The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

SB 401 Engrossed 2026 Regular Session Talbot

Proposed law defines "average wholesale price", "board", "department", "manufacturer", "prescription drug", and "prescription drug marketing".

Proposed law establishes the Prescription Drug Affordability Board within the Dept. of Insurance, consisting of the following members:

(1) The commissioner of insurance or his designee.

(2) The secretary of the La. Dept. of Health or his designee.

(3) The president of the La. Board of Pharmacy or his designee.

(4) Two public members appointed by the governor.

(5) Two public members appointed by the president of the Senate.

(6) Two public members appointed by the speaker of the House of Representatives.

Proposed law requires the public members to have a significant health care or pharmacy background and provides that each shall serve for a term of five years.

Proposed law requires the board to develop a list of critical prescription drugs made available in La., for which there is a substantial public interest in understanding the development of pricing for the drugs.

Proposed law requires the manufacturer of each prescription drug that the board places on the critical prescription drug list to report the following information to the board:

(1) Total cost of production and approximate cost of production per dose.

(2) Research and development costs of the drug.

(3) Marketing and advertising costs for the drug, apportioned by marketing activities that are directed to consumers, marketing activities that are directed to prescribers, and the total cost of all marketing and advertising that is directed primarily to La. consumers and prescribers.

(4) The prices for the drug that are charged to purchasers outside the U.S., by country, for a representative set of countries determined by the committee.

(5) Prices charged to typical La. purchasers.

Proposed law provides that failure of a manufacturer to provide the required information is a prohibited practice under the Unfair Trade Practices and Consumer Protection Law.

Proposed law requires information reported to the board to be kept confidential and prohibits the disclosure of the information as a public record. Further requires any public reporting of information to be aggregated to protect the financial, competitive, or proprietary nature of the information.

Proposed law requires the board to prepare an annual report on prescription drug prices and their role in overall healthcare spending in the state based on the data submitted to the board. Further requires the board to include in the report a list of those prescription drugs that have a cost in La. that is excessively high when compared with the cost of the drug in other states and countries and when compared with the overall cost of researching, developing, and producing the drug in light of the number of years the drug has been made available for distribution.

Proposed law requires any person engaging in any form of prescription drug marketing directly to a healthcare provider with the intent that the provider may prescribe the drug for use by his patients to include, at a minimum, the following price information in the materials:

(1) The date that the educational or marketing materials were prepared.

(2) The name of the drug and of the current manufacturer.

(3) The average wholesale price of a 30-day supply of the drug described in the materials, or if the described drug is designed to be administered for a duration of therapy of less than 30 days, the proposed duration and average wholesale price for that period of time.

(4) The date that the drug was first marketed in the U.S. and the average wholesale price as of that date.

(5) The average wholesale price on each date that the price of the drug has changed since the drug was first marketed in the U.S.

Proposed law requires the completed form to be provided to the healthcare provider at the same time and in the same manner as any other marketing materials provided to the provider. Further provides, if the marketing activities are performed telephonically, the form to be sent to the healthcare provider by mail or electronically within one business day of the marketing activity.

A violation of proposed law constitutes a prohibited practice under the Unfair Trade Practices and Consumer Protection Law.

Effective August 1, 2026.

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:1870.10-1870.20; repeals R.S. 22:1870(B)(5))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Require notification when the wholesale acquisition cost of a name brand drug increases by more than the CPI during any 12-month period.

2. Require notification when the wholesale acquisition cost of a generic drug increases by more than $100, or by $200 total, in any 12-month period.

3. Require an explanation for the increase in price, including specified information about factors that make up the price.

4. Require the reported information be made publicly available.

5. Require an annual report.

6. Sunset the board on June 30, 2028.

7. Repeal present law requiring notice of a more than 15% increase in the cost of a brand name drug.

8. Make proposed law effective when SB 387 is enacted.

9. Make technical changes.