

1992

Recent Legislative Activity

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Generic Drug Fraud

The federal **Generic-Drug Fraud Act of 1992** was recently signed into law. The Act provides that companies or individuals that are found to have defrauded the Federal Drug Agency may be barred from dealings with the agency for up to ten years. Violators of the generic approval process are subject to a series of civil penalties.

The Act requires that the Secretary of Health and Human Services forbid any corporation convicted of a felony related to the generic drug approval process from participating in any agency procedures for at least one, and up to ten years. A second felony conviction would result in a corporation or individual being permanently barred.

Individuals who had been convicted of any felony concerning the development or approval of a generic drug would never be permitted to take part in the development or approval process on behalf of any other individual or corporation. **P.L. 102-282**

Alcohol Awareness

The Senate is considering the **Alcoholic Beverage Act of 1991**, which would require all print and broadcast media advertisements of alcohol to include health warnings. The new bill is an attempt to educate consumers of the harmful effects of alcohol consumption, especially those under the legal drinking age. Under the bill, a print advertisement must include a warning located in a prominent and conspicuous place and must also contrast with the ad in typography, layout and color. A television or radio advertisement must include a statement read in an audible and deliberate manner and in a length of time that allows for a clear understanding of the message. In addition, television ads will be required to carry a visual warning to be read by the viewer.

Currently, warnings are only included on the products themselves and not in the advertisements.

The new bill will also require the Secretary of Health and Human Services to be responsible for establishing and maintaining a toll free number for assistance referred to in some of the warnings. **1991 H.R. 1443.**

Radon Awareness

The House of Representatives has proposed the **Radon Awareness & Disclosure Act of 1991** in an attempt to control excessive radon exposure by improving the accuracy of radon testing products and increasing public awareness of radon. The Act would require the Environmental Protection Agency ("EPA") to establish a program to set up minimum performance criteria for devices that test radon levels and to set up proficiency requirements for radon testing technicians. The Act would also establish the President's Commission on Radon Awareness to examine existing public awareness programs concerning radon and work on strategies to raise awareness.

Additionally, the Act would require radon testing in public schools. Local agencies would be responsible for school testing and the results would be available to the public. **H.R. 3258, 102d Cong., 1st Sess. (1991).**

Insurance Regulation

The Senate recently introduced the **Insurance Protection Act of 1991** which would establish the Insurance Regulatory Commission ("Commission"). Under the Act, the Commission would collect insurance data, including periodic statements and legal actions against insurers, and refer possible illegal matters to the Department of Justice for action. Aside from regulatory duties, the Commission would set mandatory reserves for

life insurers and establish minimum standards for banks that issue letters of credit for reinsurance.

The Act would also establish the National Insurance Guaranty, a nonprofit corporation, that would provide for the payment of covered claims and provide a uniform system for the liquidation of insolvent member insurers. The Act, however, would relieve members of liability under any state law regarding insolvency. **S. 1644, 102d Cong., 1st Sess. (1991).**

Health Insurance Reform

In July, New York passed a health insurance law that prevents profit making insurance companies from discriminating on the

ANNOUNCEMENT

The *Loyola Consumer Law Reporter* is currently accepting lead articles and feature columns for publication in upcoming issues. The *Reporter* publishes articles by practitioners, scholars and consumer experts that explore in depth legal developments affecting consumers. Upcoming articles will address insurance issues for CERCLA claims and steps consumers can take to avoid environmental liability when purchasing real estate.

If you are interested in submitting an article to the *Reporter* please contact the Chief Lead Articles Editor, *Loyola Consumer Law Reporter*, Loyola University Chicago School of Law, One East Pearson Street, Chicago, Illinois 60611, (312) 915-7181.

basis of risk when they offer health insurance. The law requires that for profit insurance companies offer the same rate as other health insurance companies in a particular region. These rates must first be approved by the state.

The legislation was in part a response to a proposed forty-two percent increase in rates by Blue Cross, Blue Shield, a not for profit insurance provider. Insurance companies opposed the legislation and said that the law would unduly burden younger persons. 1992 N.Y. ALS 501, N.Y.N.W. 12350.

Taking "Burglar" Out of Burglar Alarm

Wisconsin has passed legislation which prevents burglar alarm installation companies from hiring unpardoned felons and/or allowing them access to individual burglar

FTC Issues New Guidelines For Marketing "Green" Goods

In July, the Federal Trade Commission ("FTC") announced new voluntary guidelines for the use of terms such as "recyclable" and "biodegradable" in the marketing of consumer goods. Previously, environmental claims in advertising were only regulated on a state-by-state basis.

As FTC chair Janet Steiger explains, "Our goal is to protect consumers and to bolster their confidence in environmental claims and to reduce manufacturers' uncertainty about which claims might lead to FTC law enforcement action."

Most advertisers and industry officials praise the new guidelines for providing clear, uniform direction to advertisers. Some predict that a new flurry of environmental advertising will follow these new guidelines now that advertisers know just what claims they may make.

alarm records. The new law allows businesses engaged in the installation of burglar alarms to require the Department of Justice to check the criminal history of any job applicant.

The legislation amends a current state statute and protects employers from employment discrimination suits. Violation of this Act carries a fine of up to \$1,000. 1991 WI A.B. 65.

Tougher Drunk Driving Laws

Illinois is currently considering legislation which would tighten drunk driving laws. The proposed bill would lower the blood alcohol level needed to be guilty of drunk driving. Additionally, the bill would make it illegal for a person who is intoxicated to transport a person age 16 or under. The bill will also lengthen the time a DUI (Driving under the Influence) offender may be eligible for supervision and require the offender to complete community service under certain circumstances.

Under the bill, the blood alcohol level needed for DUI will be lowered from 0.10 to 0.08. The American Medical Association and the National Highway Traffic Safety Board have proven that people are drunk at a 0.08 level; a 160-pound person would have to drink four to five drinks an hour to achieve this new level.

Additionally, the new bill makes it a crime to drive under the influence of alcohol with a person age 16 or under. According to a study by MADD (Mothers against Drunk Driving), 19 percent of children under age 16 killed in 1989 were passengers in vehicles driven by drunk drivers.

The new bill will impose a minimum \$500 fine and five days of community service for a first offense. The bill will also increase the length of time in which a person convicted of DUI may be eligible for supervision from 5 years to 10 years. Additionally, a minimum of 30 days community service will be required for DUI offenders. 1992 IL S.B. 2168.

Employers Are Asking Illegal Questions

Questions about an employee's private life are being asked by employers, a survey by the National Consumers League indicates. Although such questions are illegal, and employees consider them intrusive, employers continue to inquire into the private lives of individuals.

Typical questions focus on marital status and family situations. Half of the survey respondents said that they or someone they knew had been asked about marital status, and six percent had been asked whether they lived with a boyfriend or girlfriend.

While eighty percent of respondents felt that employers had no right to ask if they plan on having children, fourteen percent reported that they, or someone they knew, had been asked such a question.

For more information on the survey results, contact the National Consumers League, 815 15th Street, N.W., Suite 928, Washington, D.C. 20005; (202) 639-8140. Source: Individual Employment Rights, BNA Labor Relations Reporter, Vol. 7, No. 18.

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