

SENATE No. 548

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to manufacturer rebates and discount programs..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael J. Rodrigues</i>	
<i>Karen E. Spilka</i>	
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Michael O. Moore</i>	
<i>James E. Timilty</i>	
<i>Michael R. Knapik</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Barry R. Finegold</i>	
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>James T. Welch</i>	
<i>Robert L. Hedlund</i>	
<i>John F. Keenan</i>	
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>

<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Kevin Aguiar</i>	<i>7th Bristol</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>

SENATE No. 548

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 548) of Michael J. Rodrigues, Karen E. Spilka, Benjamin B. Downing, Michael O. Moore and other members of the General Court for legislation relative to manufacturer rebates and discount programs. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4689 OF 2009-2010.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
—————

An Act relative to manufacturer rebates and discount programs..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 3 of chapter 175H of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by inserting before the word “Any”, in line 1, the following:-
3 (a).

4 SECTION 2. Said section 3 of said chapter 175H, as so appearing, is hereby further
5 amended by inserting after word “rebate”, in line 7, the following words:- except as provided in
6 subsection (b),.

7 SECTION 3. Said section 3 of said chapter 175H, as so appearing, is hereby further
8 amended by adding the following 3 subsections:-

9 (b) This section shall not apply to a discount, rebate, product voucher or other reduction
10 in an individual's out-of-pocket expenses, including co-payments and deductibles on a
11 prescription drug, biologic or vaccine provided by a pharmaceutical manufacturing company, as
12 defined in section 1 of chapter 111N, that is made available to an individual if the discount,
13 rebate, product voucher or other reduction is provided directly or electronically to the individual
14 or through a point of sale or mail-in rebate, or through similar means; provided, however, that a
15 pharmaceutical manufacturing company shall not exclude nor favor any pharmacy in the
16 redemption of such discount, rebate, product voucher or other expense reduction offer to an
17 individual.

18 (c) This subsection shall not: (i) restrict a pharmaceutical manufacturing company with
19 regard to how it distributes a prescription drug, biologic or vaccine; or (ii) restrict a carrier or a
20 health maintenance organization, as defined in section 1 of chapter 118G, with regard to how its
21 plan design will treat such discounts, rebates, product voucher or other reduction in out-of-
22 pocket expenses.

23 (d) For purposes of the federal Health Insurance Portability and Accountability Act of
24 1996, hereinafter HIPAA, and regulations promulgated under HIPAA, nothing in this subsection
25 shall be deemed to require or allow the use or disclosure of health information in any manner
26 that does not otherwise comply with HIPAA or regulations promulgated under HIPAA.

27 SECTION 4. The division of health care finance and policy, in consultation with the
28 department of public health shall conduct an analysis of the impact on health care costs of the
29 use of discounts, rebate, product voucher or other reduction for prescription drugs. The report
30 shall include, but not be limited to, an analysis of the impact on commercial health insurance

31 premiums and on premiums associated with the group insurance commission, and a comparison
32 of any change in utilization of generic versus brand name prescription drugs. The division shall
33 file a report of its findings with the clerks of the senate and house of representatives, the house
34 and senate committees on ways and means and the joint committee on health care financing by
35 not later than March 15, 2013.