

# This is your Albany on drugs: New legislation would hike cost of mail-order meds

[Bill Hammond](#)

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The latest prescription drug scheme from the State Legislature will mean higher prices for New Yorkers.

Whenever state lawmakers mess around with the rules for health insurance, New Yorkers should hang on to their wallets.

The latest scheme out of the Legislature - meant to squash the growing use of mail-order pharmacies - is no exception. This proposed law does nothing to improve the quality or quantity of the drugs that people will get.

But - like most of [Albany's](#) ill-conceived mandates - it will mean higher prices.

Directly, the law actually bans discounts for customers who buy medications via mail order.

Indirectly, the mandate is almost certain to drive up premiums for businesses that are already struggling to afford coverage for their employees.

The result could easily be more people who lack any drug coverage at all.

Yet this legislation - co-sponsored by [Bronx](#) Assemblyman Carl Heastie and [Buffalo](#)-area [Sen. George Maziarz](#) - whizzed through the Legislature with just four "no" votes.

Which leaves [Gov. Cuomo](#) and his veto pen as the last line of defense for beleaguered consumers.

More and more health plans are pushing their customers to use mail-order pharmacies for reasons that will be obvious to anyone who shops online: It's cheaper.

The mail-order medication dealers handle huge volumes, which means economies of scale and special discounts from manufacturers. They're highly automated and centralized. And they

operate with none of the overhead that goes along with operating millions of storefronts.

Some plans induce customers to use mail order by offering them discounts on co-payments - typically, three months worth of meds for two months of fees, a 33% savings. Others go so far as to require mail order for drugs used to treat long-term or chronic conditions such as asthma, high blood pressure or diabetes.

In all cases, patients can still go to the local pharmacy to fill short-term scrips for antibiotics, painkillers and the like.

On the menu of options for controlling [America's](#) health care costs, this is about as pain-free as it gets. It's not about nickel-and-diming patients with higher out-of-pockets. It's not about denying them high-cost treatment. To the contrary, it's about delivering the meds they need right to their doorstep.

If we can't live with the minor hassle of refilling prescriptions a couple of weeks earlier, we have no chance of ever imposing fiscal sanity on our health care system.

To be sure, it wasn't average New Yorkers who raised the fuss in Albany. It was local pharmacists, because mail-order companies are taking a bite out of their business that's been estimated at 24% and growing.

No doubt, this shift will be hard on storefront pharmacists, especially the mom-and-pop operators who already face stiff competition from the big chains. But state government should not be in the business of rescuing them any more than it should try to protect small bookstores from [Amazon.com](#).

The Heastie-Maziarz bill would do just that by forbidding plans from requiring mandatory mail order or offering special discounts. Further, they would have to do business with any pharmacy that accepts a price "comparable" to what they pay their mail-order providers. It doesn't take a genius to recognize that a "comparable" price, in this context, will invariably be a higher price.

This is one Albany fight I have personal experience with, since the health plan I have through the Daily News requires me to buy certain medications through mail order.

But the law doesn't affect me or the millions of other New Yorkers, mostly in large firms, who are self-insured and therefore exempt from state regulation under federal law.

The bill also has nothing to say about the millions who get health care through government-run [Medicaid](#), [Medicare](#) and workers' compensation programs.

The bill even carves out health plans that are operated or negotiated by labor unions - so their members, including state and local government workers, will keep getting the advantage of mail-order savings.

So who does the law affect? Mostly small businesses. The ones having the hardest time affording health insurance. The ones most likely to drop it if premiums go much higher.

So thousands of businesses and their employees must suffer so that retail pharmacies can get a leg up on their lower-cost competition.

Governor, ready your veto pen.

*[Bill Hammond](#)'s column appears every Tuesday in the [New York Daily News](#). Hammond, an Albany-based editorial writer and columnist at the Daily News, has covered shenanigans at the state Capitol since 1998. He joined The News in 2005 after stints at the [New York Sun](#), the Daily Gazette of [Schenectady](#) and the Post-Star of [Glens Falls](#). He lives in [Saratoga Springs](#).*

Read more: <http://www.nydailynews.com/opinions/2011/07/26/2011-07-26-this-is-your-albany-on-drugs-new-legislation-would-hike-cost-of-mailorder-meds.html#ixzz1TDB6G7Yd>

## Mail pharmacy bill will hurt consumers

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I urge Gov. Andrew Cuomo to veto the "Anti-Mandatory Mail Order Pharmacy Bill" (A5502-B). It represents the latest effort by a small group of businesses to shield themselves from online competition. In the end, the legislation will raise health care costs for employers and consumers and undermine consumer choice.

The National Community Pharmacists Association has convinced state lawmakers that the legislation would merely ensure that consumers could fill prescriptions at any retail pharmacy and benefit from one-on-one interaction with their pharmacists.

What NCPA has not addressed, however, is the bill's likely effects on prices -- higher drug costs, higher insurance premiums and co-pays and lower deductibles -- which would result from undermining price-cutting arrangements that insurers now commonly negotiate with online pharmacies.

What's more, the bill will not prevent job losses. If anything, it could stifle economic development efforts by raising costs for employers in the state who provide health coverage for their employees.

Online retailing, with its centralized warehousing, service, efficiency and convenience, has many advantages over bricks-and-mortar retailing.

Consumers should be able to enjoy these advantages and have access to the lowest prices.

This bill provides none of these advantages for consumers but merely a measure of protection for retail pharmacists from competition.

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Read more: <http://www.timesunion.com/opinion/article/Mail-pharmacy-bill-will-hurt-consumers-2175291.php#ixzz1frqV3Fcr>

# The New York Times

Editorial

September 23, 2011

## Mom-and-Pop Pharmacy Bill

Legislation approved by both houses of the New York State Legislature purports to be a benefit to consumers but looks more like a favor to retail drug lobbyists that could actually drive up costs for consumers. Gov. Andrew Cuomo would be wise to veto it.

The bill would require health insurers, with some exceptions, to allow patients receiving maintenance prescriptions for chronic conditions, like diabetes or high cholesterol, to buy their drugs at a retail pharmacy with the same incentives they receive when they buy from mail-order pharmacies. It would ban mandatory mail-order programs and the use of special incentives, like lower co-payments, to entice patients to use mail-order prescriptions.

The bill's sponsors say they want to give consumers the option to fill prescriptions at their trusted neighborhood drugstore, rather than being forced to use mail-order services. But mail-order pharmacies can offer consumers and health plans cheaper drugs because they typically get volume discounts from drug makers and wholesalers for both brand-name and generic drugs. If fewer consumers use mail order, those operations will have less bargaining power with their suppliers. Similar laws in Maryland were found to have raised costs for consumers and health plans. The staff of the Federal Trade Commission [recently warned](#) that New York's bill was likely to raise the prices consumers pay for prescription drugs bought through their health plans.

The bill also has confusing language requiring that retail pharmacies be paid a price "comparable" to what the health plans pay mail-order pharmacies, but those payments are trade secrets so it is not clear how this would be determined or who would define "comparable."

Mail order is not always cheaper than retail, so health plans need to be vigilant about getting the best deals. But there is no good reason for the state to intervene on behalf of neighborhood pharmacists.

<http://www.nytimes.com/2011/09/23/opinion/mom-and-pop-pharmacy-bill.html>

# Editorial: Rx drug bill is a flawed remedy

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A drug war is happening right under our noses, a battle between mail-order pharmacies and the bricks-and-mortar kind. And we consumers could become the casualties, paying more for prescriptions.

Only Gov. Andrew M. [Cuomo](#) can stop this, by vetoing a bad bill or changing it to something less smelly.

The war started with a bill instigated by local pharmacies, who feel the hot breath of competition from the mail-order houses that many health plans encourage -- and in some cases require -- people to use. The mail-order drugs are usually cheaper, not only for the consumer, but for the health insurance plans. But community pharmacies argue that this is hurting them.

The bill they put forward passed both houses of the State Legislature months ago, but just arrived in the governor's office this week. If it becomes law, health plans regulated by the state would not be able to use incentives, like lower co-pays, to encourage the use of mail-order houses.

Opponents of this change argue that the bill would reduce the numbers of people using the mail-order services, which would make them weaker in bargaining with drug companies for lower prices. The [Federal Trade Commission](#) predicted: "By reducing competition between pharmacies, this legislation likely will raise prices for, and reduce access to, prescription drugs."

The critics have been hoping to get Cuomo to veto it, but with the huge majorities the bill enjoyed in both houses, a veto might well be overridden. Cuomo is reported to be willing to sign the bill, provided both houses pledge to pass amending legislation to correct its most vague and anti-competitive language.

As written, the bill says health plans must let members choose equally between the bricks-and-mortar pharmacies and mail-order houses, as long as the local store offers the drugs at "comparable" prices. That's way too vague. The amending legislation needs to clear that up and make sure the bill neither inhibits competition nor narrows consumer choices to buy drugs from the cheapest source.

In any case, government should not take sides and pick winners in a legitimate private-sector competition, as this bill would. Without the change, Cuomo should veto this anti-consumer, anti-competition legislation.

# Rx By Mail: Cuomo should veto bill that would raise cost of prescriptions

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By **The Post-Standard Editorial Board**

Gov. Andrew Cuomo should send legislators back to the drawing board and veto a bill on his desk, Assembly Bill 5502-B, that would stop health insurers in New York state from requiring patients to order their long-term prescriptions by mail.

The bill would let consumers fill their prescriptions either by mail or at a retail pharmacy, as long as the price at the retail pharmacy is “comparable” to the mail-order pharmacy’s price.

Its sponsors say it will provide freedom of choice to consumers. But that choice will come at a price.

Opponents of the bill say prescription drug costs in New York will rise by 10 percent if it becomes law. That’s because middlemen who handle the mail-order prescription business — multi-billion-dollar pharmacy benefit managers such as Express Scripts Inc. and Medco Health Solutions Inc. — use their considerable buying power to negotiate cheaper prices for many prescription medications.

Mail-order pharmacy prices for brand-name drugs are, on average, 27 percent lower than retail pharmacy prices, while mail-order prices for generics are 53 percent less, an Express Scripts spokesman told staff writer James T. Mulder earlier this year. If health plans are forced to pay more for prescriptions, premiums for everybody will rise. That’s not how you contain health care costs.

Neither do you contain health care costs by unduly interfering with the competitive marketplace. If PBMs are able to deliver cost savings to insurers and patients through their clout and economies of scale, the state should not get in the way.

Retail pharmacies have some legitimate concerns about having to compete with PBMs. The mail-order houses offer patients counseling by phone, but many people prefer to talk face-to-face with a pharmacist. That cost is borne by the retail pharmacy, not the PBMs. Pharmacists also say PBMs charge more for some generics, and that they may have less incentive to dispense them. Last month, for example, Medco moved to block prescriptions for the generic version of the cholesterol medication Lipitor, the best-selling drug of all time, in exchange for discounts from its manufacturer, The New York Times reported. The bill doesn’t address the availability or pricing of generics.

The Federal Trade Commission opposes the bill on the grounds it will raise costs and curtail prescription drug coverage. That’s reason enough to hit the reset button and start over.