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ROCKEFELLER CONTINUES FIGHT TO MAKE PRESCRIPTION DRUGS MORE AFFORDABLE

Washington, D.C. – In an effort to fight unfair practices by brand name drug manufacturers, Senator Jay Rockefeller has introduced the *Fair Prescription Drug Competition Act* as an amendment to the *Patent Reform Act of 2011*, which the Senate is debating this week and next. The bill would end the marketing of so-called “authorized generics” during the 180-day period Congress created in 1984 exclusively for true generics to enter the market. Ending this loophole will provide consumers will lower-cost generic versions of common prescription drug medications, saving them money without any impact on care.

“Generic drugs save consumers \$8 – 10 billion today and could do even more to help rein in spiraling health care costs. The six-month marketing window is crucial in allowing generic drug companies to get a foothold in the market – generic drug companies rely on this short period to recoup their costs, protect their rights, and save consumers money,” said Rockefeller.

“Unfortunately, some Republican senators won’t even let this amendment be brought up for a vote, instead protecting the dominant, brand-name companies that shut true generics out of the market and drive up the cost of prescription drugs for people in West Virginia and across the country.”

Background

In 1984, Congress passed the Hatch-Waxman legislation to provide consumers greater access to lower-cost generic drugs. The intent of this law was to improve generic competition, while preserving the ability of brand name manufacturers to discover and market new and innovative products. As part of this law, the first generic company on the market after challenging an expiring brand name patent is granted 180 days of exclusive market rights, which is just a fraction of the up to 20 years of exclusive market rights given to brand companies.

Last month, Rockefeller and Congresswoman Jo Ann Emerson (R- MO) each introduced the bill as standalone legislation in their respective chambers. Rockefeller's legislation was first introduced on July 19, 2006 (S.3695).

On March 2, 2011, Senator Rockefeller spoke about the *Fair Prescription Drug Competition Act* on the U.S. Senate floor. Below are his remarks, as prepared for delivery:

Statement of Senator John D. Rockefeller IV
Fair Prescription Drug Competition Act – Amendment to S. 23, Patent Reform Bill
March 2, 2011

Mr. President, I rise to call up Amendment Number 134 to S. 23.

My amendment is based on legislation I introduced earlier this year, the Fair Prescription Drug Competition Act, along with my colleagues, Senators Shaheen, Leahy, Inouye, Stabenow, and Schumer.

I want to acknowledge that the managers of this bill, Chairman Leahy and Chairman Grassley, have been steadfast partners in pushing the Federal Trade Commission to investigate consumer access to generic drugs.

This amendment eliminates one of the most widely abused loopholes that brand name drug companies use to extend their shelf life and limit consumer access to lower-cost generic drugs.

It ends the marketing of so-called “authorized generic” drugs during the 180-day marketing exclusivity period that Congress designed to give real, low-cost generics a major incentive to enter the market – which they do by challenging a brand-name patent.

An authorized generic drug is a brand name prescription drug produced by the same brand manufacturer, yet repackaged as a generic.

Now, many brand-name drug manufacturers are repackaging their drugs as generics to extend their market shares after their patents expire. Unfortunately, this often chills the incentive for an independent generic firm to enter the market place.

In 1984, Congress passed the Hatch-Waxman Act to provide consumers greater access to lower-cost generic drugs. Under the law, if a real generic firm successfully challenges a brand-name patent, the generic firm is provided a 180-day period for that drug to exclusively enter the market. This is a crucial incentive for generic drug companies to enter the market and make prescription drugs more affordable for consumers.

Every American agrees on the need to reduce health care costs. Generic drugs save consumers an estimated total of \$8 to \$10 billion a year at retail pharmacies. For working families, these savings can make a huge difference, particularly during these difficult economic times.

This amendment would restore to generic drug companies the main incentive they have to challenge a brand-name patent and enter the market.

I urge my colleagues to support this timely and important piece of legislation.

I thank the Chair.

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