

SECOND REGULAR SESSION
[P E R F E C T E D]
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.

Senate Committee Substitute for Senate Bills Nos. 575 and 714, adopted February 14, 2006.

Taken up for Perfection February 14, 2006. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3583S.02P

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.

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Section A. Sections 196.973, 196.979, and 196.981, RSMo, are repealed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,

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

17 counseling, diagnosis, treatment, surgery, care, or services relating to the
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
18 clinic which accepts donated prescription drugs shall comply with all applicable
19 federal and state laws dealing with the storage and distribution of dangerous
20 drugs and shall inspect all prescription drugs prior to dispensing the prescription

21 drugs to determine that they are not adulterated as described in section
22 196.095. The pharmacy, hospital, or nonprofit clinic may charge persons
23 receiving donated prescription drugs a handling fee, not to exceed a maximum of
24 two hundred percent of the Medicaid dispensing fee, established by rule of the
25 department promulgated pursuant to section 196.984. Prescription drugs donated
26 to the program shall not be resold. Any individual who knowingly resells any
27 donated prescription drugs pursuant to sections 196.970 to 196.984 shall be guilty
28 of a class D felony.

29 **3. Drugs donated under this section that are not used or**
30 **accepted by any pharmacy, hospital or nonprofit clinic in this state**
31 **may be distributed to out-of-state charitable repositories for use**
32 **outside of this 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
3 person or property, or professional disciplinary action for matters related to
4 donating, accepting, or dispensing prescription drugs under the prescription drug
5 repository 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
9 requirements under section 196.984. Participation in the program by
10 the city or 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 civil
13 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 civil liability for injury, death, or loss to person
18 or property for matters related to the donation, acceptance, or
19 dispensing of a prescription drug manufactured by the prescription
20 drug 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.

27 5. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

28 (1) The provisions of the new program authorized under this
29 section shall sunset automatically six years after the effective date of
30 this section unless reauthorized by an act of the general assembly; and

31 (2) If such program is reauthorized, the program authorized
32 under this section shall sunset automatically twelve years after the
33 effective date of the reauthorization of this section; and

34 (3) This section shall terminate on September 1 of the calendar
35 year immediately following the calendar year in which the program
36 authorized under this section is sunset.

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