



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 23, 2008

H.R. 6353

Ryan Haight Online Pharmacy Consumer Protection Act of 2008

*As ordered reported by the House Committee on Energy and Commerce
on September 17, 2008*

SUMMARY

H.R. 6353 would permit the Drug Enforcement Administration (DEA) to authorize certain pharmacies to distribute controlled substances using the Internet. CBO estimates that implementing H.R. 6353 would have no significant net cost to the federal government. Enacting the bill could affect direct spending and revenues, but CBO estimates that any net effects would not be significant.

H.R. 6353 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state regulations of controlled substances that are manufactured, distributed, or dispensed via the Internet. CBO estimates, however, that states would incur little, if any, costs as a result of that preemption, and the costs to comply with the mandate would be well below the threshold established in UMRA (\$68 million in 2008, adjusted annually for inflation).

The bill's registration and reporting requirements and the requirement of a valid prescription for Internet distribution of controlled substances constitute private-sector mandates as defined in UMRA. CBO estimates that the direct costs of those mandates would not exceed the threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Spending Subject to Appropriation

H.R. 6353 would establish new crimes and increase penalties for activities relating to illegal use of controlled substances. Because the bill would establish new offenses, the government

would be able to pursue cases that it otherwise would not be able to prosecute. We expect that H.R. 6353 would apply to a relatively small number of offenders, however, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Direct Spending and Revenues

H.R. 6353 would permit the DEA to authorize certain pharmacies to distribute controlled substances using the Internet. The agency currently charges a registration fee of \$551 for a three-year period. Based on information from the DEA about the likely number of new registrants resulting from enactment of H.R. 6353, CBO estimates that the agency would collect less than \$1 million each year. The DEA would spend those fees without further appropriation, mostly in the same year, to conduct inspections and carry out administrative activities related to the new registrants. Thus, CBO estimates that H.R. 6353 would have no significant net effect on DEA spending.

Because those prosecuted and convicted under H.R. 6353 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 6353 contains an intergovernmental mandate as defined in UMRA because it would preempt state regulations of controlled substances that are manufactured, distributed, or dispensed via the Internet. Under current law, states license pharmacies and doctors to dispense controlled substances within each state. This bill would prohibit the sale of controlled substances that are sold over the Internet without a prescription and would require doctors to have at least one in-person consultation with patients for whom they prescribe controlled medications. Currently, all states allow medications to be purchased via the Internet, but some states do not specifically require in-person consultations for prescriptions. Enacting this provision would preempt state authority. CBO estimates, however, that states would incur little, if any costs, as a result of that preemption, and the costs to comply with the mandate would be well below the threshold established in UMRA (\$68 million in 2008, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The bill's registration and reporting requirements and the requirement of a valid prescription for Internet distribution of controlled substances would constitute private-sector mandates as defined by UMRA. CBO estimates that the direct costs of those mandates would not exceed the threshold established in UMRA (\$136 million in 2008, adjusted annually for inflation).

PREVIOUS CBO ESTIMATE

On October 25, 2007, CBO transmitted a cost estimate for S. 980, the Ryan Haight Online Pharmacy Consumer Protection Act of 2007, as ordered reported by the Senate Committee on the Judiciary on September 27, 2007. The two bills are similar, and the cost estimates are nearly identical.

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