

## S 1040

Drug Competition Enhancement Act

**Congress:** 119 (2025–2027, Current)

**Chamber:** Senate

**Policy Area:** Health

**Introduced:** Mar 13, 2025

**Current Status:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 43.

**Latest Action:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 43. (Apr 10, 2025)

**Official Text:** <https://www.congress.gov/bill/119th-congress/senate-bill/1040>

### Sponsor

**Name:** Sen. Cornyn, John [R-TX]

**Party:** Republican • **State:** TX • **Chamber:** Senate

### Cosponsors (3 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Blumenthal, Richard [D-CT]	D · CT		Mar 13, 2025
Sen. Durbin, Richard J. [D-IL]	D · IL		Mar 13, 2025
Sen. Grassley, Chuck [R-IA]	R · IA		Mar 13, 2025

### Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Reported By	Apr 10, 2025

### Subjects & Policy Tags

**Policy Area:**

Health

### Related Bills

No related bills are listed.

## **Drug Competition Enhancement Act**

This bill prohibits product hopping by drug manufacturers and authorizes the Federal Trade Commission (FTC) 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 modified version of the reference drug that has an indication (what the drug is used for) that is identical or substantively similar to an indication of the reference drug.

The bill establishes a presumption that product hopping has occurred when a reference drug manufacturer, after receiving notice that the Food and Drug Administration has received an application to market a competing generic (or biosimilar) version, takes certain actions such as withdrawing the reference drug from the market and selling a follow-on product.

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

The bill makes product hopping an unfair method of competition and provides for enforcement by the FTC. If the FTC has reason to believe a manufacturer has violated or is about to violate this prohibition on product hopping, the FTC may institute an administrative proceeding or bring suit in federal court to stop the manufacturer's action and seek equitable remedies, including disgorgement of unjust profits or paying restitution to those harmed.

## Actions Timeline

**Mar 13, 2025:** Read twice and referred to the Committee on the Judiciary.

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