

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 1687

93RD GENERAL ASSEMBLY

4826L.01T

2006

AN ACT

To repeal sections 196.973, 196.979, and 196.981, RSMo, and to enact in lieu thereof three new sections relating to unused prescription drugs, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 196.973, 196.979, and 196.981, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 196.973, 196.979, and 196.981, to read as follows:

196.973. As used in sections 196.970 to 196.984, the following terms shall mean:

- (1) "Health care professional", any of the following persons licensed and authorized to prescribe and dispense drugs and to provide medical, dental, or other health-related diagnoses, care, or treatment:
 - (a) A licensed physician or surgeon;
 - (b) A registered nurse or licensed practical nurse;
 - (c) A physician assistant;
 - (d) A dentist;
 - (e) A dental hygienist;
 - (f) An optometrist;
 - (g) A pharmacist; and
 - (h) A podiatrist;
- (2) "Hospital", the same meaning as such term is defined in section 197.020, RSMo;
- (3) "Nonprofit clinic", a facility organized as not for profit in which advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis for a period of less than twenty-four consecutive hours to persons not residing or confined at such facility;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (4) **"Out-of-state charitable repository", any of the following:**

19 (a) **A bona fide charitable, religious, or nonprofit organization, licensed or**
20 **registered in this state as an out-of-state wholesale drug distributor under sections 338.210**
21 **to 338.370, RSMo, and that otherwise qualifies as an exempt organization under section**
22 **501(c)(3) of Title 26, United States Code, as amended; or**

23 (b) **A foreign medical aid mission group that distributes pharmaceuticals and**
24 **healthcare supplies to needy persons abroad;**

25 (5) **"Prescription drug", a drug which may be dispensed only upon prescription by an**
26 **authorized prescriber and which is approved for safety and effectiveness as a prescription drug**
27 **under Section 505 or 507 of the Federal Food, Drug, and Cosmetic Act.**

196.979. 1. Any person, including but not limited to a prescription drug manufacturer
2 or health care facility, may donate prescription drugs to the prescription drug repository program.
3 The drugs shall be donated at a pharmacy, hospital, or nonprofit clinic that elects to participate
4 in the prescription drug repository program and meets the criteria for participation established
5 by rule of the department pursuant to section 196.984. Participation in the program by
6 pharmacies, hospitals, and nonprofit clinics shall be voluntary. Nothing in sections 196.970 to
7 196.984 shall require any pharmacy, hospital, or nonprofit clinic to participate in the program.

8 2. A pharmacy, hospital, or nonprofit clinic which meets the eligibility requirements
9 established in section 196.984 may dispense prescription drugs donated under the program to
10 persons who are residents of Missouri and who meet the eligibility requirements of the program,
11 or to other governmental entities and nonprofit private entities to be dispensed to persons who
12 meet the eligibility requirements of the program. A prescription drug shall be dispensed only
13 pursuant to a prescription issued by a health care professional who is authorized by statute to
14 prescribe drugs. A pharmacy, hospital, or nonprofit clinic which accepts donated prescription
15 drugs shall comply with all applicable federal and state laws dealing with the storage and
16 distribution of dangerous drugs and shall inspect all prescription drugs prior to dispensing the
17 prescription drugs to determine that they are not adulterated as described in section 196.095. The
18 pharmacy, hospital, or nonprofit clinic may charge persons receiving donated prescription drugs
19 a handling fee, not to exceed a maximum of two hundred percent of the Medicaid dispensing fee,
20 established by rule of the department promulgated pursuant to section 196.984. Prescription
21 drugs donated to the program shall not be resold. Any individual who knowingly resells any
22 donated prescription drugs pursuant to sections 196.970 to 196.984 shall be guilty of a class D
23 felony.

24 **3. Drugs donated under this section that are not used or accepted by any pharmacy,**
25 **hospital, or nonprofit clinic in this state may be distributed to out-of-state charitable**
26 **repositories for use outside of this state. Such donated drugs may be repackaged in a**

27 **manner appropriate for distribution by participating pharmacies, hospitals, and nonprofit**
28 **clinics.**

196.981. 1. The following persons and entities when acting in good faith shall not be
2 subject to criminal or civil liability for injury, death, or loss to person or property, or professional
3 disciplinary action for matters related to donating, accepting, or dispensing prescription drugs
4 under the prescription drug repository program:

- 5 (1) The department of health and senior services;
- 6 (2) The director of the department of health and senior services;
- 7 (3) Any prescription drug manufacturer, governmental entity, or person donating
8 prescription drugs to the program;
- 9 (4) Any pharmacy, hospital, nonprofit clinic, **out-of-state charitable repository**, or
10 health care professional that prescribes, accepts or dispenses prescription drugs under the
11 program; and
- 12 (5) Any pharmacy, hospital, [or] nonprofit clinic, **or out-of-state charitable repository**
13 that employs or has a hospital medical staff affiliation with a health care professional who
14 accepts or dispenses prescription drugs under the program.

15 2. A prescription drug manufacturer shall not, in the absence of bad faith, be subject to
16 criminal or civil liability for injury, death, or loss to person or property for matters related to the
17 donation, acceptance, or dispensing of a prescription drug manufactured by the prescription drug
18 manufacturer that is donated by any person under the program, including but not limited to
19 liability for failure to transfer or communicate product or consumer information or the expiration
20 date of the donated prescription drug.

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