



December 20, 2022

Hon. Kathy C. Hochul
Governor of the State of New York
New York State Capitol
Albany, NY 12224

Dear Governor Hochul:

As state and national organizations representing a wide range of U.S. taxpayers and consumers, we write today in opposition to S3081B, which seeks to impose penalties and pricing constraints for charging “an unconscionably excessive price” on any drug or medical product that the FDA has identified as being subject to a supply shortage. As you may know, many of these products are generic medicines.

While working families, small businesses, seniors, and especially society’s most vulnerable patients bear the burden of prescription drug costs, a “solution” that targets generic pharmaceutical manufacturers jeopardizes the very industry that is a key to holding down drug prices. New York legislators would be better served promoting policies that encourage drug competition and supply chain security to ensure patient access to lower cost drugs, including those facing shortages.

The statistics overwhelmingly support the role generic drugs play in controlling prescription drug costs. Today, generic drugs represent 90% of all prescriptions filled but are only 18% of prescription drug spending. In fact, 93% of generics have a copay less than \$20. In total, generics saved New York – including patients and critical government programs – \$26.4 billion dollars in 2021.

If S3081B takes effect, many low-cost generic medicines would be disproportionately affected, and the willingness to manufacture more of these life-saving drugs may be threatened. The combined effect of the threat of legal action and civil penalties from the Attorney General

based on vague and undefined language related to price increases could push generic medicines out of an already difficult marketplace. This legislation could worsen drug shortages and further limit consumer choice.

In sum, S3081B is anti-taxpayer, anti-patient, and anti-free market. We believe that it serves as a cautionary tale for other policymakers about how NOT to pursue prescription drug cost reform. Passing and signing S3081B could result in a substantial waste of time and taxpayer resources.

We believe this legislation will raise consumer prices, not lower them, and exacerbate drug shortages by imposing anti-competitive regulations on lower-priced generic drugs at a time when we need more generic drugs on the market. We respectfully ask that you veto this bill.

Respectfully yours,

Steve Pociask
President/CEO
American Consumer Institute

David Williams
President
Taxpayers Protection Alliance

Pete Sepp
President
National Taxpayers Union and NTU Foundation

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