

Washington DC (May 22, 2012)—Today, Rep. Elijah E. Cummings, Ranking Member of the House Committee on Oversight and Government Reform, introduced legislation to reform the process by which so-called “gray market” drug companies buy and sell drugs facing national shortages.

“Nobody should be allowed to engage in profiteering at the expense of children and adults with cancer or other critical illnesses by jacking up the price of drugs that are in critically short supply,” said Cummings. “This bill closes down loopholes in the supply chain and ensures that consumers have more information about who is handling their drugs.”

H.R. 5853, the [Gray Market Drug Reform and Transparency Act of 2012](#), includes several provisions to address weaknesses in the drug supply chain, deter price gouging, and improve drug safety and efficacy:

- **Prohibition on Wholesalers Buying Drugs from Pharmacies.** The bill would prohibit wholesalers from purchasing drugs from pharmacies, a practice that has been abused by unscrupulous gray market wholesalers in order to obtain greater access to shortage drugs, charge excessive markups, and divert drugs away from patients who need them.

- **National Wholesaler Database.** The bill would create a national database of information to assist consumers, providers, and state regulators in identifying problems with companies distributing drugs in interstate commerce. The bill would require wholesalers to report information, including the status of their state licenses, and establish penalties for those who report false or incomplete information.

- **State Regulator Information on Wholesalers.** The bill would also create a mechanism to encourage state regulators to provide to the database key information regarding wholesalers operating in their states, such as disciplinary actions and license revocations.

- **Sales Price Information Provided to Buyers of Shortage Drugs.** The bill would require companies selling drugs listed on FDA’s list of drugs in critically short supply to include in pedigrees transmitted to buyers the sales price of those drugs. Although this provision would

apply only to shortage drugs and would not require disclosure to anyone other than buyers, it would allow buyers to obtain greater information about the markups associated with drugs facing critical national shortages.

Over the past year, Ranking Member Cummings has been conducting a detailed [investigation](#) into why hospitals and other health care providers are having difficulty obtaining prescription drugs they need to treat critically ill patients suffering from cancer and other diseases.

Senator John D. Rockefeller, Chairman of the Senate Committee on Commerce, Science, and Transportation, and Senator Tom Harkin, Chairman of the Senate Committee on Health, Education, Labor, and Pensions, recently joined this investigation, which has ramped up significantly over the past several months.

For example, on March 21, 2012, Cummings, Rockefeller, and Harkin sent letters as part of their investigation into gray market drug companies that are setting up “[fake pharmacies](#)” to obtain greater access to drugs that are in critically short supply.

Based on the results of the investigation to date, it appears that more than half of the gray market drug companies reviewed were able to purchase drugs in critically short supply from licensed pharmacies.

Cummings introduced the legislation as the House and Senate are working on broader legislation to reauthorize the Food and Drug Administration and improve prescription drug distribution chains.

Cummings launched his investigation after receiving a heartfelt [letter from Brenda Frese](#), the women’s basketball coach at the University of Maryland, whose son was diagnosed with leukemia and treated with a drug called cytarabine, which at that time was on FDA’s shortage list.