

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:
An Act providing for the establishment and operation of a drug repository program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John W. Scibak	2nd Hampshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2241 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

**AN ACT PROVIDING FOR THE ESTABLISHMENT AND OPERATION OF A DRUG
REPOSITORY PROGRAM..**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Notwithstanding any general or special law to the contrary, the Department of
2 Public Health and the Board of Registration in Pharmacy shall establish a drug repository program to
3 accept and dispense prescription drugs donated for the purpose of being dispensed to individuals who
4 are residents of the Commonwealth and meet the eligibility standards established in the administrative
5 regulations promulgated by the Department and the Board pursuant to Section 5 of this Act.

6

7 SECTION 2. Only drugs in their original sealed and tamper-evident unit dose packaging may be accepted
8 and dispensed. The packaging must be unopened, except that drugs packaged in single unit doses may
9 be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is
10 undisturbed. Drugs donated by individuals bearing an expiration date that is less than six months from
11 the date the drug is donated shall not be accepted or dispensed. A drug shall not be accepted or
12 dispensed if there is reason to believe that it is adulterated pursuant to section 186 of chapter 94 of the
13 General Laws, as appearing in the 2004 Official Edition. Nothing in this section shall be construed as
14 prohibiting a pharmacy from accepting drugs that are not eligible to be dispensed under the drug
15 repository program for the proper disposal of those drugs.

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17 SECTION 3. (a) Any person, including a drug manufacturer, health care facility, or government entity,
18 may donate prescription drugs to the drug repository program. The drugs must be donated at a
19 pharmacy, hospital, or a nonprofit clinic that elects to participate in the drug repository program and
20 meets the criteria for participation established by rule of the Department. Participation in the program
21 by pharmacies, hospitals and nonprofit clinics shall be voluntary. Nothing in this Act shall require a
22 pharmacy, hospital or nonprofit clinic to participate in the program.

23 (b) A pharmacy, hospital, or nonprofit clinic that participates in the program shall dispense drugs to
24 individuals who meet the eligibility standards established, or to other government entities and nonprofit
25 private entities to be dispensed to individuals who meet the eligibility standards. A drug may be
26 dispensed only pursuant to a valid drug order. A pharmacy, hospital or nonprofit clinic that accepts
27 donated drugs shall comply with all applicable federal laws and laws of the Commonwealth dealing with
28 storage and distribution of dangerous drugs and shall inspect all drugs before dispensing them to
29 determine that they are not adulterated. The pharmacy, hospital, or nonprofit clinic may charge
30 individuals receiving donated drugs a handling fee established in accordance with the administrative
31 regulations promulgated by the Department and the Board under Section 5 of this Act.

32 (c) Drugs donated to the repository shall not be resold.

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34 SECTION 4. (a) The Department of Public Health; the Board of Registration in Pharmacy, any person,
35 including a drug manufacturer, health care facility, or government entity that donates drugs to the
36 repository program; any pharmacy, hospital, nonprofit clinic or health care professional that accepts or
37 dispenses drugs under the program; and any pharmacy, hospital, or nonprofit clinic that employs a
38 health care professional who accepts or dispenses drugs under the program shall not, in the absence of
39 bad faith, be subject to any criminal prosecution, liability in tort or other civil action for injury, death, or
40 loss to person or property; or professional disciplinary action, relating to donating, accepting, or
41 dispensing drugs under the drug repository program.

42 (b) A drug manufacturer shall not, in the absence of bad faith, be subject to criminal prosecution or
43 liability in tort or other civil action for injury, death, or loss to person or property for matters related to
44 the donation, acceptance, or dispensing of a drug manufactured by the drug manufacturer that is
45 donated under the program, including but not limited to liability for failure to transfer or communicate
46 product or consumer information or the expiration date of the donated drug.

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48 SECTION 5. In consultation with the Department of Public Health, the Board of Registration in Pharmacy
49 shall establish rules and regulations governing the drug repository program that establish all of the
50 following:

51 (a) Eligibility criteria for pharmacies, hospitals, and nonprofit clinics to receive and dispense
52 donated drugs under the program;

- 53 (b) Standards and procedures for accepting, safely storing, and dispensing donated drugs;
- 54 (c) Standards and procedures for inspecting donated drugs to determine that the original unit dose
55 packaging is sealed and tamper-evident and that the drugs are unadulterated, safe and suitable
56 for dispensing;
- 57 (d) Eligibility standards based on economic need for individuals to receive drugs;
- 58 (e) A means, such as an identification card, by which an individual who is eligible to receive donated
59 drugs may demonstrate eligibility to the pharmacy, hospital, or nonprofit clinic dispensing the
60 drugs;
- 61 (f) A form that an individual receiving a drug from the repository must sign before receiving the
62 drug to confirm that the individual understands the immunity provisions of the program;
- 63 (g) A formula to determine the handling fee that pharmacies, hospitals, and nonprofit clinics may
64 charge to drug recipients to cover restocking and dispensing costs;
- 65 (h) For drugs donated to the repository by individuals:
- 66 1. A list of drugs, arranged either by category or by individual drug, that the
67 repository will accept from individuals;
- 68 2. A list of drugs, arranged either by category or by individual drug, that the
69 repository will not accept from individuals, including a statement as to why the
70 drug is ineligible for donation; and
- 71 3. A form each donor must sign stating that the donor is the owner of the drugs
72 and intends to voluntarily donate them to the repository;
- 73 (i) For drugs donated to the repository by health care facilities or governmental entities:
- 74 1. A list of drugs, arranged either by category or by individual drug, that the
75 repository will accept from health care facilities or governmental entities;
- 76 2. A list of drugs, arranged either by category or by individual drug, that the
77 repository will not accept from health care facilities or governmental entities,
78 including a statement as to why the drug is ineligible for donation; and
- 79 (j) Any other standards and procedures the Board considers appropriate.

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