

Sec. 49. NEW SECTION. 155C.5 ADVERTISING AND MARKETING

62 22 EXPENDITURE REPORTING.

62 23 1. Annually, on or before December 1, every manufacturer
62 24 or wholesaler of prescription drugs, biologics, or medical
62 25 devices that participates in a state health care program shall
62 26 submit to the department a report on advertising and marketing
62 27 expenditures.

62 28 2. The report shall be in the form and manner required by
62 29 the department and accompanied by payment of a fee, as
62 30 established by rule of the department.

62 31 3. The annual report required by this section shall
62 32 include all of the following information as it pertains to
62 33 marketing activities conducted within this state in a form
62 34 that provides the value, nature, purpose, and recipients of
62 35 the expense of marketing activities:

63 1 a. Information on **gifts** reported under section 155C.4.

63 2 b. All other expenses, whether direct or indirect,
63 3 associated with advertising, marketing, and promotion of
63 4 prescription drugs, biologics, and medical devices including
63 5 but not limited to all of the following:

63 6 (1) Expenses associated with radio, television, magazines,
63 7 newspapers, direct mail, and telephone communications as they
63 8 pertain to residents of this state, including a reasonable
63 9 estimate of the value of expenses associated with advertising
63 10 purchased for a regional or national market that includes
63 11 advertising within this state.

63 12 (2) Any other expenses relating to the indirect promotion
63 13 of prescription drugs, biologics, and medical devices in this
63 14 state including but not limited to support of independent or
63 15 continuing medical education programs, including payments to
63 16 medical education companies; design, printing, and production
63 17 costs of patient education materials and disease management
63 18 materials distributed within this state; consulting fees and
63 19 expenses, participation in speakers' bureaus, and honoraria or
63 20 other payments for speaking at or attending meetings,
63 21 lectures, or conferences; writing articles or publications;
63 22 charitable grants, either directly or earmarked, even if
63 23 unrestricted; product samples if allowed; and market research
63 24 surveys or other activities undertaken in support of
63 25 developing advertising or marketing strategies.

63 26 (3) The aggregate cost of all employees or contractors of
63 27 the manufacturer, wholesaler, or labeler who directly or
63 28 indirectly engage in the advertising or promotional activities
63 29 listed in subparagraphs (1) and (2), including all forms of
63 30 payment to those employees or contractors. The costs reported
63 31 under this subparagraph shall reflect only that portion of
63 32 payment to employees or contractors that pertains to
63 33 activities within this state or to recipients of the
63 34 advertising or promotional activities who are residents of or
63 35 are employed in this state.

64 1 4. Each manufacturer or wholesaler subject to the
64 2 provisions of this section shall also disclose to the
64 3 department the name and address of the individual responsible
64 4 for the manufacturer's or wholesaler's compliance with this
64 5 section, or if this information has been previously reported,
64 6 any changes to the name or address of the individual
64 7 responsible for the manufacturer's or wholesaler's compliance

64 8 with the provisions of this section.