General Law Committee
JOINT FAVORABLE REPORT

Bill No.: SB-138
Title: AN ACT REQUIRING MANUFACTURERS OF BRAND NAME PRESCRIPTION DRUGS TO PROVIDE SAMPLES OF SUCH DRUGS TO MANUFACTURERS OF GENERIC PRESCRIPTION DRUGS.
Vote Date: 3/10/2020
Vote Action: Joint Favorable
PH Date: 2/27/2020
File No.:

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SPONSORS OF BILL:

The General Law Committee

REASONS FOR BILL:

To promote competition in the prescription drug market by allowing developers of generic drugs and biosimilar products to obtain reference samples.

RESPONSE FROM ADMINISTRATION/AGENCY:

Senator Martin Looney is in support of SB 138. This legislation is similar to that adopted in Maine in 2018 (LD 1280). SB 138 would require that brand name pharmaceutical manufacturers in the state comply with federal law and make available, at a fair market price samples of their drugs to generic manufacturers. It requires that drugs distributed in Connecticut be made available for sale to an FDA-approved generic drug manufacturer that is seeking to develop a more affordable alternative. Denying samples to generic drug manufacturers is a common strategy used by the brand name manufacturers in order to deny the generic entry into the market. This bill would be one step towards increasing access to affordable prescription drugs.

NATURE AND SOURCES OF SUPPORT:

[Click **here** and Enter Nature and Sources of Support]

NATURE AND SOURCES OF OPPOSITION:

Pharmaceutical Research and Manufacturers of America opposed SB 138 because it seeks to mandate manufacturers of branded medicines to provide its products to any other drug or biologic manufacturer in a manner which is duplicative of, and in conflict with, recently-enacted federal law in this space. SB 138 attempts to advance the same policy objective that is already addressed by the CREATES Act: ensuring provision of samples to developers by innovators. Enacting SB 138 is therefore unnecessary. In addition to being duplicative of federal law, SB 138 would be inconsistent with federal law, disrupting the federal objective underlying CREATES and raising preemption concerns. The Food and Drug Administration (FDA) has taken steps to address the issue of obtaining samples for generic drug development, all of which eliminates the need for SB 138 even before CREATES was signed.

Angela Gochenaur; Eastern Director of Government Affairs, at The Biotechnology Innovation Organization (BIO) opposes SB 138 as it seeks to criminalize intellectual property resolutions that occur on a nation-wide basis, in many cases completely outside the State of Connecticut. Connecticut has significant powers to regulate commercial conduct within its borders. It does not, however, possess the authority to criminalize conduct that occurs outside of Connecticut or otherwise on a national level. We urge the State to abandon a flawed single-state effort in favor of helping to support a robust national solution that will end abusive conduct once and for all.

Reported by: Jeff Lucas **Date: 3/23/20**