HR 2873

Affordable Prescriptions for Patients Through Promoting Competition Act of 2021

Congress: 117 (2021–2023, Ended)
Chamber: House
Policy Area: Commerce
Introduced: Apr 28, 2021
Current Status: Ordered to be Reported in the Nature of a Substitute by the Yeas and Nays: 27 - 16.
Latest Action: Ordered to be Reported in the Nature of a Substitute by the Yeas and Nays: 27 - 16. (Sep 29, 2021)
Official Text: https://www.congress.gov/bill/117th-congress/house-bill/2873

Sponsor

Name: Rep. Cicilline, David N. [D-RI-1]
Party: Democratic • **State:** RI • **Chamber:** House

Cosponsors (5 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Buck, Ken [R-CO-4]	R · CO		Apr 28, 2021
Rep. Maloney, Carolyn B. [D-NY-12]	D · NY		Apr 28, 2021
Rep. Nadler, Jerrold [D-NY-10]	D · NY		Apr 28, 2021
Del. Norton, Eleanor Holmes [D-DC-At Large]	D · DC		May 7, 2021
Rep. Demings, Val Butler [D-FL-10]	D · FL		Sep 28, 2021

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	House	Markup By	Sep 29, 2021

Subjects & Policy Tags

Policy Area:

Commerce

Related Bills

Bill	Relationship	Last Action
117 HR 5237	Related bill	**Nov 1, 2022:** Referred to the Subcommittee on Courts, Intellectual Property, and the Internet.
117 HR 5260	Related bill	**Nov 1, 2022:** Referred to the Subcommittee on Courts, Intellectual Property, and the Internet.
117 S 1435	Related bill	**Jul 29, 2021:** Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.

Summary (as of Apr 28, 2021)

Affordable Prescriptions for Patients Through Promoting Competition Act of 2021

This bill prohibits product hopping by drug manufacturers and authorizes the Federal Trade Commission to sue in court or institute administrative proceedings to enforce this prohibition.

Generally, *product-hopping* describes a situation where, when the patents on a reference drug (or biological product) expire, the manufacturer switches to a follow-on product that is covered by a later-expiring patent. Under this bill, a *follow-on product* is a changed, modified, or reformulated version of the reference drug that shares an indication (what the drug is used for) with the reference drug.

The bill presumes product hopping has occurred when a reference drug manufacturer engages in a *hard switch* or a *soft switch*. A hard switch occurs when, after receiving notice of an application for Food and Drug Administration (FDA) approval to market a generic (or biosimilar) version of the reference drug, the manufacturer markets a follow-on product and (1) the FDA withdraws approval of the reference drug at the manufacturer's request, or (2) the manufacturer announces the withdrawal or discontinuance of the reference drug or destroys the drug's inventory in a manner that impedes generic competitors.

Furthermore, the bill presumes that a soft switch occurred if a reference drug manufacturer (1) markets a follow-on product, and (2) takes actions that disadvantage the reference drug relative to that follow-on product in a way that impedes competition from a generic drug.

A drug manufacturer may rebut these presumptions by demonstrating that its conduct was not intended to limit competition.

Actions Timeline

- **Sep 29, 2021:** Committee Consideration and Mark-up Session Held.
- **Sep 29, 2021:** Ordered to be Reported in the Nature of a Substitute by the Yeas and Nays: 27 - 16.
- **Apr 28, 2021:** Introduced in House
- **Apr 28, 2021:** Referred to the House Committee on the Judiciary.