

Allowing Unused or Unaccepted Drugs Donated to the Prescription Drug Repository Program to be Distributed to Out-of-State Charitable Repositories

This Act allows drugs donated to the state Prescription Drug Repository Program that are not used or accepted by any pharmacy, hospital, or nonprofit clinic in the state to be distributed to out-of-state charitable repositories.

Submitted as:

Missouri

HB 1687

Status: Enacted into law in 2006.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Permit Certain Donated
2 Drugs to be Distributed to Out-of-State Charitable Repositories.”

3
4 Section 2.[*Definitions.*] As used in this Act:

5 (1) “Health care professional,” means any of the following people licensed and authorized
6 to prescribe and dispense drugs and to provide medical, dental, or other health-related diagnoses,
7 care, or treatment:

8 (a) a licensed physician or surgeon;

9 (b) a registered nurse or licensed practical nurse;

10 (c) a physician assistant;

11 (d) a dentist;

12 (e) a dental hygienist;

13 (f) an optometrist;

14 (g) a pharmacist; and

15 (h) a podiatrist;

16 (2) “Hospital,” means [insert citation];

17 (3) “Nonprofit clinic,” means a facility organized as not for profit in which advice,
18 counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or
19 maintenance of health are provided on an outpatient basis for a period of [less than twenty-four
20 consecutive hours] to people not residing or confined at such facility;

21 (4) “Out-of-state charitable repository,” means any of the following:

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

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

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

31

32 Section 3. [*Donating Prescription Drugs to Prescription Drug Repositories.*]

33 (1) Any person, including but not limited to a prescription drug manufacturer or health
34 care facility, may donate prescription drugs to the prescription drug repository program. The
35 drugs shall be donated at a pharmacy, hospital, or nonprofit clinic that elects to participate in the
36 prescription drug repository program and meets the criteria for participation established by rule of
37 the [department] pursuant to [insert citation]. Participation in the program by pharmacies,
38 hospitals, and nonprofit clinics shall be voluntary. Nothing in [insert citation] shall require any
39 pharmacy, hospital, or nonprofit clinic to participate in the program.

40 (2) A pharmacy, hospital, or nonprofit clinic which meets the eligibility requirements
41 established in [insert citation] may dispense prescription drugs donated under the program to
42 people who are residents of this state and who meet the eligibility requirements of the program, or
43 to other governmental entities and nonprofit private entities to be dispensed to people who meet
44 the eligibility requirements of the program. A prescription drug shall be dispensed only pursuant
45 to a prescription issued by a health care professional who is authorized by statute to prescribe
46 drugs. A pharmacy, hospital, or nonprofit clinic which accepts donated prescription drugs shall
47 comply with all applicable federal and state laws dealing with the storage and distribution of
48 dangerous drugs and shall inspect all prescription drugs prior to dispensing the prescription drugs
49 to determine that they are not adulterated as described in [insert citation]. The pharmacy, hospital,
50 or nonprofit clinic may charge people receiving donated prescription drugs a handling fee, not to
51 exceed a maximum of [two hundred percent] of the Medicaid dispensing fee, established by rule
52 of the [department] promulgated pursuant to [insert citation]. Prescription drugs donated to the
53 program shall not be resold. Any individual who knowingly resells any donated prescription
54 drugs pursuant to [insert citation] shall be guilty of a [class D felony].

55 (3) Drugs donated under this section that are not used or accepted by any pharmacy,
56 hospital, or nonprofit clinic in this state may be distributed to out-of-state charitable repositories
57 for use outside of this state. Such donated drugs may be repackaged in a manner appropriate for
58 distribution by participating pharmacies, hospitals, and nonprofit clinics.

59
60 Section 4. [*Exemptions from Liability Relating to Donating Drugs to Prescription Drug*
61 *Repositories.*]

62 (1) The following people and entities when acting in good faith shall not be subject to
63 criminal or civil liability for injury, death, or loss to person or property, or professional
64 disciplinary action for matters related to donating, accepting, or dispensing prescription drugs
65 under the prescription drug repository program:

- 66 (a) The [department of health and senior services];
67 (b) The [director of the department of health and senior services];
68 (c) Any prescription drug manufacturer, governmental entity, or person donating
69 prescription drugs to the program;
70 (d) Any pharmacy, hospital, nonprofit clinic, out-of-state charitable repository, or
71 health care professional that prescribes, accepts or dispenses prescription drugs under the
72 program; and
73 (e) Any pharmacy, hospital, nonprofit clinic, or out-of-state charitable repository
74 that employs or has a hospital medical staff affiliation with a health care professional who accepts
75 or dispenses prescription drugs under the program.

76 (2) A prescription drug manufacturer shall not, in the absence of bad faith, be subject to
77 criminal or civil liability for injury, death, or loss to person or property for matters related to the
78 donation, acceptance, or dispensing of a prescription drug manufactured by the prescription drug
79 manufacturer that is donated by any person under the program, including but not limited to
80 liability for failure to transfer or communicate product or consumer information or the expiration
81 date of the donated prescription drug.

82
83
84
85
86
87

Section 5. [*Severability.*] [Insert severability clause.]

Section 6. [*Repealer.*] [Insert repealer clause.]

Section 7. [*Effective Date.*] [Insert effective date.]