURERS.

23 (iv) IS MADE AVAILABLE FOR SALE IN THIS STATE.

24 (b) INCLUDES ANY DRUG-DEVICE COMBINATION PRODUCT USED TO DELIVER A  
25 DRUG FOR WHICH ALL EXCLUSIVE MARKETING RIGHTS, IF ANY, GRANTED UNDER THE  
26 FEDERAL FOOD, DRUG, AND COSMETIC ACT, SECTION 351 OF THE FEDERAL PUBLIC  
27 HEALTH SERVICE ACT, AND FEDERAL PATENT LAW HAVE EXPIRED.

28 2. "PRICE GOUGING" MEANS AN UNCONSCIONABLE INCREASE IN THE PRICE OF  
29 A PRESCRIPTION DRUG.

30 3. "STATE MEDICAL ASSISTANCE PROGRAM" MEANS THE ARIZONA HEALTH CARE  
31 COST CONTAINMENT SYSTEM ESTABLISHED BY CHAPTER 29 OF THIS TITLE.

32 4. "UNCONSCIONABLE INCREASE" MEANS AN INCREASE IN THE PRICE OF A  
33 PRESCRIPTION DRUG THAT BOTH:

34 (a) IS EXCESSIVE AND NOT JUSTIFIED BY THE COST OF PRODUCING THE  
35 PRESCRIPTION DRUG OR THE COST OF APPROPRIATE EXPANSION OF ACCESS TO THE  
36 PRESCRIPTION DRUG TO PROMOTE PUBLIC HEALTH.

37 (b) RESULTS IN CONSUMERS FOR WHOM THE PRESCRIPTION DRUG HAS BEEN  
38 PRESCRIBED HAVING NO MEANINGFUL CHOICE ABOUT WHETHER TO PURCHASE THE  
39 PRESCRIPTION DRUG AT AN EXCESSIVE PRICE BECAUSE OF THE IMPORTANCE OF THE  
40 PRESCRIPTION DRUG TO THE CONSUMER'S HEALTH AND INSUFFICIENT COMPETITION IN  
41 THE MARKET FOR THE PRESCRIPTION DRUG.

42 5. "WHOLESALE ACQUISITION COST" HAS THE SAME MEANING PRESCRIBED IN  
43 42 UNITED STATES CODE SECTION 1395w-3a.

1           36-4302. Manufacturers; wholesale distributors; price gouging  
2                                   prohibited

3           A. A MANUFACTURER OR WHOLESALE DISTRIBUTOR MAY NOT ENGAGE IN PRICE  
4 GOUGING IN THE SALE OF AN ESSENTIAL OFF-PATENT OR GENERIC DRUG.

5           B. IT IS NOT A VIOLATION OF SUBSECTION A OF THIS SECTION FOR A  
6 WHOLESALE DISTRIBUTOR TO INCREASE THE PRICE OF AN ESSENTIAL OFF-PATENT OR  
7 GENERIC DRUG IF THE PRICE INCREASE IS DIRECTLY ATTRIBUTABLE TO ADDITIONAL  
8 COSTS FOR THE ESSENTIAL OFF-PATENT OR GENERIC DRUG IMPOSED ON THE  
9 WHOLESALE DISTRIBUTOR BY THE MANUFACTURER OF THE ESSENTIAL OFF-PATENT OR  
10 GENERIC DRUG.

11           36-4303. Attorney general; information required; enforcement  
12                                   actions; civil penalty; confidentiality

13           A. THE STATE MEDICAL ASSISTANCE PROGRAM MAY NOTIFY THE ATTORNEY  
14 GENERAL OF ANY INCREASE IN THE PRICE OF AN ESSENTIAL OFF-PATENT OR GENERIC  
15 DRUG IF BOTH OF THE FOLLOWING APPLY:

16           1. THE PRICE INCREASE, BY ITSELF OR IN COMBINATION WITH OTHER PRICE  
17 INCREASES, WOULD RESULT IN AN INCREASE OF AT LEAST FIFTY PERCENT IN  
18 EITHER:

19           (a) THE WHOLESALE ACQUISITION COST OF THE ESSENTIAL OFF-PATENT OR  
20 GENERIC DRUG WITHIN THE PRECEDING ONE-YEAR PERIOD.

21           (b) THE PRICE PAID BY THE STATE MEDICAL ASSISTANCE PROGRAM FOR THE  
22 ESSENTIAL OFF-PATENT OR GENERIC DRUG WITHIN THE PRECEDING ONE-YEAR PERIOD.

23           2. ONE OF THE FOLLOWING APPLIES:

24           (a) A THIRTY-DAY SUPPLY OF THE MAXIMUM RECOMMENDED DOSAGE OF THE  
25 ESSENTIAL OFF-PATENT OR GENERIC DRUG FOR ANY INDICATION, ACCORDING TO THE  
26 LABEL FOR THE ESSENTIAL OFF-PATENT OR GENERIC DRUG APPROVED UNDER THE  
27 FEDERAL FOOD, DRUG, AND COSMETIC ACT, WOULD COST MORE THAN \$80 AT THE  
28 ESSENTIAL OFF-PATENT OR GENERIC DRUG'S WHOLESALE ACQUISITION COST.

29           (b) A FULL COURSE OF TREATMENT WITH THE ESSENTIAL OFF-PATENT OR  
30 GENERIC DRUG, ACCORDING TO THE LABEL FOR THE ESSENTIAL OFF-PATENT OR  
31 GENERIC DRUG APPROVED UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT,  
32 WOULD COST MORE THAN \$80 AT THE ESSENTIAL OFF-PATENT OR GENERIC DRUG'S  
33 WHOLESALE ACQUISITION COST.

34           (c) THE ESSENTIAL OFF-PATENT OR GENERIC DRUG IS MADE AVAILABLE TO  
35 CONSUMERS ONLY IN QUANTITIES THAT DO NOT CORRESPOND TO A THIRTY-DAY  
36 SUPPLY, A FULL COURSE OF TREATMENT OR A SINGLE DOSE AND WOULD COST MORE  
37 THAN \$80 AT THE ESSENTIAL OFF-PATENT OR GENERIC DRUG'S WHOLESALE  
38 ACQUISITION COST TO OBTAIN A THIRTY-DAY SUPPLY OR A FULL COURSE OF  
39 TREATMENT.

40           B. ON REQUEST OF THE ATTORNEY GENERAL, THE MANUFACTURER OF AN  
41 ESSENTIAL OFF-PATENT OR GENERIC DRUG IDENTIFIED IN A NOTICE UNDER  
42 SUBSECTION A OF THIS SECTION, WITHIN FORTY-FIVE DAYS AFTER THE REQUEST,  
43 SHALL SUBMIT A STATEMENT TO THE ATTORNEY GENERAL THAT DOES ALL OF THE  
44 FOLLOWING:

1           1. ITEMIZES THE COMPONENTS OF THE COST OF PRODUCING THE ESSENTIAL  
2 OFF-PATENT OR GENERIC DRUG AND IDENTIFIES THE CIRCUMSTANCES AND TIMING OF  
3 ANY INCREASE IN MATERIALS OR MANUFACTURING COSTS THAT CAUSED ANY INCREASE  
4 IN THE PRICE OF THE ESSENTIAL OFF-PATENT OR GENERIC DRUG WITHIN THE  
5 ONE-YEAR PERIOD PRECEDING THE DATE OF THE PRICE INCREASE.

6           2. IDENTIFIES THE CIRCUMSTANCES AND TIMING OF ANY EXPENDITURES MADE  
7 BY THE MANUFACTURER TO EXPAND ACCESS TO THE ESSENTIAL OFF-PATENT OR  
8 GENERIC DRUG AND EXPLAINS ANY IMPROVEMENT IN PUBLIC HEALTH ASSOCIATED WITH  
9 THOSE EXPENDITURES.

10          3. PROVIDES ANY OTHER INFORMATION THAT THE MANUFACTURER BELIEVES TO  
11 BE RELEVANT TO DETERMINING WHETHER A VIOLATION OF THIS ARTICLE HAS  
12 OCCURRED.

13          C. THE ATTORNEY GENERAL MAY REQUIRE A MANUFACTURER OR A WHOLESALE  
14 DISTRIBUTOR OF AN ESSENTIAL OFF-PATENT OR GENERIC DRUG TO PRODUCE ANY  
15 RECORDS OR OTHER DOCUMENTS THAT MAY BE RELEVANT TO A DETERMINATION OF  
16 WHETHER A VIOLATION OF THIS ARTICLE HAS OCCURRED.

17          D. ON PETITION OF THE ATTORNEY GENERAL AND SUBJECT TO SUBSECTION E  
18 OF THIS SECTION, A SUPERIOR COURT MAY ISSUE AN ORDER:

19           1. COMPELLING A MANUFACTURER OR A WHOLESALE DISTRIBUTOR OF AN  
20 ESSENTIAL OFF-PATENT OR GENERIC DRUG TO PROVIDE THE STATEMENT REQUIRED  
21 UNDER SUBSECTION B OF THIS SECTION AND TO PRODUCE SPECIFIC RECORDS OR  
22 OTHER DOCUMENTS REQUESTED BY THE ATTORNEY GENERAL UNDER SUBSECTION C OF  
23 THIS SECTION THAT MAY BE RELEVANT TO DETERMINING WHETHER A VIOLATION OF  
24 THIS ARTICLE HAS OCCURRED.

25           2. RESTRAINING OR ENJOINING A VIOLATION OF THIS ARTICLE.

26           3. RESTORING TO ANY CONSUMER, INCLUDING A THIRD-PARTY PAYOR, ANY  
27 MONIES ACQUIRED AS A RESULT OF A PRICE INCREASE THAT VIOLATES THIS  
28 ARTICLE.

29           4. REQUIRING A MANUFACTURER THAT HAS ENGAGED IN PRICE GOUGING IN  
30 THE SALE OF AN ESSENTIAL OFF-PATENT OR GENERIC DRUG TO MAKE THE ESSENTIAL  
31 OFF-PATENT OR GENERIC DRUG AVAILABLE TO PARTICIPANTS IN THE STATE MEDICAL  
32 ASSISTANCE PROGRAM FOR A PERIOD OF UP TO ONE YEAR AT THE PRICE AT WHICH  
33 THE ESSENTIAL OFF-PATENT OR GENERIC DRUG WAS MADE AVAILABLE TO  
34 PARTICIPANTS IMMEDIATELY BEFORE THE MANUFACTURER'S VIOLATION OF THIS  
35 ARTICLE.

36           5. IMPOSING A CIVIL PENALTY OF UP TO \$10,000 FOR EACH VIOLATION OF  
37 THIS ARTICLE.

38          E. THE ATTORNEY GENERAL MAY NOT BRING AN ACTION FOR A REMEDY UNDER  
39 SUBSECTION D, PARAGRAPH 2, 3, 4 OR 5 OF THIS SECTION UNLESS THE ATTORNEY  
40 GENERAL HAS PROVIDED THE MANUFACTURER OR WHOLESALE DISTRIBUTOR OF AN  
41 ESSENTIAL OFF-PATENT OR GENERIC DRUG WITH AN OPPORTUNITY TO MEET WITH THE  
42 ATTORNEY GENERAL TO OFFER A JUSTIFICATION FOR THE INCREASE IN THE PRICE OF  
43 THE ESSENTIAL OFF-PATENT OR GENERIC DRUG.

1           F. ANY INFORMATION PROVIDED BY A MANUFACTURER OR A WHOLESALE  
2     DISTRIBUTOR OF AN ESSENTIAL OFF-PATENT OR GENERIC DRUG TO THE ATTORNEY  
3     GENERAL UNDER SUBSECTIONS B AND C OF THIS SECTION IS CONSIDERED  
4     CONFIDENTIAL COMMERCIAL INFORMATION UNLESS THE CONFIDENTIALITY OF THE  
5     INFORMATION IS WAIVED BY THE MANUFACTURER OR WHOLESALE DISTRIBUTOR.

6           G. IN ANY ACTION BROUGHT BY THE ATTORNEY GENERAL UNDER SUBSECTION D  
7     OF THIS SECTION, A PERSON WHO IS ALLEGED TO HAVE VIOLATED A REQUIREMENT OF  
8     THIS ARTICLE MAY NOT ASSERT AS A DEFENSE THAT THE PERSON DID NOT DEAL  
9     DIRECTLY WITH A CONSUMER RESIDING IN THIS STATE.