

# Battle Lines Drawn on Rx Imports

*By Patricia Barry and Barbara Basler*  
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Sensitive to a popular cause that has gained enormous momentum over the past six months, Congress is now closer to making it legal and safer for Americans to buy lower-cost prescription drugs from abroad—though what form that action will take is far from certain.

Previous attempts to legalize drug importation, including one signed into law in 2000, have all foundered on the "safety issue"—the fear that it would open the floodgates to counterfeit and otherwise harmful medications. President Bush, the pharmaceutical industry and the Food and Drug Administration (FDA), the agency responsible for drug safety, all cite safety in opposing legalization.

Two key bills now before the Senate directly address safety. Nonetheless, experts predict a battle over which one, if either, will pass.

The Republican leadership, not in favor of importation to begin with, is expected to lean toward a bill sponsored by Judd Gregg, R-N.H., chairman of the Senate Health, Education, Labor and Pensions Committee.

AARP has thrown its weight behind a bipartisan bill cosponsored by Byron Dorgan, D-N.D., and Olympia Snowe, R-Maine. The group's decision to back the bill "clearly shows the nation is at boiling point in wanting [a law] that will actually drive down the cost of medicines," said Dorgan, who hopes it will also help his bill win passage.

Both bills would allow individual Americans and licensed U.S. pharmacies and wholesalers to import FDA-approved drugs, first from Canada and later from other Western countries. Within 90 days of becoming law under Dorgan-Snowe, or one year under Gregg, consumers could call a toll-free number or go online for a list of registered Canadian pharmacies where they could safely fill prescriptions.

## **DRUGMAKERS READY TO FIGHT**

Both bills contain effective safety measures, including anti-counterfeit technology on mailed drug packages, says John Rother, AARP's director of policy. But a key difference is that the Dorgan-Snowe proposal, unlike Gregg's, would prohibit drug companies from cutting off supplies to foreign pharmacies that sell to Americans and impose heavy penalties on violators.

"Making importation legal and safe will have no effect whatsoever," Rother says, "if the pharmaceutical industry can choke off supplies from abroad."

The industry, which lobbied heavily against an importation bill that passed the House of Representatives by a large majority last year, will fight both measures.

"We are adamantly opposed to any importation bill," says Jeff Trehwhitt, a spokesman for the Pharmaceutical Research and Manufacturers of America trade group. As for Dorgan-Snowe, he adds, "We are actively working against it."

That bill doesn't please the FDA either. "Clearly these legislators have made a sincere effort to deal with our safety concerns, but it would be very difficult to implement and cost huge amounts of money," says FDA Associate Commissioner William Hubbard. Inspecting thousands of pharmacies at home and abroad, he says, "would cost us hundreds of thousands of dollars." Both bills would require the pharmacies that export from Canada and other approved countries or import into America to pay user fees to cover inspection costs.

Canadian mail-order pharmacies that sell drugs to Americans generally favor Dorgan-Snowe, because it would stop drug companies from blacklisting them, as several are now doing.

With 2 million U.S. customers already, the pharmacies are currently facing a crisis of reduced supplies, while receiving a surge of demand from Americans looking for lower prices than the Medicare discount cards offer.

### **SWAMPING THE MARKET?**

They worry, too, that allowing large American pharmacy chains and wholesalers to import drugs in huge quantities could swamp the Canadian market and even prompt the Canadian government, which controls drug prices through its health system, to close down the cross-border trade. Plus, "there'd be more middlemen in the process, all taking some profit, which is going to reduce customers' price savings," says David MacKay, executive director of the Canadian International Pharmacy Association.

"As important as this legislation is, it's only a part of the whole solution to high drug prices," Rother says. "Eventually Americans must solve the problem in our country, for ourselves."

Any bills involving prescription drugs are always politically contentious and difficult to pass. But these two come at a potent time when a grassroots revolt by individual Americans, cities and states against soaring drug costs is compelling Congress to take heed, especially in an election year.

To many Americans, importation "seems like a simple solution with a clear logic—if Canadians can buy this product for \$40, why do we have to pay \$100?" says Robert D. Reischauer, president of the Urban Institute. That, together with widespread criticism that Congress did little to curb drug prices in passing the Medicare drug benefit last year, he says, will make lawmakers of both parties "want to go home and run for re-election saying they've done something."