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## Seeking Cheaper Alternatives to Prescription Drugs North of the Border

For the past year, the Department of Homeland Security has been seizing prescription drugs shipped from Canada.<sup>48</sup> Many of the prescription drugs were bound for delivery to elderly individuals who ordered them from cheaper Canadian providers.<sup>49</sup> While it has been illegal for American consumers to import prescription drugs into the United States for years, U.S. Customs ignored the shipment of small amounts of prescription drugs for personal use.<sup>50</sup> In the last year or two, however, many drug companies began complaining about the large increase in Canadian imports and, as a result, U.S. border authorities began aggressively seizing the drugs under anti-terrorism laws.<sup>51</sup>

Recently, Congress inserted a provision into the Homeland Security appropriations bill providing that individuals will be allowed to re-enter the United States from Canada with a maximum of a 90-day supply of prescription drugs.<sup>52</sup> The legislation would only apply to individuals entering the country while in possession of the prescription drugs and would not apply to prescription drugs being sent through the mail.<sup>53</sup> However, federal officials have publicly stated that they will stop seizing prescription drugs that are sent through the mail from Canada to the United States.<sup>54</sup>

This change in policy is likely good news for the consumers of prescription drugs including the elderly who have been facing steep U.S. drug prices.<sup>55</sup> A report released by the AARP in 2005

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<sup>48</sup> Hood, James, *Feds Give Up on Canadian Drug Crackdown*, Consumer Affairs, October 5, 2006, [http://www.consumeraffairs.com/news04/2006/10/drugs\\_canada.html](http://www.consumeraffairs.com/news04/2006/10/drugs_canada.html).

<sup>49</sup> Conroy, Bill, *Homeland Security Seizing Medications From Elderly*, former Customs Official Reports, Infowars.com, February 7, 2006, [http://www.infowars.com/articles/police\\_state/homeland\\_security\\_seizing\\_medi.html](http://www.infowars.com/articles/police_state/homeland_security_seizing_medi.html).

<sup>50</sup> Hood, *supra* note 53.

<sup>51</sup> *U.S. House Reaches Agreement On Canadian Drugs*, CBC News, September 22, 2006, <http://www.cbc.ca/world/story/2006/09/21/canada-drugs.html?email>.

<sup>52</sup> Hood, *supra* note 53.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *AARP: Drug Prices Still Rising*, Consumer Affairs, November 2, 2005,

stated the prices for brand name prescription drugs are rising at an average rate that is much greater than inflation.<sup>56</sup> In the past few years, the increase in the cost of prescription drugs in the U.S. has caused many consumers to look towards Canada in order to find a cheaper alternative.<sup>57</sup> For example, in 2003, approximately \$695 million in prescription drugs crossed the U.S.-Canadian border headed to U.S. consumers.<sup>58</sup> Furthermore, twelve million drug prescriptions were sold from Canadian pharmacies to the U.S.<sup>59</sup>

Prescription drugs cost Canadians approximately 62 percent less than Americans.<sup>60</sup> The low prices charged for Canadian prescription drugs can be partly attributed to the fact that a Canadian government review board puts a limit on the amount drug manufacturers can charge.<sup>61</sup> Furthermore, the Canadian government purchases one-third of the prescription drugs sold in Canada and distributes them to elderly Canadian citizens.<sup>62</sup> However, some experts state that allowing shipments of prescription drugs to come into the United States via Canada would not necessarily mean large savings for U.S. consumers.<sup>63</sup> A 2004 study conducted by the Congressional Budget Office found that “allowing drug imports from a broad set of countries would cut drug spending by \$40 billion over 10 years, or by about 1%. Limiting it to Canada would produce a ‘negligible reduction’ in drug spending, it found.”<sup>64</sup>

Many U.S. consumers who choose not to ship or transfer medication from Canada are seeking cheaper alternatives such as ge-

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[http://www.consumeraffairs.com/news04/2005/aarp\\_drug\\_prices.html](http://www.consumeraffairs.com/news04/2005/aarp_drug_prices.html).

<sup>56</sup> *Id.* (noting that the sharpest price increases were for the drug Atrovent, which rose at 18.6 percent, and Ambien, which climbed 14.4 percent for the first six months of 2005. Among the best sellers, Procter and Gamble’s Actonel rose 7.5 percent, Lilly’s Evista jumped 6.2 percent and AstraZeneca’s Toprol XL increased 6 percent).

<sup>57</sup> *Importing Prescription Drugs—The Fair and Safe Alternative*, AFL-CIO, <http://www.aflcio.org/issues/healthcare/medicare/import.cfm>.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Importing Prescription Drugs—The Fair and Safe Alternative*, *supra* note 64.

<sup>63</sup> *New Push to Allow Imported Drugs Expected in Congress*, USA Today, November 23, 2006, [http://www.usatoday.com/news/health/2006-11-23-imported-prescriptions\\_x.htm](http://www.usatoday.com/news/health/2006-11-23-imported-prescriptions_x.htm).

<sup>64</sup> *Id.*

neric forms of medication. Generic forms of medication often cost consumers between 30 and 60 percent less than brand-name products.<sup>65</sup> Recently, Wal-Mart began expanding its distribution of generic drugs through its pharmacies nationwide.<sup>66</sup> Generic drugs are now available in 3,009 Wal-Mart pharmacies in 38 U.S. states.<sup>67</sup>

The recent influx of cheaper Canadian prescription drugs and the wide availability of generic drugs have led some U.S. pharmacies to drop their prices.<sup>68</sup> One Florida pharmacy has said that it will sell prescription drugs at a price 5 percent lower than that of Wal-Mart and Target.<sup>69</sup> Also, the pharmacy claims that it will sell the same generic drugs that Wal-Mart and Target are selling for \$4.00 to consumers for only \$3.79.<sup>70</sup>

Whether the Florida pharmacy will start a trend of U.S. pharmacies offering cheaper prescription drugs within the United States or whether U.S. consumers will have to continue to ship prescription drugs from Canada is a question that remains to be answered. In any event, the recent leadership changes in Congress should lead to renewed talks concerning the imports of prescription drugs from Canada and other foreign countries offering less expensive alternatives to consumers.<sup>71</sup>

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<sup>65</sup> *Wal-Mart Expands Generic Drug Plan*, Consumer Affairs, November 16, 2006, [http://www.consumeraffairs.com/news04/2006/11/walmart\\_rx\\_spreads.html](http://www.consumeraffairs.com/news04/2006/11/walmart_rx_spreads.html).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Florida Pharmacy Offers Generics Online for \$3.79*, Consumer Affairs, November 3, 2006, <http://www.consumeraffairs.com/news04/2006/11/myfloridarx.html>.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> Bridges, Andrew, *Congress Seen Pushing For Imported Drugs*, Newsvine, November 23, 2006, [http://www.newsvine.com/\\_news/2006/11/23/454833-congress-seen-pushing-for-imported-drugs](http://www.newsvine.com/_news/2006/11/23/454833-congress-seen-pushing-for-imported-drugs).

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