

HB 329-FN – AS INTRODUCED

2013 SESSION

13-0381
01/10

HOUSE BILL

329-FN

AN ACT

requiring purchasers of medical equipment to be notified of the actual cost of such equipment at time of sale.

SPONSORS:

Rep. Townsend, Graf 11

COMMITTEE:

Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires providers of medical equipment to disclose to the consumer the cost of such medical equipment at the time of sale.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT requiring purchasers of medical equipment to be notified of the actual cost of such equipment at time of sale.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Cost of Medical Equipment. Amend RSA 151 by inserting after section 12-b the
2 following new section:

3 151:12-c Cost of Medical Equipment. Any provider of medical equipment shall disclose to the
4 consumer, in writing, the total charge of the medical equipment at the time of sale. The cost quoted
5 to the consumer shall be the total cost before any payment by a third party. In addition to other
6 appropriate remedies, any violation of the provisions of this chapter shall constitute an unfair or
7 deceptive act or practice within the meaning of RSA 358-A. Any right, remedy, or power set forth in
8 RSA 358-A may be used to enforce the provisions of this section.

9 2 Effective Date. This act shall take effect January 1, 2014.

HB 329-FN - FISCAL NOTE

AN ACT requiring purchasers of medical equipment to be notified of the actual cost of such equipment at time of sale.

FISCAL IMPACT:

The Judicial Branch, the Department of Justice, and the New Hampshire Association of Counties, state this bill, **as introduced**, will increase state revenue, and state and county expenditures by indeterminable amounts in FY 2014 and in each year thereafter. There will be no fiscal impact on county or local revenue, or local expenditures.

METHODOLOGY:

The Judicial Branch states the proposed bill would enact RSA 151:12-c to require purchasers of medical equipment to be notified of the actual cost of the equipment at the time of sale. The new statutory section would make violations of its provisions an unfair or deceptive act or practice under the Consumer Protection Act. The bill would make violation of its provisions a violation offense if committed by a natural person, and a misdemeanor if committed by any other person. In addition the proposed law allows for the imposition of administrative fines and provides for appeals of these fines to the Supreme Court pursuant to RSA 541. The Branch has no information which to estimate the potential for additional cases of unfair or deceptive acts under the Consumer Protection Act, but indicates Consumer Protection Act claims are often hard-fought and carry with them possible enforcement actions by the attorney general and private actions with a potential of up to treble damages. Regarding the violation and misdemeanor offenses, the branch does not have information on which to estimate the number of additional offenses that will result from this bill. The Judicial Branch does have information on the average cost of processing these cases in the trial court. The cost to the Judicial Branch of an average violation offense in the district division of the circuit court will be \$42.85 in FY 2014 and \$44.36 in FY 2015. For an average class A misdemeanor the cost in the district division of the circuit court will be \$62.71 in FY 2014 and \$64.40 in FY 2015. For a class B misdemeanor the cost will be \$44.32 in FY 2014 and \$45.84 in FY 2015. These amounts do not include the cost of any appeals that may be taken following trial. The Branch states the case cost estimates are based on data that is more than seven years old and does not reflect the changes to the courts over that same period of time or the impact these changes may have on the processing of these types of cases. Finally, the Branch has no information on how many appeals of administrative fines may arise. The Branch states the Supreme Court has discretionary review

of appeals, and cannot predict how many appeals would be accepted for full appellate review, how many would be accepted for more limited review, or how many will be denied.

The Department of Justice states a violation of the provisions in the bill would constitute an unfair or deceptive act under the Consumer Protection Act and could result in state civil or criminal enforcement actions or private rights of action. The Department states the bill could increase the number of investigations and enforcement actions by the Consumer Protection and Antitrust Bureau of the Department of Justice. The Department indicates the Bureau could absorb a small increase in caseload without additional staff, however cannot predict what the increase may be or the potential impact on state expenditures.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties may have increased expenditures. The Association is unable to determine the number of individuals who might be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Judicial Council states this bill would have no fiscal impact in the state general fund expenditures for the provision of counsel to the indigent accused. The Council assumes anyone who fails to disclose to the consumer the total cost of medical equipment would do so in his or her capacity as a business owner or employee of a medical products company and would be indemnified by their insurer or employer. In addition, the Council assumes since these individuals would be gainfully employed, they would probably not qualify for the appointment of counsel at state expense.

The Department of Health and Human Services states this bill would require providers of medical equipment to disclose in writing to the purchasers the total cost of the equipment at the time of sale. The Department states the bill would place no additional duties or obligations on the department and would have no fiscal impact.

The Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient detail to predict the number of individuals who would be subject to this legislation. The Department of Corrections states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2012 was \$35,071. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2012 was \$608.