



WILLIAM BUSH
STATE REPRESENTATIVE
29TH District

HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

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Insurance & Commerce, Chair
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House Economic Development, Banking, Insurance & Commerce Committee Meeting Minutes

1.23.19

Chair Bush called the meeting to order at 2:32 p.m. Committee members present included Vice Chair Bennett, Reps. Griffith, Dorsey Walker, Q. Johnson, Matthew, Baumbach, Seigfried, Hensley, Ramone, Smith, and Spiegelman. For a list of guests present, please refer to the attendance list below.

Rep. Vanderwende introduced **HB 20: AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO BUILDING AND LOAN ASSOCIATION INSURANCE REGULATION.**

Rep. Vanderwende explained that members of his district, particularly the Building and Loan Association, approached him about increasing the threshold for federal insurance. The Building and Loan Association has had only one family foreclose on their home, and it was 80 years ago. He noted that the last increase to this threshold was in 2005, when it was increased to \$7 million.

Rep. Baumbach thanked Rep. Vanderwende for sponsoring the bill. Rep. Baumbach noted that the Delaware Code has numerical dollar thresholds in many places throughout, but often the code does not keep pace with increasing prices. This bill does a good job at keeping pace with rising prices, and he is glad that he had the opportunity to help.

Rep. Spiegelman asked whether this is the typical pace at which this threshold is increased. Rep. Vanderwende deferred to the State Banking Commissioner, Robert Glen. Commissioner Glen replied that the limit has been raised in the past. In 2005, the threshold was increased from \$5 million to \$7 million, but before that, there was no regular pace at which this threshold was increased. Commissioner Glen further explained that there are two small Building and Loan Associations within Delaware, and they are both uninsured. This is because the cost to insure their deposits and to comply with federal regulations would put them out of business. With this in mind, he said he feels comfortable with raising this threshold.

A motion was made by Representative Baumbach and seconded by Vice Chair Bennett to release HB 20 from committee; motion carried. Yes=12 (Chair Bush, Vice Chair Bennett, Reps. Griffith, Dorsey Walker, Q Johnson, Baumbach, Siegfried, Hensley, Ramone, Smith, Spiegelman, and Matthews), No=0, Absent=1 (Rep. Yearick). HB 20 was reported out with F=0, M=12, U=0 vote.

Chair Bush then asked Rep. Briggs King to introduce **HB 28: AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO AUTO REPAIR FRAUD PREVENTION AND PROHIBITED TRADE PRACTICES.** Rep. Briggs King explained that counterfeit airbags have resulted in the injury and death of drivers after accidents. Additionally, the installation of counterfeit airbags can void user warranties. This bill would make it illegal to knowingly purchase and install counterfeit airbags in the State of Delaware. Counterfeit airbags can be installed by being ordered online

after a car accident for example. Rep. Briggs King noted that by installing a counterfeit airbag, either knowingly or unknowingly, the car's warranty will be voided.

Rep. Griffith asked how you can identify counterfeit airbags. Rep. Briggs King explained that the legal parts can be identified by markings, which can be referenced with the manufacturer. Illegal parts will either lack any markings or lack real markings.

Rep. Baumbach asked whether this bill would protect the consumer from voiding their warranty if they unknowingly install an illegal part in their vehicle. Rep. Briggs King clarified that, as the bill is currently written, no; the bill only makes the practice of knowingly installing counterfeit parts illegal.

Chair Bush opened a public comment period for the discussion of HB 28. Kim Willson, on behalf of the Alliance of Automobile Manufacturers, voiced her support of the legislation. Craig Orlan from Honda voiced his support for the legislation, as well. He explained that fake airbags have flooded the car parts market and can be found in various cars across the country; several states across the country passed similar legislation in 2018 with bipartisan support. Mr. Mitter from AAA Mid-Atlantic voiced his support for HB 28.

A motion to release was made by Rep. Baumbach and seconded by Vice Chair Bennett; motion carried. Yes=12 (Chair Bush, Vice Chair Bennett, Reps. Griffith, Dorsey Walker, Q Johnson, Baumbach, Seigfried, Hensley, Ramone, Smith, Spiegelman, and Matthews), No=0, Absent=1 (Rep. Yearick). HB 28 was released with F=0, M=12, U=0 vote.

Vice Chair Bennett introduced **HB 24: AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO COPAYMENT OR COINSURANCE FOR PRESCRIPTION DRUGS.**

Vice Chair Bennett explained that "clawback" is a practice that allows drug companies to keep the difference between the patient's co-payment and the drug cost to the company. In 2013, the patient's copay exceeded the cost of the drug in more than 25 percent of prescribed pharmaceutical drugs; that year, patient overpayment totaled \$135 million. Legislation would help manage drug costs.

Rep. Seigfried said that he supports the bill as written but asked how can the State verify that clawbacks occur, due to a lack of transparency. He further explained that a lack of transparency can prevent this bill from functioning effectively, and noted that the transparency of the process should be considered.

Chair Bush then asked for public comment on HB 24. Peggy Schultz, from the Delaware Chapter of the League of Women Voters, voiced support for the bill and noted that it is beneficial to both patients, as well as independent pharmacies.

Vice Chair Bennett noted the definition of "retail price" will be changed to "contracted price" in a future amendment to the bill.

Chair Bush returned to public comments. Chris DiPietro, from Epic Pharmacies, explained that using the contract cost of a drug would be beneficial to patients, because they would pay a lower price. He voiced support for Vice Chair Bennett's proposed amendment, saying that pharmacies would rather that the consumers receive the clawback money. Mr. DiPietro retorted to Rep. Seigfried's point that pharmacies are immediately able to see the purchase cost of the drug. By charging the contracted price, as per the proposed amendment, the dollar value of the clawback will be decreased.

Becky Byrd, from the Byrd Group and speaking on behalf of Express Scripts Holding Company, voiced support for the bill. She agreed with Vice Chair Bennett and Mr. DiPietro that the definition of "retail price" needs to be changed in an amendment. She explained that she desired a definition that allows all

consumers to be able to see the discounts that are available to them when purchasing drugs from a pharmacy. She expressed her willingness to continue to work on future amendments to this bill.

Drew Wilson, of the Medical Society of Delaware, supports the bill as a common-sense way to control increasing drug prices.

Kevin Musto, from the Delaware Pharmacists Society, voiced support for HB 24. He explained that clawbacks had an adverse effect on the profit of pharmacies. Vice Chair Bennett asked Mr. Musto to speak on the transparency process from a pharmacy's perspective. Mr. Musto explained that while all pricing calculations occur in real time, there is a lag in reimbursement from the insurance companies. Ideally, pharmacies would be reimbursed at the point of sale of a commodity that better reflects the cost of the commodity.

Rep. Seigfried asked whether, once this bill is enacted, pharmacies will be reimbursed in a manner that better meets the cost of drug. Mr. Musto replied that Pharmaceutical Benefit Managers do not adjust the reimbursement rate for pharmacies. Still, he believes that greater transparency is needed.

A motion to release was made by Rep. Baumbach and was seconded by Rep. Hensley; motion carried. Yes=12 (Chair Bush, Vice Chair Bennett, Reps. Griffith, Dorsey Walker, Q Johnson, Baumbach, Siegfried, Hensley, Ramone, Smith, Spiegelman, and Matthews), No=0, Absent=1 (Rep. Yearick). HB 24 was released with F=3, M=9, U=0 vote.

Chair Bush adjourned the meeting at 3:00 p.m.

Respectfully submitted by:

Nicholas Konzelman

Attendance List:

1. Jeanne Chiquoine (American Cancer Society)
2. Peggy Schultz (League of Women Voters, Delaware Chapter)
3. Lizzie L Zubaca (Hamilton Goodman Partners, LLC)
4. Chris DiPietro (Epic Pharmacies)
5. James Dechene (Delaware State Chamber of Commerce)
6. Kim Willson (Rugerrio Willson Associates)
7. Craig Orlan (Honda, North America)
8. J. Mitter (AAA Mid-Atlantic)
9. Rebecca Byrd (The Byrd Group)
10. Drew Wilson (Medical Society of Delaware)
11. Kevin Musto (Delaware Pharmacists Society)