

As Introduced

**136th General Assembly
Regular Session
2025-2026**

H. B. No. 940

Representatives Cockley, Grim

To amend sections 1345.99 and 3901.99 and to enact 1
sections 1345.033 and 3901.216 of the Revised 2
Code to prohibit certain increases in the prices 3
of, and cost sharing for, prescription drugs and 4
drug therapy related devices and supplies during 5
a shortage and to name this act the Medical 6
Shortage Protection Act. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1345.99 and 3901.99 be amended 8
and sections 1345.033 and 3901.216 of the Revised Code be 9
enacted to read as follows: 10

Sec. 1345.033. (A) As used in this section, "supplier" 11
includes a drug manufacturer. 12

(B) For any period for which there is a shortage of a 13
prescription drug, including a generic prescription drug, or a 14
drug therapy related device or supply, no supplier shall sell or 15
offer to sell in any part of this state the drug, device, or 16
supply at a rate or price that is more than ten per cent above 17
the rate or price charged by the supplier for the same or 18
similar drug, device, or supply immediately prior to the covered 19
period. 20

(C) Either of the following is evidence of a shortage of a prescription drug or drug-therapy-related device or supply: 21
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(1) The federal "Defense Production Act of 1950," 50 U.S.C. 4511, has been invoked regarding the drug, device, or supply. 23
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(2) The governor has declared a state of emergency regarding the drug, device, or supply in accordance with section 107.42 of the Revised Code, but only under the advice of at least one of the following: the director of health, the executive director of the state board of pharmacy, or a professional association or society of licensed health professionals authorized to prescribe drugs. 26
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(D) Any violation of division (B) of this section shall be considered an unconscionable act or practice in connection with a consumer transaction under section 1345.03 of the Revised Code. In addition to the relief described in section 1345.09 of the Revised Code, a prevailing consumer is entitled to compensatory damages in an amount that is six times the amount of the consumer's actual economic loss as well as court costs and attorney's fees. 33
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(E) The medical shortage fund is created in the state treasury. The fund shall consist of all money deposited in accordance with division (F) (3) of section 1345.99 and division (E) (3) of section 3901.99 of the Revised Code. The director of health shall use the money in the fund solely to address shortages of prescription drugs and drug therapy related devices and supplies. 41
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Sec. 1345.99. (A) Whoever violates section 1345.23 or 1345.24 of the Revised Code is guilty of a minor misdemeanor. 48
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(B) Whoever violates division (C) of section 1345.30 or
division (D) of section 1345.76 of the Revised Code shall be
fined not more than one thousand dollars.

(C) Whoever knowingly violates division (E) of section
1345.02 or knowingly violates section 1345.18 of the Revised
Code is guilty of a misdemeanor of the third degree for a first
offense and a misdemeanor of the second degree for any
subsequent offense.

(D) Whoever recklessly violates section 1345.032 of the
Revised Code shall be fined the following:

(1) For the first violation, not more than one hundred
dollars for each solicitation document distributed;

(2) For any subsequent violation, not more than two
hundred dollars for each solicitation document distributed.

(E) Whoever negligently violates section 1345.022 of the
Revised Code shall be fined not more than one thousand dollars.

(F) (1) Whoever recklessly violates division (B) of section
1345.033 of the Revised Code is guilty of a misdemeanor of the
first degree.

(2) In addition to any jail term or fine that the court
may impose under section 2929.24 or 2929.28 of the Revised Code
for a misdemeanor of the first degree, the court shall impose a
fine in an amount that is at least one thousand dollars and not
more than ten thousand dollars per violation, in addition to a
fine in an amount of twenty-five thousand dollars per day for
each day the violation occurred during the shortage period
described in division (B) of section 1345.033 of the Revised
Code.

(3) The court shall deposit any amounts received under 78
division (F) (2) of this section in accordance with section 79
1345.033 of the Revised Code. 80

Sec. 3901.216. (A) As used in this section: 81

(1) "Administrator" has the same meaning as in section 82
3959.01 of the Revised Code. 83

(2) "Covered person" and "health plan issuer" have the 84
same meanings as in section 3922.01 of the Revised Code. 85

(B) For any period for which there is a shortage of a 86
prescription drug, including a generic prescription drug, or a 87
drug therapy related device or supply, no health plan issuer, 88
including an administrator, shall impose cost sharing on the 89
drug, device, or supply in an amount that is more than ten per 90
cent above the amount imposed by the health plan issuer for the 91
same or similar drug, device, or supply immediately prior to the 92
covered period. 93

(C) Either of the following is evidence of a shortage of a 94
prescription drug or drug-therapy-related device or supply: 95

(1) The federal "Defense Production Act of 1950," 50 96
U.S.C. 4511, has been invoked regarding the drug, device, or 97
supply. 98

(2) The governor has declared a state of emergency 99
regarding the drug, device, or supply in accordance with section 100
107.42 of the Revised Code, but only under the advice of at 101
least one of the following: the director of health, the 102
executive director of the state board of pharmacy, or a 103
professional association or society of licensed health 104
professionals authorized to prescribe drugs. 105

(D) (1) Any violation of division (B) of this section shall 106
be considered an unfair or deceptive act or practice in the 107
business of insurance under section 3901.20 of the Revised Code 108
and is subject to the penalties that may be imposed under 109
section 3901.22 of the Revised Code. 110

(2) A covered person may institute a civil action in a 111
court of competent jurisdiction for any violation of this 112
section. In the event the covered person prevails in the action, 113
the court shall award the covered person compensatory damages in 114
an amount that is six times the amount of the covered person's 115
actual economic loss, court costs, and reasonable attorney's 116
fees. 117

Sec. 3901.99. (A) Whoever violates section 3901.09 of the 118
Revised Code shall be fined not less than twenty-five nor more 119
than five hundred dollars. 120

(B) Whoever violates any law relating to the 121
superintendent of insurance, or any law of this state relating 122
to insurance as defined in division (A) (1) of section 3901.04 of 123
the Revised Code, for the violation of which no penalty is 124
otherwise provided in the Revised Code, shall be fined not more 125
than twenty-five thousand dollars, imprisoned not more than six 126
months, or both. 127

(C) Whoever violates section 3901.54 of the Revised Code 128
is guilty of a felony of the fifth degree. 129

(D) Whoever violates division (J) (2) of section 3901.07 of 130
the Revised Code is guilty of a misdemeanor of the first degree. 131

(E) (1) Whoever recklessly violates division (B) of section 132
3901.216 of the Revised Code is guilty of a misdemeanor of the 133
first degree. 134

(2) In addition to any jail term or fine that the court 135
may impose under section 2929.24 or 2929.28 of the Revised Code 136
for a misdemeanor of the first degree, the court shall impose a 137
fine in an amount that is at least one thousand dollars and not 138
more than ten thousand dollars per violation, in addition to a 139
fine in an amount of twenty-five thousand dollars per day for 140
each day the violation occurred during the shortage period 141
described in division (B) of section 3901.216 of the Revised 142
Code. 143

(3) The court shall deposit any amounts received under 144
division (E) (2) of this section in accordance with section 145
1345.033 of the Revised Code. 146

Section 2. That existing sections 1345.99 and 3901.99 of 147
the Revised Code are hereby repealed. 148

Section 3. Section 1345.99 of the Revised Code is 149
presented in this act as a composite of the section as amended 150
by both H.B. 52 and S.B. 223 of the 132nd General Assembly. The 151
General Assembly, applying the principle stated in division (B) 152
of section 1.52 of the Revised Code that amendments are to be 153
harmonized if reasonably capable of simultaneous operation, 154
finds that the composite is the resulting version of the section 155
in effect prior to the effective date of the section as 156
presented in this act. 157

Section 4. This act shall be known as the Medical Shortage 158
Protection Act. 159