

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 575 & 714

93RD GENERAL ASSEMBLY

Reported from the Committee on Aging, Families, Mental and Public Health, February 9, 2006, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3583S.02C

AN ACT

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

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Section A. Sections 196.973, 196.979, and 196.981, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 196.973,
3 196.979, 196.981, and 196.990, to read as follows:

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

3 (1) "Health care professional", any of the following persons licensed and
4 authorized to prescribe and dispense drugs and to provide medical, dental, or
5 other health-related diagnoses, care, or treatment:

6 (a) A licensed physician or surgeon;

7 (b) A registered nurse or licensed practical nurse;

8 (c) A physician assistant;

9 (d) A dentist;

10 (e) A dental hygienist;

11 (f) An optometrist;

12 (g) A pharmacist; and

13 (h) A podiatrist;

14 (2) "Hospital", the same meaning as such term is defined in section
15 197.020, RSMo;

16 (3) "Nonprofit clinic", a facility organized as not for profit in which advice,
17 counseling, diagnosis, treatment, surgery, care, or services relating to the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 preservation or maintenance of health are provided on an outpatient basis for a
19 period of less than twenty-four consecutive hours to persons not residing or
20 confined at such facility;

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

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

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

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

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

10 2. A pharmacy, hospital, or nonprofit clinic which meets the eligibility
11 requirements established in section 196.984 may dispense prescription drugs
12 donated under the program to persons who are residents of Missouri and who
13 meet the eligibility requirements of the program, or to other governmental
14 entities and nonprofit private entities to be dispensed to persons who meet the
15 eligibility requirements of the program. A prescription drug shall be dispensed
16 only pursuant to a prescription issued by a health care professional who is
17 authorized by statute to prescribe drugs. A pharmacy, hospital, or nonprofit clinic
18 which accepts donated prescription drugs shall comply with all applicable federal
19 and state laws dealing with the storage and distribution of dangerous drugs and
20 shall inspect all prescription drugs prior to dispensing the prescription drugs to
21 determine that they are not adulterated as described in section 196.095. The
22 pharmacy, hospital, or nonprofit clinic may charge persons receiving donated

23 prescription drugs a handling fee, not to exceed a maximum of two hundred
24 percent of the Medicaid dispensing fee, established by rule of the department
25 promulgated pursuant to section 196.984. Prescription drugs donated to the
26 program shall not be resold. Any individual who knowingly resells any donated
27 prescription drugs pursuant to sections 196.970 to 196.984 shall be guilty of a
28 class D felony.

29 **3. Drugs donated under this section that are not used or accepted**
30 **by any pharmacy, hospital or nonprofit clinic in this state may be**
31 **distributed to out-of-state charitable repositories for use outside of this**
32 **state.**

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

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

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

196.990. 1. The department of health and senior services shall
2 **develop and implement a program through which unused prescription**
3 **drugs meeting the criteria of section 196.976, may be transferred from**
4 **long-term care facilities to city or county health departments organized**

5 under the provisions of chapter 192, RSMo, or chapter 205, RSMo, or a
6 city health department operating under a city charter or a combined
7 city/county health department for the purpose of distributing the
8 medication to residents of this state meeting the eligibility requirements
9 under section 196.984. Participation in the program by the city or
10 county health departments shall be voluntary.

11 2. No long-term care facility or city or county health departments
12 described in subsection 1 of this section shall be subject to criminal or
13 civil liability for injury or death, or loss of person or property, or
14 professional disciplinary action for matters related to donating,
15 accepting, or dispensing prescription drugs under this section.

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

24 4. For purposes of this section, "long-term care facility" is any
25 residential care facility I, residential care facility II, intermediate care
26 facility, or skilled nursing facility.

Section B. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

2 (1) The provisions of the new program authorized under section 196.990
3 shall sunset automatically six years after the effective date of section 196.990
4 unless reauthorized by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under section
6 196.990 shall sunset automatically twelve years after the effective date of the
7 reauthorization of section 196.990; and

8 (3) Section 196.990 shall terminate on September 1 of the calendar year
9 immediately following the calendar year in which the program authorized under
10 section 196.990 is sunset.

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