

IN THE SUPREME COURT OF OHIO

**The Ohio Manufacturers' Association, et al.,** :  
 :  
*Relators,* : Case No. 2016-0313  
 :  
 :  
 v. : **Original Action under Article II,**  
 : **Section 1g of the Ohio Constitution**  
**Ohioans for Drug Price Relief Act, et al.,** :  
 :  
*Respondents.* :

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OHIO SECRETARY OF STATE'S NOTICE  
OF TRANSMISSION OF THE PROPOSED INITIATIVE

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Ohio Secretary of State Jon Husted*

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Ohio Secretary of State Jon Husted (the "Secretary") respectfully submits an update to the Court related to the Proposed Initiative.

In the Court's August 15, 2016 Decision and Order, the Court ruled:

Pursuant to Article II, Section 1g of the Ohio Constitution, the committee has until Thursday, August 25, 2016 (ten days from the date of this order), to submit a sufficient number of valid signatures to the secretary of state. If the secretary of state certifies enough valid signatures, then he shall resubmit the initiative to the General Assembly, in accordance with the terms of Ohio Constitution, Article II, Section 1b.

*Ohio Mfrs. Assn. v. Ohioans for Drug Price Relief Act*, Slip Opinion No. 2016-Ohio-5377, ¶ 47.

On August 25, 2016, consistent with the above directions, the Petition Committee submitted additional signatures to the Office of the Secretary to remedy their 5,044 signature deficiency. On September 2, 2016, the boards of elections completed review of the supplemental signatures and certified to the Secretary a total of 12,476 valid signatures. Affidavit of Carrie Kuruc, Ex. A, ¶ 4. The Secretary, in turn, today verified 12,476 valid signatures. *Id.* Accordingly, petitioners have submitted a sufficient number of valid signatures and the Secretary

has certified enough valid signatures to trigger the Court’s order for the Secretary to “resubmit the initiative to the General Assembly.”

As a result, in accordance with the terms of Ohio Constitution, Article II, Section 1b, earlier today the Secretary resubmitted the Proposed Initiative to the General Assembly. Affidavit of Carrie Kuruc, Ex. A, Attachment A (Transmission Letter).

Respectfully submitted,

MICHAEL DEWINE (0009181)  
Ohio Attorney General

*s/ Steven T. Voigt*

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*Counsel for Respondent*

*Ohio Secretary of State Jon Husted*

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served by electronic mail and by first class mail via the U.S. Postal Service on September 6, 2016, upon the following:

Kurtis A. Tunnell  
Anne Marie Sferra  
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Daniel L. Darland, Tracy L. Jones, and  
Latonya Thurman*

*s/ Steven T. Voigt*

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STEVEN T. VOIGT (0092879)  
Principal Assistant Attorney General

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AFFIDAVIT OF CARRIE KURUC

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I, Carrie Kuruc, having been duly cautioned and sworn, hereby attest to the following:

1. The following statements are made based on personal knowledge.
2. I serve as Senior Elections Counsel in the Ohio Secretary of State's office. In this role, I coordinate a staff of Elections Counsel that provides election law support to Ohio's 88 county boards of elections. Boards of elections regularly contact the staff with questions about elections law provisions and processes.
3. I was one of the employees in the office assigned to review the Drug Price Relief Act part-petition certification forms submitted by the boards of elections. These part-petitions were filed with the office on August 25, 2016 pursuant to this Court's decision in *Ohio Mfrs. Assn., et al. v. Ohioans for Drug Price Relief Act, et al.*, Slip Opinion No. 2016-Ohio-5377.
4. The boards of elections have completed review of the supplemental signatures and certified 12,476 signatures. This office will certify 12,476 signatures.
5. This office is transmitting the Proposed Initiative to the General Assembly today, September 6, 2016. A true and exact copy of the transmittal letter is attached as Attachment "A".
6. Further affiant sayeth naught.

Carrie Kuruc  
Carrie Kuruc

Sworn to and subscribed in my presence this 6<sup>th</sup> day of September, 2016.



BRANDI R. LASER SESKES, Attorney At Law  
NOTARY PUBLIC - STATE OF OHIO  
My commission has no expiration date  
Sec. 147.06 R.C.

[Signature]  
Notary Public



**Jon Husted**  
Ohio Secretary of State

180 East Broad Street, 16th Floor  
Columbus, Ohio 43215  
Tel: (877) 767-6446 Fax: (614) 644-0649  
[www.OhioSecretaryofState.gov](http://www.OhioSecretaryofState.gov)

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September 6, 2016

The Honorable Cliff Rosenberger  
Speaker, Ohio House of Representatives  
77 South High St., 14<sup>th</sup> Floor  
Columbus, Ohio 43215

The Honorable Keith Faber  
President, Ohio Senate  
Statehouse, 2<sup>nd</sup> Floor  
Columbus, Ohio 43215

The Honorable Fred Strahorn  
Minority Leader, Ohio House of Representatives  
77 South High St., 14<sup>th</sup> Floor  
Columbus, Ohio 43215

The Honorable Joe Schiavoni  
Minority Leader, Ohio Senate  
Statehouse, 3<sup>rd</sup> Floor  
Columbus, Ohio 43215

Re: Ohio Drug Price Relief Act Proposed Initiated Statute

Dear Speaker Rosenberger, President Faber, and Minority Leaders Strahorn and Schiavoni:

On February 4, 2016, pursuant to Article II, Section 1b of the Ohio Constitution, I transmitted, with reservations, the full text of the Ohio Drug Price Relief Act proposed law to the Ohio General Assembly for its consideration. Litigation that was ongoing at the time of that transmittal continued over the past several months.

On August 15, 2016, the Ohio Supreme Court issued a decision in *Ohio Manufacturers' Association, et al. v. Ohioans for Drug Price Relief Act, et al.*, Slip Opinion No. 2016-Ohio-5377, ultimately holding that the petition contained 86,633 valid signatures, which was 5,044 signatures short of the 91,677 signatures necessary for the issue to be transmitted to the Ohio

General Assembly for its consideration under Article, II, Section 1b of the Ohio Constitution.  
The Court ordered as follows:

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In total, OMA has demonstrated that 10,303 signatures that were counted as valid should not have been counted. The petition therefore contained 86,633 valid signatures, which means that it was short of the 91,677 signatures required by 5,044 signatures.

{¶47} Pursuant to Article II, Section 1g of the Ohio Constitution, the committee has until Thursday, August 25, 2016 (ten days from the date of this order), to submit a sufficient number of valid signatures to the Secretary of State. If the secretary of state certifies enough valid signatures, then he shall resubmit the initiative to the General Assembly, in accordance with the terms of Ohio Constitution, Article II, Section 1b.

On August 25, 2016, the Ohioans for Drug Price Relief petitioners submitted a petition to my office purporting to contain at least 5,044 valid signatures. Today, I certified that the petitioners' submission contained a total of 12,476 valid signatures on behalf of the Initiated Statute, and the Ohio Supreme Court's requirements are thereby satisfied.

In compliance with *Ohio Manufacturers' Association, et al. v. Ohioans for Drug Price Relief Act, et al.*, I am resubmitting the full text of the Ohio Drug Price Relief Act proposed law to the Ohio General Assembly with a total of 99,109 valid signatures.

Sincerely,

  
Jon Husted

Enclosure

cc: Brad Young, House Clerk  
Vince Keeran, Senate Clerk

## FULL TEXT OF LAW



Be it Enacted by the People of the State of Ohio that the following chapter and section are added to Title I of the Revised Code.

### **Chapter 194: Drug Price Relief**

#### **Section 194.01**

##### **(A) Title.**

This Act shall be known as "The Ohio Drug Price Relief Act" (the "Act").

##### **(B) Findings and Declarations.**

The People of the State of Ohio hereby find and declare all of the following:

- (1) Prescription drug costs have been, and continue to be, one of the greatest drivers of rising health care costs in Ohio.
- (2) Nationally, prescription drug spending increased more than 800 percent between 1990 and 2013, making it one of the fastest growing segments of health care.
- (3) Spending on specialty medications, such as those used to treat HIV/AIDS, Hepatitis C, and cancers, are rising faster than other types of medications. In 2014 alone, total spending on specialty medications increased by more than 23 percent.
- (4) The pharmaceutical industry's practice of charging inflated drug prices has resulted in pharmaceutical company profits exceeding those of even the oil and investment banking industries.
- (5) Inflated drug pricing has led to drug companies lavishing excessive pay on their executives.
- (6) Excessively priced drugs continue to be an unnecessary burden on Ohio taxpayers that ultimately results in cuts to health care services and providers for people in need.
- (7) Although Ohio has engaged in efforts to reduce prescription drug costs through rebates, drug manufacturers are still able to charge the State more than other government payers for the same medications, resulting in a dramatic imbalance that must be rectified.
- (8) If Ohio is able to pay the same prices for prescription drugs as the amounts paid by the United States Department of Veterans Affairs, it would result in significant savings to Ohio and its taxpayers. This Act is necessary and appropriate to address these public concerns.

##### **(C) Purposes and Intent.**

The People of the State of Ohio hereby declare the following purposes and intent in enacting this Act:

- (1) To enable the State of Ohio to pay the same prices for prescription drugs as the prices paid by the United States Department of Veterans Affairs, thus rectifying the imbalance among government payers.
- (2) To enable significant cost savings to Ohio and its taxpayers for prescription drugs, thus helping to stem the tide of rising health care costs in Ohio.
- (3) To provide for the Act's proper legal defense should it be adopted and thereafter challenged in court.



**(D) Drug Pricing.**

- (1) Notwithstanding any other provision of law and insofar as may be permissible under federal law, neither the State of Ohio, nor any state department, agency or other state entity, including, but not limited to, the Ohio Department of Aging, the Ohio Department of Health, the Ohio Department of Insurance, the Ohio Department of Jobs and Family Services, and the Ohio Department of Medicaid, shall enter into any agreement with the manufacturer of any drug for the purchase of a prescribed drug or agree to pay, directly or indirectly, for a prescribed drug, unless the net cost of the drug, inclusive of cash discounts, free goods, volume discounts, rebates, or any other discounts or credits, as determined by the purchasing department, agency or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.
- (2) The price ceiling described in subsection (1) above also shall apply to all programs where the State of Ohio or any state department, agency or other state entity is the ultimate payer for the drug, even if it did not purchase the drug directly. This includes, but is not limited to, the Ohio Best Rx Program and the Ohio HIV Drug Assistance Program. In addition to agreements for any cash discounts, free goods, volume discounts, rebates, or any other discounts or credits already in place for these programs, the responsible department, agency or entity shall enter into additional agreements with drug manufacturers for further price reductions so that the net cost of the drug, as determined by the purchasing department, agency or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.
- (3) All state departments, agencies and other state entities that enter into one or more agreements with the manufacturer of any drug for the purchase of prescribed drugs or agreement to pay directly or indirectly for prescribed drugs shall implement this section no later than July 1, 2017.
- (4) Each such department, agency or other state entity, may adopt administrative rules to implement the provisions of this section and may seek any waivers of federal law, rule, or regulation necessary to implement the provisions of this section.
- (5) The General Assembly shall enact any additional laws and the Governor shall take any additional actions required to promptly carry out the provisions of this section.

**(E) Liberal Construction.**

This Act shall be liberally construed to effectuate its purpose.

**(F) Severability.**

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. If this Act and another law are approved by the voters at the same election with one or more conflicting provisions and this Act receives fewer votes, the non-conflicting provisions of this Act shall go into effect.



**(G) Legal Defense.**

If any provision of this Act is challenged in court, it shall be defended by the Attorney General of Ohio. The People of Ohio, by enacting this Act, hereby declare that the committee of individuals responsible for the circulation of the petition proposing this Act ("the Proponents") have a direct and personal stake in defending this Act from constitutional or other challenges. In the event of a challenge, any one or more of the Act's Proponents shall be entitled to assert their direct and personal stake by defending the Act's validity in any court of law, including on appeal. The Proponents shall be indemnified by the State of Ohio for their reasonable attorney's fees and expenses incurred in defending the validity of the challenged Act. In the event that the Act or any of its provisions or parts are held by a court of law, after exhaustion of any appeals, to be unenforceable as being in conflict with other statutory or constitutional provisions, the Proponents shall be jointly and severally liable to pay a civil fine of \$10,000 to the State of Ohio, but shall have no other personal liability to any person or entity.